

OREGON BULLETIN

Supplements the 2010 *Oregon Administrative Rules Compilation*

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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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TABLE OF CONTENTS

	Page
Information and Publication Schedule	2
Table of Contents	3
Other Notices	4-9
Notices of Proposed Rulemaking Hearings/Notices	
The citations and statements required by ORS 183.335(2)(b)(A)-(D) have been filed with and are available from the Secretary of State.	
Board of Nursing, Chapter 851	10
Board of Parole and Post-Prison Supervision, Chapter 255	10
Construction Contractors Board, Chapter 812	10
Department of Agriculture, Chapter 603	11
Oregon Albacore Commission, Chapter 972	11
Oregon Highland Bentgrass Commission, Chapter 641	11
Oregon Potato Commission, Chapter 658	11
Wheat Commission, Chapter 678	11, 12
Department of Consumer and Business Services, Building Codes Division, Chapter 918	12
Insurance Division, Chapter 836	12
Department of Energy, Chapter 330	12
Department of Forestry, Chapter 629	12, 13
Department of Human Services, Addictions and Mental Health Division:	
Addiction Services, Chapter 415	13
Mental Health Services, Chapter 309	13
Administrative Services Division and Director's Office, Chapter 407	13, 14
Children, Adults and Families Division:	
Child Welfare Programs, Chapter 413	14
Self-Sufficiency Programs, Chapter 461	14
Division of Medical Assistance Programs, Chapter 410	14-16
Public Health Division, Chapter 333	16
Seniors and People with Disabilities Division, Chapter 411	16-19
Department of Justice, Chapter 137	19
Department of Oregon State Police, Office of State Fire Marshal, Chapter 837	19
Department of Public Safety Standards and Training, Chapter 259	19, 20
Department of Revenue, Chapter 150	20, 21
Department of Transportation, Chapter 731	21
Driver and Motor Vehicle Services Division, Chapter 735	21, 22
Highway Division, Chapter 734	22
Motor Carrier Transportation Division, Chapter 740	22
Transportation Safety Division, Chapter 737	22
Employment Department, Child Care Division, Chapter 414	22, 23
Office for Oregon Health Policy and Research, Chapter 409	24
Oregon Business Development Department, Chapter 123	24
Oregon Arts Commission, Chapter 190	24
Oregon Criminal Justice Commission, Chapter 213	24, 25
Oregon Health Licensing Agency, Board of Direct Entry Midwifery, Chapter 332	25
Oregon Liquor Control Commission, Chapter 845	25
Oregon Medical Board, Chapter 847	25
Oregon State Marine Board, Chapter 250	25, 26
Oregon University System, Southern Oregon University, Chapter 573	26
Secretary of State, Archives Division, Chapter 166	26
Corporation Division, Chapter 160	26
Appraiser Certification and Licensure Board, Chapter 161	27-34
Board of Examiners for Engineering and Land Surveying, Chapter 820	34-39
Board of Licensed Professional Counselors and Therapists, Chapter 833	39-44
Board of Nursing, Chapter 851	44-47
Board of Pharmacy, Chapter 855	47-56
Bureau of Labor and Industries, Chapter 839	56, 57
Columbia River Gorge Commission, Chapter 350	57, 58
Construction Contractors Board, Chapter 812	58-62
Department of Administrative Services, Oregon Educators Benefit Board, Chapter 111	62
Department of Agriculture, Chapter 603	62, 63
Oregon Processed Vegetable Commission, Chapter 647	63
Department of Consumer and Business Services, Building Codes Division, Chapter 918	63-73
Division of Finance and Corporate Securities, Chapter 441	73
Insurance Division, Chapter 836	73-78
Workers' Compensation Division, Chapter 436	78-91
Department of Energy, Chapter 330	91-105
Energy Facility Siting Council, Chapter 345	105
Department of Environmental Quality, Chapter 340	106-116
Department of Fish and Wildlife, Chapter 635	117-134
Department of Human Services, Addictions and Mental Health Division:	
Addiction Services, Chapter 415	134-139
Administrative Services Division and Director's Office, Chapter 407	139, 140
Children, Adults and Families Division: Self-Sufficiency Programs, Chapter 461	140-143
Division of Medical Assistance Programs, Chapter 410	143
Public Health Division, Chapter 333	143-233
Department of Justice, Chapter 137	233
Department of Revenue, Chapter 150	234
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	234
Highway Division, Chapter 734	234, 235
Land Conservation and Development Department, Chapter 660	235-240
Office for Oregon Health Policy and Research, Chapter 409	240, 241
Oregon Board of Naturopathic Medicine, Chapter 850	241
Oregon Business Development Department, Chapter 123	241-259
Oregon Department of Education, Chapter 581	259-263
Oregon Film and Video Office, Chapter 951	263, 264
Oregon Liquor Control Commission, Chapter 845	264-267
Oregon Medical Board, Chapter 847	267-272
Oregon Patient Safety Commission, Chapter 325	272-274
Oregon State Marine Board, Chapter 250	274-277
Oregon University System, Eastern Oregon University, Chapter 579	277
Southern Oregon University, Chapter 573	277
University of Oregon, Chapter 571	277, 278
Public Utility Commission, Board of Maritime Pilots, Chapter 856	278, 279
Secretary of State, Corporation Division, Chapter 160	279
Elections Division, Chapter 165	279
Veterinary Medical Examining Board, Chapter 875	279-282
Administrative Rules	
The citations and statements required by ORS 183.335(2)(b)(A)-(D) have been filed with and are available from the Secretary of State.	
OAR Revision Cumulative Index	283-326

OTHER NOTICES

OPPORTUNITY TO COMMENT PROPOSED NO FURTHER ACTION DRC TRUCKING POT-LINER SPILL, ARLINGTON, OREGON

COMMENT DUE: June 30, 2010

PROJECT LOCATION: 73854 Rattlesnake Road, Arlington

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.315, the Oregon Department of Environmental Quality (DEQ) is proposing to issue a No Further Action (NFA) determination for the DRC Trucking Pot-Liner Spill site located at 73854 Rattlesnake Road in Arlington, Oregon.

The Independent Cleanup Program has reviewed cleanup activities performed at the site. A complaint in October 2009 reported the suspected dumping of an unknown hazardous waste, possibly aluminum pot-liner, from a dump truck onto private property. The spill area contained approximately eight cubic feet of material. The material was determined to be aluminum pot-liner. The material was containerized and shipped to the Chemical Waste Management hazardous waste landfill in Arlington, Oregon for disposal in October, 2010. Confirmation soil samples were collected and detected concentrations were less than their respective risk-based concentrations or screening level.

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 5331.

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 project manager at the number below to arrange for an appointment.

HOW TO COMMENT: The public comment period will end on June 30, 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 "No Further Action" determination.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR FORMER RODE STOP SINCLAIR SITE

COMMENTS DUE: June 30, 2010

PROJECT LOCATION: 590 East Idaho Avenue in Ontario, Oregon.

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.320 and Oregon Administrative Rules (OAR) 340-122-100, the Department of Environmental Quality (DEQ) is proposing approval of cleanup conducted at the former Rode Stop Sinclair site. The site was the location of a former retail fueling facility from 1988 until closure in 2004.

HIGHLIGHTS: Multiple phases of environmental work were completed at the site from the 1990's until early 2010. Soil and groundwater sampling indicates limited petroleum contamination associated with the underground storage tanks. The tanks were removed in 2004 and a soil and groundwater treatment systems was operated to reduce contaminant levels at the site. Several years of monitoring and additional data gap investigations at the site documenting reduction in site risk were completed in early 2010. Remaining contamination concentrations are below DEQ's risk based levels for pathways of concern. Future exposures at the site will be managed using engineering and institutional controls.

HOW TO COMMENT: The full file including the project documents, are available for review at DEQ's Bend office, 475 NE Bellevue Drive, Suite 110, Bend, OR 97701, (541) 388-6146. Office hours are 8 a.m. to noon and 1 to 5 p.m., Monday through Friday. Questions or concerns regarding DEQ's proposed decision should be sent to the project manager at the Department of Environmental Quality, Eastern Region, 475 NE Bellevue Drive, Suite 110, Bend, OR 97701, or via e-mail to anderson.david@deq.state.or.us.

THE NEXT STEP: Following the public comment period and consideration of any comments received, DEQ expects to issue a conditional No Further Action determination for 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, 503-229-6993.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR FORMER WARDROBE CLEANERS SITE

COMMENTS DUE: June 30, 2010

PROJECT LOCATION: 92 NE 2nd Street in Ontario, Oregon

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.320 and Oregon Administrative Rules (OAR) 340-122-100, the Department of Environmental Quality (DEQ) is proposing approval of cleanup conducted at the former Wardrobe Cleaners site. The site was used as a dry cleaner until sometime in the 1970's or 1980's. The site currently is used as an auto body repair facility.

HIGHLIGHTS: Phase I and phase II environmental site assessments were completed in early 2010. Soil and groundwater sampling indicate limited contamination associated with a former underground storage tank that was removed in 1999. Additional data gaps at the site were investigated under DEQ's Voluntary Cleanup Pathway and did not document any other additional environmental concerns.

HOW TO COMMENT: The full file including the project documents, are available for review at DEQ's Bend office, 475 NE Bellevue Drive, Suite 110, Bend, OR 97701, (541) 388-6146. Office hours are 8 a.m. to noon and 1 to 5 p.m., Monday through Friday. Questions or concerns regarding DEQ's proposed decision should be sent to the project manager at the Department of Environmental Quality, Eastern Region, 475 NE Bellevue Drive, Suite 110, Bend, OR 97701, or via e-mail to anderson.david@deq.state.or.us.

THE NEXT STEP: Following the public comment period and consideration of any comments received, DEQ expects to issue a No Further Action determination for 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, 503-229-6993.

CHANCE TO COMMENT ON PROPOSED CLEANUP ACTIONS FOR THE UPPER RIVER ROAD RESERVE IN GRANTS PASS

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) requests public comment on the proposal for the City of Grants Pass's initial cleanup actions on the River Road Reserve in Grants Pass, Oregon (ECSI No. 785). Grants Pass has secured funding from the American Recovery and Reinvestment Act (ARRA) to perform an Analysis of Brownfield Cleanup Action Alternatives

OTHER NOTICES

(ABCA) from the Oregon Coalition Brownfields Cleanup Fund managed by Oregon Business Development Department (OBDD). The proposed cleanup work will be funded by a Brownfield Cleanup Grant utilizing ARRA funds awarded to the OBDD from the US Environmental Protection Agency.

PROJECT LOCATION: 3658 Upper River Road Reserve, Grants Pass, Oregon

HIGHLIGHTS: The site is part of a former hop farm which operated about 1906 to 1989. Historic treatment of wooden trellis poles in a mixture of fuel oil and pentachlorophenol resulted in the contamination of soil and groundwater at the site. The City of Grants Pass took ownership of the site as part of a purchase of a larger parcel of land in 2006.

Several investigations of the site have been done since 1989. Lab tests show that soil in the area of the former dipping tank has been contaminated with diesel fuel and associated compounds, pentachlorophenol, and dioxins. Groundwater near the dipping tank has been contaminated with diesel and related compounds, and pentachlorophenol. A nearby neighbor's well has been decommissioned and a new well installed to ensure clean water is available.

The U.S. EPA is funding the cleanup through a grant provided by the ARRA. EPA requires all of the cleanups they fund to have an ABCA prepared. The City's consultant prepared an ABCA which analyzed cleanup alternatives based on several factors: effectiveness, reliability, implementability, implementation risk and cost. EPA requires that this document, which includes the City's preferred cleanup alternative for the cleanup, be made available for public review and comment. DEQ will be providing oversight during cleanup activities. DEQ is providing a chance to comment on the proposed plan.

HOW TO COMMENT: The ABCA was prepared by the City's consultant, Kennedy Jenks. It evaluates three proposed actions for cleaning the site: 1) no action, 2) removal of contaminated soil to a landfill, and 3) treatment of contaminated soil onsite. The ABCA is available for review by contacting the DEQ project manager, Norman Read, at 541-687-7348 or by email at read.norm@deq.state.or.us, or the report can be viewed in person at the DEQ Eugene office by appointment. The Eugene office address and contact information is presented to the right.

Comments on the proposed plan need to be received by the Eugene Office, attn: Norman Read, by 5 pm on June 30th, 2010. Fax or email comments are acceptable.

THE NEXT STEP: Upon completion of the comment period, the comments will be addressed by DEQ. Once the comments have been adequately addressed, the DEQ may approve, modify, or deny the cleanup actions for 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.

COMMENTS DUE: 5 pm, June 30th, 2010

A CHANCE TO COMMENT ON PROPOSED CLEANUP REMEDY FOR FORMER UNOCAL PACIFICORP SITE

COMMENTS DUE: July 1, 2010

PROJECT LOCATION: 256 Marine Drive, Astoria, Oregon

PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, the Department of Environmental Quality (DEQ) issues this notice regarding a proposed final remedy for the former Unocal/PacifiCorp former manufactured gas plant and petroleum bulk fuel facility. The DEQ will consider public comments in finalizing its record of decision.

HIGHLIGHTS: The Unocal/PacifiCorp cleanup site is a former manufactured gas plant and petroleum bulk fuel storage facility. The

on-site portion of the site is bordered by railroad tracks now used by the Astoria Riverfront Trolley. To the north are the Columbia House Condominiums, and the Columbia River. Third Street and the Burger King Restaurant are to the east. Second Street, the Ship Inn Restaurant, and a gas station/convenience store are to the west. Marine Drive is to the south.

The gas plant occupied the northeast part of the site between 1888 and 1921 and extended offsite to the northeast. Unocal past operations began by 1905, concurrent with the manufactured gas plant operations. Unocal operated a petroleum storage/distribution terminal (No. 0022) in the northwest part of the site. By 1921 Unocal had purchased the entire block. They operated on the block from about 1927 to 1977.

Environmental investigations have been ongoing since the late 1980s and interim cleanup activities since 2002. Chemicals of concern include diesel fuel and hazardous compounds contained in diesel, ammonia and cyanide. In general, diesel and other contaminant concentrations are highest in soil and groundwater in the northeast part of the site and in the railroad right-of-way north of the site. The groundwater located between approximately 6 and 12 feet below ground surface flows north toward the Columbia River. Over the years diesel product floating on the water table at the site has moved into the bank and a portion of the river bed sediments. Groundwater at and near the site is not used for drinking and is unlikely to be used as such in the foreseeable future.

During the course of the investigations, Unocal has been removing diesel product accumulating in site wells in an attempt to control discharge to the river. The number of wells with recoverable petroleum has decreased as a result of these actions. Sorbents have been placed along the portion of the bank and river bed to further control discharge of free product to the river. The sorbent material has been replaced on a monthly basis.

The recommended cleanup would include the following:

- Capping upland areas to prevent direct contact with soil and shallow groundwater;
- Enhanced free diesel product recovery to remove any remaining pockets of contamination capable of moving into the river;
- Removal of a 600-square-foot area of contaminated sediment along the Columbia River shoreline and placement of a clean soil cap to isolate any remaining contamination;
- Contingency for installation of a permeable reactive barrier, if free product is observed to be discharging into the excavation from the upland area during sediment removal;
- Institutional and engineering controls (e.g., deed restrictions, future development to require a vapor barrier, and a soil management plan); and
- Periodic monitoring and inspections to verify controls are being maintained and site conditions are stable.

HOW TO COMMENT: Written comments can be sent to DEQ Northwest Region at 2020 SW Fourth Ave., Suite 400, Portland, Oregon 97201-4987. To view the project files please call Dawn Weinberger, File Review Specialist, at (503) 229-6729 to schedule an appointment (ask for ECSI file #1646). If you have any questions, please call the DEQ project manager, Anna Coates, at 503-229-5213 or by email at coates.anna@deq.state.or.us

THE NEXT STEP: Once the public comment period has closed DEQ will consider all comments before making a decision concerning the final cleanup remedy.

CHANCE TO COMMENT ON... PROPOSED SOURCE CONTROL DECISION CHEVRON WILLBRIDGE ASPHALT PLANT (ECSI #1281)

COMMENTS DUE: July 1, 2010

PROJECT LOCATION: 5501 NW Front 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 proposed Source Control Decision for the Chevron Willbridge Asphalt Plant site.

OTHER NOTICES

HIGHLIGHTS: The site is located approximately 500 feet southwest of a portion of the Willamette River at River Mile 8, within the area designated by the United States Environmental Protection Agency (EPA) as the Portland Harbor Superfund Study Area.

The former Chevron Willbridge Asphalt Plant was constructed in 1947 and covers 31.3 acres. The plant has been in continuous operation since 1947. In 2005, Chevron sold the property to Paramount Petroleum Corporation, the current operator. Chevron retained responsibility for completing a Source Control Evaluation and implementing near term source control measures as needed, to address potential impacts to the Willamette River from ongoing operations. Chevron's evaluation was conducted in accordance with the EPA/DEQ Joint Source Control Strategy guidance.

The current processes and operations at the site include asphalt refining, emulsions manufacturing and asphalt blending. The refinery produces asphalt, asphalt emulsions, modified asphalt emulsions for roofing products, vacuum gas oil for gasoline refinery feedstock, kerosene, naphtha and middle distillates.

The primary pathway of concern at the site is stormwater discharge to the Willamette River. Stormwater runoff at the site is collected in two stormwater collection vaults. Stormwater collected in the vaults discharge to separate City of Portland (COP) conveyances, with one contributing to Outfall 19 and the other to Outfall 22.

Chevron completed a Source Control Evaluation to identify site-related contaminants and assess whether the site was a current or potential source of contamination to the Willamette River from uncontrolled environmental releases. Specific tasks completed as part of the Source Control Evaluation include:

- Catch basin sediment sampling, analysis, cleanout
- Camera survey of active and inactive storm drain lines at the site
- Cleanout of accessible on-site storm drain lines
- Cleanout of off-site storm drain lines
- Four rounds of stormwater sampling
- Identification of additional best management practices for stormwater management
- Stormwater Pollution Control Plan revision to incorporate best management practices

Based on a review of the May 2009 Source Control Evaluation report and related documents, DEQ concludes that this site is not a significant ongoing source of contaminants to the Willamette River, and that source control measures implemented at the site will prevent potential future significant impacts. Paramount Petroleum Corporation has agreed to maintain best management practices as outlined in the revised Stormwater Pollution Control Plan. A discussion of site conditions, monitoring results, source control measures, and the basis for DEQ's finding, is contained in a Source Control Decision dated March 16, 2010.

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 1281 in the "Site ID" box and click "Submit" at the bottom of the page. Next, click the link labeled 1281 in the Site ID/Info column. Next click "View" under "Webdocs" to access the Source Control Decision. You can review the entire administrative record for the proposed source control decision 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 July 1, 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.

THE NEXT STEP: DEQ will consider all public comments received by the deadline. In the absence of comments, DEQ will issue a final Source Control Decision for the site.

ACCESSIBILITY INFORMATION: 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.

CHANCE TO COMMENT ON... PROPOSED NO FURTHER ACTION 3935 N WILLIAMS - (ECSI #5326)

COMMENTS DUE: June 30, 2010

PROJECT LOCATION: 3935 N Williams, 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 conditional no further action determination for the 3935 N Williams site. The DEQ has reviewed site investigation and remediation activities performed by the current developer 3935 N Williams, LLC., and has determined that no further cleanup actions are necessary as long as residential use at or below ground level does not occur without prior consultation and written approval by the DEQ.

HIGHLIGHTS: The 3935 N Williams property consists of two adjoining lots located west of North Williams Avenue. Historically the site has seen a number of different uses including a sash and door company with a small planning mill, a saw sharpening operation, a machine shop, and most recently as small engine repair shop and automotive repair shop. The site developer requested DEQ review following completion of an independent cleanup at the site.

A risk-based evaluation consistent with DEQ guidance has been completed following the cleanup. The evaluation identified potential risks to future occupants of the site from tetrachloroethene and trichloroethene vapors entering the new building to be constructed on the site. All other areas of soil contamination have been demonstrated to be below risk-based criteria. DEQ's site evaluation and no further action determination is documented in the "File Memorandum" for the site dated April 14, 2010. DEQ will consider all public comments received by the close of the comment period before issuing the conditional no further action determination. The proposed conditional no further action is based upon filing of an Easement & Equitable Servitude that prohibits residential use at or below ground level.

HOW TO COMMENT: DEQ Staff Report is available on DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet at <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>. Enter 5326 in the "Site ID" box and click "Submit" at the bottom of the page. Next, click the link labeled 5326 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: greenburg.michael@deq.state.or.us. DEQ must receive written comments by 5 p.m. on June 30, 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

OTHER NOTICES

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 conditional no further action for the site.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR 1812 SE 6TH AVENUE

COMMENTS DUE: by 5 p.m. on June 30, 2010

PROJECT LOCATION: 1812 SE 6th 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 1812 SE 6th Avenue, Portland, Oregon (site). The DEQ has reviewed the site investigation and remediation activities performed by the current property owners, Goodwill Industries, and has determined that no further cleanup actions are necessary.

HIGHLIGHTS: The Goodwill Industries property site is located at the northwest corner of the intersection of SE 6th Avenue and SE Mill Street in Portland, Oregon. The site address consists of a paved asphalt parking lot which was constructed in 1993. Previous to 1993, a residential home was demolished to create space for the new parking lot. Today, the parking lot continues to be used for automobile parking as it has over the past 17 years.

A risk-based evaluation consistent with DEQ guidance has been completed following the remedial actions. A total of 90.39 tons of contaminated soils was removed from the site in 1993 during the construction of a new parking lot. Contaminated soil discovered in the area of a new catch basin showed the presence of diesel, heavy oil, and PCB's at 1.6ppm which were above DEQ's risk-based standards. In the southwest corner of the site, another pocket of stained soil was discovered, excavated, then stockpiled for analysis. Lab tests we run to analyze for the presence of PCBs, TPH, VOC, and HCID. All samples showed non-detect and were removed and disposed of at Hillsboro Landfill.

All other areas of soil 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 June 30, 2010. DEQ will consider all public comments received by the close of the comment period before issuing the NFA determination.

HOW TO COMMENT: Send written comments on the proposed remedial action to the DEQ project manager, Ray Hoy at Oregon DEQ, Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, Oregon 97201, or e-mail to hoy.ray@deq.state.or.us by 5 p.m., April 31, 2010. To view the project files please call Dawn Weinberger, File Review Specialist, at (503) 229-6729 to schedule an appointment. If you have any questions, please contact the project manager at 503 229-6712.

THE NEXT STEP: DEQ will consider all public comments received by the deadline. In the absence of comments, DEQ will issue a NFA for 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 711.

PROPOSED REMEDIAL ACTION PARKER POND SITE/THE COVE SITE OREGON CITY, OREGON

COMMENTS DUE: July 1, 2010

PROJECT LOCATION: 16421 Main Street

PROPOSAL: The Department of Environmental Quality is proposing a remedial action for the Parker Pond site (also referred to as The Cove site). This determination is based on site investigations conducted to date. Public notification is required by ORS 465.320.

HIGHLIGHTS: The Parker Pond site, a 12.8-acre parcel, has been vacant since January 2008. The current owner plans to develop a 220-unit apartment complex on the Property consisting of ten buildings and parking at grade level. The proposed remedial action is intended to address risks from exposure to methane and volatile organic compounds (VOCs) in soil gas at the site. (Soil gas resides in the air pockets between soil particles.) This will be done through passive venting of these gases from beneath future buildings and confined spaces.

An impermeable membrane and underlying venting layer will be placed beneath each building floor slab. Perforated gas collection pipes within the vent layer will tie into vent pipes that discharge gas above the building's roof elevation.

Safeguards will also include sealing of conduits entering enclosed buildings, sealing of other structures that could provide migration pathways or points of accumulation of soil vapors or landfill gas. Examples include electrical conduit, other buried utilities, access holes/vaults, and catch basins. Soil gas monitoring probes and indoor methane monitors will be installed.

How to Comment: Comments and questions, by phone, fax, mail or email, should be directed to:

Bob Schwarz, Project Manager

Phone: 541-298-7255, ext. 30

Fax: 541-298-7330

Email: Schwarz.bob@deq.state.or.us

To schedule an appointment or to obtain a copy of the staff report, please contact Mr. Schwarz as well. Written comments should be sent by July 1, 2010.

THE NEXT STEP: DEQ will consider all comments received. A final decision concerning the proposed partial No Further Action determination will be made after consideration of public comments.

CHANCE TO COMMENT ON PROPOSED FINAL REMEDY FOR BLASEN FAMILY, LLC (ECSI #3785)

COMMENTS DUE: June 30, 2010

PROJECT LOCATION: The site is located at 1601 North Columbia Boulevard

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 for a remedy for the Blasen Family, LLC site (ECSI File #3785). Because institutional controls will be implemented the site will not be removed from the DEQ Confirmed Release and Inventory Lists.

HIGHLIGHTS: The Blasen Family, LLC property has been used for industrial purposes since approximately 1950. More recently, the property was divided into two areas (the northern and southern areas) and was occupied by separate companies. At the time of purchase by Blasen Family, LLC in 1986, Sand Products, Inc., a sand reprocessor, leased the smaller, northern part of the property. Sand Products, Inc. reprocessed new and used sand from approximately 1985 until September 2001. In the early 1990s, fill was placed in the northern portion of the property. Some of the fill consisted of sandblasting grit. The primary area of concern was a landfill area on the northern part of the property.

In 2003, Blasen Family, LLC entered into a voluntary letter agreement with DEQ that addresses investigation and cleanup of the site. Contaminants documented in onsite soil and stormwater include metals, polychlorinated biphenyls (PCBs) and organotins. Blasen Family, LLC has delineated the magnitude and extent of contamination and completed human health and ecological risk assessments. Human health risks include exposure for occupational workers and trespassers to onsite soil. Source control criteria for organotins in Columbia Slough bank soil were exceeded. No ecological risks to terrestrial receptors were predicted.

OTHER NOTICES

The proposed remedy for the site includes engineering and institutional controls to address soil and stormwater. Proposed measures consist of capping site soil and institutional controls for soil in the low-lying area on the western site boundary. The proposed remedy also accommodates a possible future redevelopment scenario. Thus, the specific details of remedy implementation may vary dependent on any proposed site redevelopment, but would be functionally equivalent to the proposed remedy.

HOW TO COMMENT: You can review the administrative record for the proposed final remedy for the Blasen Family, LLC site at the DEQ east side office located at 1550 NW Eastman Parkway, Suite 290, Gresham, Oregon. For an appointment to review the files call (503) 667-8414, extension 55002; toll free at (800)452-4011; or TTY at (503)229-5471. Please send written comments to Bruce Gilles, DEQ Northwest Region East Side Office, 1550 NW Eastman Parkway, Suite 290, Gresham, Oregon, 97030 or via email at: Gilles.Bruce.A@deq.state.or.us. DEQ must receive written comments by 5:00 p.m. on June 30, 2010. This notice will also be published in the local newspaper, The Oregonian.

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 Record of Decision for the site.

A CHANCE TO COMMENT ON PROPOSED CONSENT JUDGMENT FOR A PROSPECTIVE PURCHASER AGREEMENT AT THE FORMER CENTRAL DOCK WAREHOUSE, COOS BAY, OREGON

COMMENTS DUE: July 1, 2010

PROJECT LOCATION: 1210 N Bayshore Dr, Coos Bay , Oregon.

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with the Coos County Historical Society for the former Central Dock Warehouse property located at 1210 Bayshore Dr., Coos Bay, Oregon (the "Property").

HIGHLIGHTS: Coos County Historical Society (CCHS) is acquiring the Property to allow CCHS to construct the Coos Historical & Maritime Museum/Center, to encourage beneficial redevelopment of the Property and adjoining properties, as well as return the Property to productive use. The Property has a long history of industrial/commercial waterfront uses including Standard Oil and Union Oil warehouse facilities dating back to at least 1911. Between 1945 and 1993, historical uses including log and lumber storage, handling and shipping; and from 1993 to 1996, Hall-Buck Marine, Inc. operated a copper ore concentrate handling and shipping facility on the Property. The Property has remained vacant since 1996. Soil and groundwater at the Property have been contaminated by petroleum compounds and metals, primarily arsenic and copper. In April 2009, the DEQ reviewed then available environmental data for the Property and determined that the Property needed a remedial cap to adequately protect human health. Since then, additional data has become available that may cause the extent of the remedial cap to be modified.

The Consent Judgment will require CCHS to place at least a partial cap on the Property as part of the Coos Historical & Maritime Museum development; as well as institutional controls on the Property precluding the installation on-property water well(s) or use of

the shallow groundwater. CCHS will agree to provide access to the Property for any additional investigation and removal or remedial actions that may be required, and to implement any institutional or engineering controls that may be necessary.

DEQ's Prospective Purchaser Program was created in 1995 through amendments to the state's Environmental Cleanup Law. The Prospective Purchaser Agreement is a tool that facilitates the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a property with existing contamination. DEQ has approved more than 100 Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide CCHS with a release from liability for claims by the State of Oregon under ORS §465.255 relating to any historical releases of hazardous substances at or from the Property. The proposed Consent Judgment will also provide CCHS with protection from potential contribution actions by third parties for recovery of remedial action costs associated with any historical releases at or from the Property. DEQ retains all existing rights it may have as to all other parties potentially liable for any releases.

HOW TO COMMENT: Written comments concerning the proposed Consent Judgment should be sent to Charlie Landman at DEQ Headquarters, 811 SW 6th Avenue, Portland, Oregon 97204. Comments must be received by DEQ by 5:00 pm July 1, 2009. Questions may be directed to Mr. Landman at that address or by calling (503) 229-6461. The proposed Consent Judgment and DEQ file on the Property may be reviewed at DEQ's Western Region office in Eugene by contacting Geoff Brown at (541) 686-7819.

Upon written request by ten or more persons, or by a group having ten or more members, a public meeting will be held to receive verbal comments on the proposed Consent Judgment.

THE NEXT STEP: DEQ will consider all public comments. A final decision concerning the proposed Consent Judgment will be made after consideration of public comments.

PROPOSED APPROVAL OF CLEANUP AT THE FORMER FISHER ESTATE, ESTACADA, OREGON

COMMENTS DUE: 5pm, June 30, 2010

PROJECT LOCATION: 27863 S. Skinner Road, south of Estacada, Oregon

PROPOSAL: The Department of Environmental Quality is proposing to issue a "No Further Action" (NFA) determination based on results of site investigation and remedial activities performed at the rural property on South Skinner Road, south of Estacada, Oregon. DEQ has determined that wastes associated with past metals salvaging activities at the site have been remediated and site conditions are protective of human health and the environment as defined in ORS 465.315. DEQ is therefore proposing issuance of a No Further Action determination for the property. DEQ is also proposing to remove the facility from the CRL and Inventory lists as provided in ORS 465.230 and OAR 340-122-0070 through -0079.

HIGHLIGHTS: The property had been used for an unpermitted, metal reclamation operation until approximately 2000. Insulated wire was apparently burned to reclaim copper and waste oil or wood was used to fuel the burning operation. Oil containing PCBs was reportedly stored in drums on site. Large piles of scrap metal and car bodies were widespread.

After receiving the property through foreclosure, Clackamas County hired a consultant to clean up the site in the fall of 2007. All site buildings including a residence were demolished and removed and all surface debris was removed. Contaminated surface soil was stockpiled for removal but a large, deep area of mixed waste and tire fill remained.

In 2009 Clackamas County received a \$125,000 Conditional Grant in conjunction with a \$200,000 Oregon Coalition Brownfields Cleanup Fund Grant from the Oregon Business Development Department to assist in finishing cleanup of the Site. A total of 2,836 tons of soil and debris were excavated and transported to local landfills or recycling facilities.

OTHER NOTICES

DEQ has concluded that environmental conditions, including minimal residual soil contamination, at 27863 S. Skinner Road do not pose an unacceptable risk to human health and the environment, and meet the requirements of the Oregon Environmental Cleanup Laws.

HOW TO COMMENT: DEQ's Staff Report for the Fisher Estate site and other 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 Dawn Weinberger at 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471. Summary information and a copy of the Staff Report are available 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 2731 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 2731 in the Site ID/Info column. Please send written comments to Robert Williams, Project Manager, at the address listed above or via email at williams.robert.k@deq.state.or.us. To be considered, DEQ must receive written comments by 5 pm on June 30, 2010. Upon written request by ten or more persons or by a group with a membership of 10 or more, DEQ will hold a public meeting to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above, before making a final decision regarding the No Further Action determination. In the absence of comments, DEQ will issue the No Further Action determination for the Fisher Estate site and remove it from the CRL and Inventory.

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) 229-6488 or toll free in Oregon at (800) 452-4011; fax to 503-229-6945; or e-mail to deqinfo@deq.state.or.us. People with hearing impairments may call the Oregon Telecommunications Relay Service 1-800-735-2900 number.

REQUEST FOR COMMENTS PROPOSED REMEDIAL ACTION AT NW PIPE COMPANY SITE

COMMENTS DUE: June 30, 2010

PROJECT LOCATION: The NW Pipe Company site (Site) is located in the northern part of Portland, Oregon at 12005 North Burgard Road. The property has been used by Northwest Pipe Company for heavy industrial activities since 1982. The site was first developed during the 1940s as a portion of the Oregon Shipbuilding Corporation's operations and has since been under industrial use. The Site is identified as number #138 in DEQ's Environmental Cleanup and Site Information (ECSI) database and is included in the Portland Harbor Superfund site evaluation process.

PROPOSAL: As required by ORS 465.320 and ORS 465.325(10)(b), the Department of Environmental Quality (DEQ) invites public comments on a proposed remedial action at the Site.

HIGHLIGHTS: Northwest Pipe Company is a 26-acre property located in an area of industrial development in north Portland. Due to past operational activity, contaminants including Polynuclear Aromatic Hydrocarbons (PAHs) and Polychlorinated biphenyls (PCBs) have been released to site soil. Northwest Pipe has collected numerous soil samples to address Oregon Department of Environmental Quality (DEQ) requirements for site characterization and support soil removal activities. The results of this work show that surficial soils contain detectable concentrations of PAHs and PCBs above Risk Based Concentrations (RBCs) for occupational exposure. A detailed discussion of surface soil analytical results compared against RBC screening level values (SLVs) and possible remedial options is presented in *Surface Soil Risk Screening and Focused Feasibility Study for Interim Action (FFS), CH2M HILL, 2010*. The recommended remedial actions presented in the FFS, and subsequently approved by DEQ, are hot spot soil removal and placement of an asphalt cap over remaining soil with contamination exceeding acceptable levels for occupational exposure. The estimated hot spot removal area is 1,033 cubic yards. Following contaminated soil removal, the soil will be transported to a Subtitle D landfill for disposal. The estimated area of capping is approximately 19,166 square yards. Following capping, annual inspections would be required to confirm cap condition. A deed restriction would be recorded with the property deed requiring future maintenance of the cap.

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 in Portland, Oregon 97201. To schedule a file review appointment, call 503-229-6729; toll free 1-800-452-4011; or TTY at 1-800-735-2900 or 711. To access site information in DEQ's ECSI database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter ECSI #138 in the Site ID box, and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #138 in the Site ID/Info column.

The DEQ project manager is Jim Orr (503-229-5039). Please send written comments to Jim Orr at the address listed above or via email at orr.jim@deq.state.or.us by June 30, 2010.

THE NEXT STEP: DEQ will consider all comments received and the Northwest Region Administrator will make a final decision after consideration of any comments.

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 or 711.

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.*

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Board of Nursing
Chapter 851

Rule Caption: Fee Eliminated for Retired Nurse Status.

Date: 6-17-10 **Time:** 9 a.m. **Location:** 17938 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: Pat Markesino, Board President

Stat. Auth.: ORS 678.050

Stats. Implemented: ORS 678.050

Proposed Amendments: 851-031-0086

Last Date for Comment: 6-15-10, 5 p.m.

Summary: These rules cover standards for licensure of registered nurses and licensed practical nurses. This rule amendment eliminates the fee for retired nurse status.

Rules Coordinator: KC Cotton

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

Telephone: (971) 673-0638

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Board of Parole and Post-Prison Supervision
Chapter 255

Rule Caption: Adopts guidelines for setting parole deferral periods.

Stat. Auth.: ORS 144.228, 144.232, 163.105, 163.115 & 2009 OI Ch. 660

Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115 & 2009 OI Ch. 660

Proposed Adoptions: 255-062-0005, 255-062-0010, 255-062-0015, 255-062-0020, 255-062-0025, 255-062-0030

Proposed Repeals: 255-062-0005(T), 255-062-0010(T), 255-062-0015(T), 255-062-0020(T), 255-062-0025(T), 255-062-0030(T)

Last Date for Comment: 6-21-10

Summary: Division 62 rules put in place procedures for implementing statutory changes that: (1) prohibit the Board from holding a subsequent hearing after the Board denies a petition for a change

in terms of confinement of an inmate convicted of aggravated murder or murder in less than two years, or more than ten years, from the denial date; and (2) prohibit the Board from granting a release date in less than two years, or more than 10 years, after the Board denies a firm parole or post-prison supervision release date for certain inmates.

Rules Coordinator: Michelle Mooney

Address: Board of Parole and Post-Prison Supervision, 2575 Center St. NE, Salem, OR 97301

Telephone: (503) 945-0914

.....
Construction Contractors Board
Chapter 812

Rule Caption: Amends: refunds/NSF checks, definitions: complaint and substantial completion, attorney fees, correct cite references, shorten time, exception forms.

Date: 6-22-10 **Time:** 11 a.m. **Location:** West Salem Roth's IGA
1130 Wallace Rd. Santiam Rm.
Salem, OR

Hearing Officer: Rob Hernandez

Stat. Auth.: ORS 293.445, 670.310, 701.124, 701.126, 701.235

Stats. Implemented: ORS 87.058, 87.058, 87.093, 183, 183.415, 813.460, 183.470, 293.445, 701, 701.068, 701.088, 701.124, 701.126, 701.131, 701.133, 701.139, 701.140, 701.143, 701.145, 701.146 & 701.260

Proposed Amendments: 812-001-0180, 812-002-0140, 812-002-0740, 812-004-0250, 812-004-0320, 812-004-0550, 812-009-0430

Last Date for Comment: 6-22-10, 11 a.m.

Summary: • 812-001-0180 is amended to delete the requirement that CCB only refunds overpayments: (1) when requested to do so; and (2) within three years of the overpayment. In addition, CCB proposes to eliminate the \$20 "threshold" in the rule below which it made no refunds." These amendments comply with Oregon law and simplify CCB's bookkeeping.

• 812-002-0140 is amended to clarify the definition of a construction lien complaint in section (1). The amendment clarifies that the CCB dispute resolution process does not include a lien filed by the prime against the owner.

• 812-002-0740 is amended to clarify the definition of substantial completion and provide specific application of the rule for fact situations that frequently arise in complaints.

• 812-004-0250 is amended to allow CCB to order respondent to pay complainant's attorney fees, costs, interest and other fees anytime the agency orders complainant to file the complaint in court. Under existing law, we can only do this if we send the complainant to court because of the nature or complexity of the case. But there are a few cases where we require complainant to file in court where nature or complexity is not an issue. One is where the construction contract requires that the dispute be resolved in court. The complainant in these cases should be allowed to recover attorney fees and other costs.

• 812-004-0320 is amended to correct the cite reference conform section (4)(a)(B) to ORS 701.131(2)(c)(B) regarding who may file a complaint.

• 812-004-0400 is amended to shorten the time for payment of the complaint processing fee from 60 days to 30 days. The Board's streamlining program proposed reducing the time CCB allows a complainant to send in the processing fee.

• 812-004-0550 is amended to correct the cite references.

• 812-009-0430 is amended to require that the agency may provide forms to be used in filing exceptions and require the use of those forms.

Rules Coordinator: Catherine Dixon

Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310

Telephone: (503) 378-4621, ext. 4077

NOTICES OF PROPOSED RULEMAKING

Department of Agriculture Chapter 603

Rule Caption: Increase charges related to Official Seed Sampling and Verification services.

Date: 6-17-10
Time: 1 p.m.
Location: ODA BLDG.
635 Capitol St. NE
Salem, OR

Hearing Officer: Guy McAninch

Stat. Auth.: ORS 561, 632 & 633

Stats. Implemented: ORS 633.680(3)

Proposed Amendments: 603-056-0305

Last Date for Comment: 6-21-10, 5 p.m.

Summary: The proposed amendments would increase the fees for performing official seed sampling and verifications. The revenue generated by the existing fee schedule no longer provides sufficient funds to cover the costs of the official sampling program. The ODA proposes a revised fee schedule as follows: set a minimum hourly charge of \$48; raise the fee for the first sample from \$26 to \$36; increase the fee for the following three subsequent samples from \$4 to \$6; set a fee for inaccessible lots at \$50.

Rules Coordinator: Sue Gooch

Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301

Telephone: (503) 986-4583

Rule Caption: Updates the federal host list and eradication protocols in Oregon's regulations for *Phytophthora ramorum*.

Stat. Auth.: ORS 561.510, 561.560 & 570.305

Stats. Implemented: ORS 561.190 & 561.560

Proposed Amendments: 603-052-1230, 603-052-1250

Last Date for Comment: 6-21-10

Summary: The USDA Animal and Plant Health Inspection Service has updated their quarantine and official protocols for *Phytophthora ramorum*. The Oregon Department of Agriculture is proposing to amend out State regulations to harmonize with federal changes. In both OAR 603-052-1230 and 603-052-1250, the following will be updated to the most recent federal version: (1) host and associated plant list; (2) confirmed nursery protocol for wholesale and production nurseries; and (3) confirmed nursery protocol for retail nurseries. In OAR 603-052-1230, the confirmed residential and landscape protocol will also be updated to the latest federal version.

Rules Coordinator: Sue Gooch

Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301

Telephone: (503) 986-4583

Department of Agriculture, Oregon Albacore Commission Chapter 972

Rule Caption: Amend per diem rate for Oregon Albacore commissioners from \$30.00 to \$100.00.

Date: 6-17-10
Time: 9 a.m.
Location: U.S. Fish & Wildlife Service
2127 SE Marine Science Dr,
Newport, OR

Hearing Officer: Nancy Fitzpatrick

Stat. Auth.: ORS 576.304

Other Auth.: Motion made by Commission at 1-21-10 meeting

Stats. Implemented: ORS 292495, 576.206(7) & 576.265

Proposed Amendments: 972-040-0000

Last Date for Comment: 6-17-10, 5 p.m.

Summary: Sets per diem for commissioners at \$100.00. The 2009 Oregon Legislature approved HB 2458 which amended ORS 576.265 to exempt commodity commissions from the per diem limits set in ORS 292.495.

Rules Coordinator: Nancy Fitzpatrick

Address: Department of Agriculture, Oregon Albacore Commission, P.O. Box 983, Lincoln City, OR 97367

Telephone: (541) 994-2647

Department of Agriculture, Oregon Highland Bentgrass Commission Chapter 641

Rule Caption: Increases the assessment rate for highland bentgrass seed produced in Oregon.

Date: 6-15-10
Time: 7 a.m.
Location: Neufeldt's Restaurant
190 Main St.
Aumsville, OR

Hearing Officer: Kevin Doerfler

Stat. Auth.: ORS 576.304 & 576.325-576.365

Other Auth.: Motion made by Commission at 4-22-10 meeting

Stats. Implemented: ORS 576.325-576.365

Proposed Amendments: 641-010-0005

Last Date for Comment: 6-15-10, Close of Hearing

Summary: Increases the assessment for all highland bentgrass seed produced in Oregon from \$1.05 per cwt to \$1.75 per cwt on a clean seed basis beginning July 1, 2010.

Rules Coordinator: Lisa Ostlund

Address: PO Box 3366, Salem, OR 97302-0366

Telephone: (503) 364-2944

Department of Agriculture, Oregon Potato Commission Chapter 658

Rule Caption: Amend per diem rate for Oregon Potato Commission Commissioners from \$30.00 to \$65.00.

Stat. Auth.: ORS 576.304(14)

Other Auth.: Motion made by Commission at 4-2-10 meeting

Stats. Implemented: ORS 576.265 & 576.416

Proposed Amendments: 658-040-0005

Last Date for Comment: 6-25-10, 4 p.m.

Summary: Sets per diem for commissioners at \$65.00. The 2009 Legislature approved HB 2458 which amended ORS 576.265 to exempt commodity commissions from the per diem limits set in ORS 292.495.

Rules Coordinator: Jennifer Fletcher

Address: 9320 SW Barbur Blvd., Suite 130, Portland OR 97219

Telephone: (503) 731-3300

Department of Agriculture, Oregon Wheat Commission Chapter 678

Rule Caption: Reiterates Commissioner qualifications and allows penalties to be waived by Administrator for good cause.

Date: 6-14-10
Time: 8 a.m.
Location: Red Lion Hotel
304 SE Nye Ave.
Pendleton, OR

Hearing Officer: Tana Simpson

Stat. Auth.: ORS 576 & 578

Stats. Implemented: ORS 576 & 578

Proposed Adoptions: 678-030-0025, 678-030-0027

Proposed Amendments: 678-010-0050, 678-030-0000, 678-030-0010, 678-030-0020, 678-030-0030

Last Date for Comment: 6-14-10, 8 a.m.

Summary: The amendments and adoptions to OAR 678 section 30 are needed as clarification following the passage of revisions to ORS 678 in 2009. The proposed changes detail Commissioner qualifications bringing OWC administrative rules into alignment with statute.

The amendments to section 10 allow the Administrator to waive any penalty under \$1,000.00 for good cause. In the past the Commission has received requests for penalties to be waived due to

NOTICES OF PROPOSED RULEMAKING

illness. This would allow the Administrator the flexibility to do that where appropriate.

Rules Coordinator: Tana Simpson

Address: Department of Agriculture, Wheat Commission, 1200 NW Naito Parkway, Suite 370, Portland, OR 97209

Telephone: (503) 229-6665

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

Rule Caption: Housekeeping amendments to implement a certification renewal process as required by House Bill 3462 (2009).

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.720

Proposed Amendments: 918-281-0020, 918-695-0400

Last Date for Comment: 6-22-10, 5 p.m.

Summary: The proposed rules are necessary housekeeping changes to the division's rules as a result of the passage of House Bill 3462 during the 2009 legislative session. OAR Chapter 918, Division 98 rules were noticed and amended to require an Oregon Inspector Certification (OIC) for all building officials, inspectors, and plan reviewers and renewal of that certification every three years. Division 98 rules lay out the application requirements and fees for obtaining or renewing an OIC. These proposed rules update references to electrical and plumbing inspectors in divisions 281 and 695 to agree with amendments made to chapter 918, division 98 but were not included in the hearing notice for the hearing held on December 19, 2009.

Rules Coordinator: Dolores Wagner

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

Telephone: (503) 373-1258

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**Department of Consumer and Business Services,
Insurance Division
Chapter 836**

Rule Caption: Creates process for waiver of 95 percent retention rate requirement for association health plans.

Date:	Time:	Location:
6-24-10	10 a.m.*	350 Winter St. NE Conference Rm. F Salem, OR

Hearing Officer: Jeanette Holman

Stat. Auth.: ORS 731.244, 743.734

Other Auth.: 2010 OL Ch. 81 (Enrolled SB 1003)

Stats. Implemented: ORS 731.296, 743.734 as amended by 2010 OL Ch. 81 (Enrolled SB 1003) & 743.748

Proposed Amendments: 836-053-0081

Proposed Repeals: 836-053-0081(T)

Last Date for Comment: 7-2-10

Summary: *NOTE: The hearing will begin at 10:00 AM and end when all present who wish to testify have done so.

This rule replaces temporary amendments to OAR 836-053-0081 adopted April 22, 2010. The proposed permanent rule creates the process and criteria the Director of the Department of Consumer and Business Services will use to consider a request to waive the 95 percent retention rate requirements of ORS 743.734. Under Oregon law (ORS 743.734), an association health plan must retain 95 percent of its enrollees in order to be exempt from small employer group rating laws. An association health plan that fails to meet this requirement has 12 months within which to correct the deficiency in retention. If the association fails to correct the deficiency in the association health plan must be rated under small group rating laws.

The rule requires association health plans seeking a waiver to submit a written request to the director between the 3rd and 6th month of the 12-month correction period. With the request for waiver, the association health plans must submit information about the small employer groups covered by the association plan and why some groups left the association plan. The information required will allow

the director to understand why the association failed to meet the retention rate and whether the association engaged in any practice that caused, or was designed to cause, any small employer group to terminate coverage under the plan.

The rules establish the criteria the director must use in considering the waiver request and within 90 days after the director receive the request, to deny the request or allow a waiver of the 95 percent retention requirement of ORS 743.734(7). The director must find that the association health plan did not engage in any practice that caused, or was designed to cause, any small employer group to terminate coverage under the plan. The director may establish the period of time that the waiver will be in effect and may withdraw a waiver at any time if an association health plan fails to comply with any requirement of the rule or if the director finds that an association health plan engaged in any practice that caused, or was designed to cause, any small employer group to terminate coverage under the plan.

At the expiration of a waiver, an association health plan is exempt from ORS 743.734(1) if the association satisfies the requirements of ORS 743.734(7) and (8). An association health plan that is denied a request for waiver does not qualify for the exemption from ORS 743.734(1) and may not submit an additional request for waiver until at least one year after the end of the correction period. If a waiver is not granted, the carrier also must provide to a small employer group in an association the small employer group rates for the next renewal period.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301

Telephone: (503) 947-7272

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**Department of Energy
Chapter 330**

Rule Caption: Establish a voluntary building energy rating system.

Date:	Time:	Location:
6-22-10	9:30 a.m.	Department of Energy 625 Marion St. Salem, OR 97301

Hearing Officer: Kathy Stuttaford

Stat. Auth.: 2009 OL Ch. 750

Stats. Implemented: 2009 OL Ch. 750

Proposed Adoptions: 330-063-0000, 330-063-0010, 330-063-0020, 330-063-0030, 330-063-0040

Last Date for Comment: 6-22-10, 5 p.m.

Summary: Senate Bill 79 (2009) directed the Department of Energy to adopt rules for a voluntary building energy rating system for use in new and existing commercial and residential buildings based upon task force recommendations. These rule establish the building energy rating criteria.

Rules Coordinator: Kathy Stuttaford

Address: Department of Energy, 625 Marion St. NE, Salem, OR 97301

Telephone: (503) 373-2127

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**Department of Forestry
Chapter 629**

Rule Caption: Klamath-Lake Forest Protection District boundary change.

Date:	Time:	Location:
6-21-10	6:30 p.m.	Community Center 725 Chewaucan St. Paisley, OR 97363

Hearing Officer: Staff

Stat. Auth.: ORS 477.225

Other Auth.: ORS 526.041(1)

Stats. Implemented: ORS 477.225

Proposed Amendments: 629-041-0540

Last Date for Comment: 6-30-10

NOTICES OF PROPOSED RULEMAKING

Summary: OAR 629-041-0540 describes the Klamath-Lake Forest Protection District boundary. This rulemaking process is to change the location of the Klamath-Lake Forest Protection District boundary in Lake County. The proposed boundary would be State highway 31 from T.31S R.16E Section 3 W.M. to T.33S R.17E Section 5 W.M.

Information and maps of the proposed and current boundaries can be found on the Department website at: www.oregon.gov/ODF/lawsrules.shtml

Written comments must be received by 5:00 p.m., June 30, 2010. Submission should be addressed to Sabrina Perez, Rules Coordinator, Oregon Department of Forestry, 2600 State St., Salem, OR 97310, sent via email to Sabrina.perez@state.or.us, or via fax to 503-945-7212

Rules Coordinator: Sabrina Perez

Address: Department of Forestry, 2600 State St., Bldg. B, Salem, OR 97310

Telephone: (503) 945-7210

Department of Human Services, Addictions and Mental Health Division: Addiction Services Chapter 415

Rule Caption: Establish the "Health Professionals Program" as required by HB 2345 (Enrolled 2009 Session).

Date:	Time:	Location:
6-15-10	1 p.m.	DHS Bldg. 500 Summer St., Rm. 160 Salem, OR

Hearing Officer: Richard Luthe

Stat. Auth.: ORS 409.050 & 676.190

Stats. Implemented: ORS 676.190

Proposed Adoptions: 415-065-0005, 415-065-0010, 415-065-0015, 415-065-0020, 415-065-0025, 415-065-0030, 415-065-0035, 415-065-0040, 415-065-0045, 415-065-0050, 415-065-0055, 415-065-0060, 415-065-0065, 415-065-0070

Last Date for Comment: 6-21-10

Summary: The Addictions and Mental Health (AMH) Division is proposing these new rules in order to establish a "Health Professionals Program" as required by HB 2345 (Enrolled, 2009 Session).

Rules Coordinator: Richard Luthe

Address: Department of Human Services, Addictions and Mental Health Division: Addiction Services, 500 Summer St. NE, E-86, Salem, OR 97301

Telephone: (503) 947-1186

Department of Human Services, Addictions and Mental Health Division: Mental Health Services Chapter 309

Rule Caption: Rules to establish the Self-Determination Policy and Consumer Advisory Council required by SB 364 (2007 Session).

Date:	Time:	Location:
6-16-10	9 a.m.	DHS Bldg. 500 Summer St., Rm. 137A Salem, OR

Hearing Officer: Richard Luthe

Stat. Auth.: ORS 409.050 & 430.078

Stats. Implemented: ORS 430.071-430.078

Proposed Adoptions: 309-011-0120, 309-011-0125, 309-011-0130, 309-011-0135, 309-011-0140

Last Date for Comment: 6-25-10

Summary: The Addictions and Mental Health (AMH) Division is proposing these new rules in order to prescribe standards to be implemented in order to establish the Self-Determination Policy and Consumer Advisory Council as required by ORS 430.071 through 430.075.

Rules Coordinator: Richard Luthe

Address: Department of Human Services, Addictions and Mental Health Division: Mental Health Services, 500 Summer St. NE, E-86, Salem, OR 97301

Telephone: (503) 947-1186

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

Rule Caption: Abuse Reporting and Protective Services in Children's Care Provider (CCP) Settings

Date:	Time:	Location:
6-17-10	1:30-2:30 p.m.	Human Services Bldg. Rm. 255 (2nd Floor) 500 Summer St. NE Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 409.050, 418.005, 418.189 & 419B.005

Other Auth.: Child Abuse Prevention & Treatment Act (CAPTA), Adoption & Safe Families Act (ASFA)

Stats. Implemented: ORS 409.185, 409.225, 418.005, 418.189, 418.015, 418.205-418.327, 418.702, 418.747, 419B.005-419B.050, 419.370 & 419B.328

Proposed Amendments: 407-045-0800, 407-045-0810, 407-045-0820, 407-045-0830, 407-045-0850, 407-045-0860, 407-045-0870, 407-045-0880, 407-045-0890, 407-045-0900, 407-045-0910, 407-045-0920, 407-045-0930, 407-045-0940, 407-045-0950, 407-045-0960, 407-045-0970, 407-045-0980

Last Date for Comment: 6-22-10, 5 p.m.

Summary: These rules are being amended to provide additional clarification for definitions; to provide for a right of review for provider agencies substantiated for abuse, to permit accused persons to have peer support during abuse investigation interviews, to clarify the time frame for completion of abuse investigations, and to describe the membership on the substantiation review panel.

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: 250 Winter St NE, Salem, OR 97301

Telephone: (503) 947-5250

Rule Caption: Abuse Reporting and Protective Services for Adults with Developmental Disabilities or Mental Illness.

Date:	Time:	Location:
6-21-10	1:30-2:30 p.m.	Human Services Bldg. Rm. 137-C (1st Floor) 500 Summer St. NE Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 179.040 & 409.050

Other Auth.: 2007 & 2009 OL Ch. 444 (Enrolled HB 2442)

Stats. Implemented: ORS 430.735-430.765, 443.400-443.460 & 443.705-443.825

Proposed Adoptions: 407-045-0370

Proposed Amendments: 407-045-0250 - 407-045-0360

Proposed Repeals: 407-045-0260(T), 407-045-0290(T), 407-045-0350(T)

Last Date for Comment: 6-23-10, 5 p.m.

Summary: The Department of Human Services's (Department) Office of Investigations and Training (OIT) filed temporary rules, effective January 1, 2010, that updated the rules in OAR chapter 407, division 45 to comply with the 2009 legislative changes from House Bill 2442. OIT needs to permanently amend the abuse investigation and protective services rules in OAR chapter 407, division 45 to comply with the 2009 legislative changes from House Bill 2442. OIT is proposing to:

- Expand the definition of abuse in OAR 407-045-0260 for incidents occurring on or after January 1, 2010;

NOTICES OF PROPOSED RULEMAKING

- Adopt OAR 407-045-0370 for multidisciplinary teams (MDT) including exceptions to confidentiality that allow disclosure of client information;

- Add requirements for notification of investigation outcome to the alleged victim in OAR 407-045-0320;

- Clarify that timelines for notice of parties and review of investigation reports are measured in working days in OAR 407-045-0290 and 407-045-0320;

- Describe immunity provisions for employers who share substantiated abuse information about their employees or former employees in OAR 407-045-0350; and

- Propose general housekeeping changes to reflect current practices and improve readability.

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: Department of Human Services, Administrative Services Division and Director's Office, 250 Winter St NE, 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 programs.

Date:	Time:	Location:
6-22-10	8:30 a.m.	Human Services Bldg., Rm. 255 Summer St. NE Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005 & 418.640

Stats. Implemented: ORS 418.005, 418.635 & 418.640

Proposed Repeals: 413-200-0210, 413-200-0220

Last Date for Comment: 6-24-10, 5 p.m.

Summary: OAR 413-200-0210 – about the purpose of the Department's rules for family group homes (a group living situation more structured than a foster home, but less structured than a group residential program) and the purpose of a family group home placement – and OAR 413-200-0220 about the definition of key terms used in these rules are being repealed because the Department no longer utilizes family group homes when making placement decisions for children and young adults in the Department's custody. The Department also is repealing any unpromulgated rules regarding family group homes, certifying of and contracting for family group homes, and payments to family group homes.

Written comments may be submitted until June 24, 2010 at 5:00 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,
Children, Adults and Families Division:
Self-Sufficiency Programs
Chapter 461**

Rule Caption: Seeking public comment on petition to amend rule about income availability for eligibility decisions.

Stat. Auth.: ORS 183.390, 409.050, 411.060, 411.404, 411.816 & 412.049

Stats. Implemented: ORS 183.341, 183.390, 411.060, 411.117, 411.404, 411.816 & 412.049

Proposed Amendments: 461-140-0040

Last Date for Comment: 6-22-10, 5 p.m.

Summary: In response to a Petition to Amend OAR 461-140-0040 (about how the Department determines the amount of income that is considered available to a client, the date the income is considered available, and situations in which income is considered unavailable when making eligibility and benefit level determinations for the Department's programs) submitted to the Department in accordance with OAR 137-001-0070 the Department is accepting comments from the public. The petitioner has requested the Department amend OAR 461-140-0040 to state that amounts deducted from Social Security Disability Insurance payments, earned income, and unearned income to offset delinquent federal school loan payments, repayments, and defaults; administrative sanctions; and tax debt are not considered available income for a financial group (the individuals whose income and resources count in determining eligibility) when the Department is making eligibility and benefit level determinations in the Medical Assistance Assumed (MAA), Medical Assistance for Families (MAF), Oregon Health Plan (OHP), Oregon Supplemental Income Program Medical (OSIPM), Qualified Medicare Beneficiaries (QMB), Supplemental Nutrition Assistance Program (SNAP), Seniors and People With Disabilities (SPD), SPI(sic), SPMI(sic), and Self Sufficiency Programs (SSP) programs. The petitioner also has requested that the rule state that for financial group members with certain immigration statuses administrative and tax offsets are included in the income considered available to a financial group.

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

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

Rule Caption: Pilot project for prenatal coverage for CAWEM women; adding an additional participating county.

Date:	Time:	Location:
6-15-10	10:30 a.m.	HSB Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.040, 409.050 & 409.110

Stats. Implemented: ORS 414.025 & 414.065

Proposed Amendments: 410-120-0030

Last Date for Comment: 6-20-10

Summary: The General rules program administrative rules govern the Division of Medical Assistance Programs (Division) payments for services provided to clients. The Division is amending this rule, effective July 1, 2010, to add an additional county (Lane County) to participate in the pilot project, subject to the Centers for Medicare and Medicaid Services (CMS) approval. The Division will add Lane County providing prenatal care during pregnancy and labor and delivery services for CAWEM women. Early prenatal care positively influences healthy outcomes for both mother and child to mitigate adverse outcomes of high-risk pregnancies and is an accepted standard of care. Lack of access to prenatal care may result in increased risk at birth and in infancy for children, and may result in increased costs of medical care to the state. This pilot is operated under an amendment to Oregon's Children's Health Insurance Program (CHIP) plan. Oregon anticipates receiving federal approval for the pilot project, effective on or before July 1, 2010.

Rules Coordinator: Darlene Nelson

NOTICES OF PROPOSED RULEMAKING

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

Rule Caption: January 2010 Age Guidelines for Brokerage Child Transports.

Date:	Time:	Location:
6-15-10	10:30 a.m.	HSB Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-136-0245

Last Date for Comment: 6-20-10

Summary: The Medical Transportation Services Program administrative rules govern Division of Medical Assistance Programs' (Division) payments for services provided to certain clients. Having temporarily amended OAR 410-136-0245, the Division needs to permanently amend the rule to clarify that an additional adult attendant is not required for non-emergent medical transportation provided by a Department employee or Department volunteer or for secured transports provided under OAR 410-136-0240. This is necessary to ensure child clients maintain access to appropriate transportation services.

Under the previous rule, children may have been denied access to appropriate transportation to medical appointments because the Department employees, volunteers, or secured transportation providers, were not authorized to act as required adult attendants. Adult attendants, typically parents, guardians or caregivers, were required to accompany child clients for the child's safety. As the rule was written, Department employees and volunteers, who were appropriate attendants, were not authorized. Also the previous rule should not apply to secured transportation, which, by definition, includes a licensed and bonded security escort for the client.

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

Rule Caption: Eliminate obstetrics alternative payment methodology and reimburse in accordance with the physician fee schedule.

Date:	Time:	Location:
6-15-10	10:30 a.m.	HSB Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.050 & 414.065

Other Auth.: 42 USC 1396a(bb), Title 42 Public Health of the Code of Federal Regulations

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-147-0365

Proposed Repeals: 410-147-0365(T)

Last Date for Comment: 6-20-10

Summary: The Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) Services program administrative rules govern DMAP payment for services to certain clients. The Division will permanently amend the temporary rule 410-147-0365 without further revisions. In March 23, 2010 CMS notified the Division that the State Plan Amendment (SPA) that was submitted to extend the Obstetric Alternative Payment Methodology (OB APM) to more Rural Health Clinics (RHCs) will not be approved as submitted.

CMS advised the Division to withdraw the SPA as soon as possible. CMS stated they will allow for the Division to reimburse OB delivery procedures according to the physician fee schedule to a "target" provider group, which can be those RHCs that the Division targeted (and who the Division submitted an OB APM SPA to include) to receive the OB APM. Other text may be revised to

improve readability and to take care of necessary "housekeeping" corrections.

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

Rule Caption: TCM for Human Immunodeficiency Virus, Babies First/CaCoon, Asthma Healthy Homes, Tribal, Early Intervention/Early Childhood Special Education, Substance Abusing Pregnant Women and Parents.

Date:	Time:	Location:
6-15-10	10:30 a.m.	HSB Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.050 & 414.065

Stats. Implemented: ORS 409.010 & 414.065

Proposed Adoptions: 410-138-xxx0, 410-138-xxx1, 410-138-xxx2, 410-138-xxx3

Proposed Amendments: 410-138-0005, 410-138-0007, 410-138-0009, 410-138-0020, 410-138-0040, 410-138-0060, 410-138-0080, 410-138-0300, 410-138-0360, 410-138-0380, 410-138-0390, 410-138-0500, 410-138-0540, 410-138-0560, 410-138-0600, 410-138-0640, 410-138-0660, 410-138-0680, 410-138-0700, 410-138-0710, 410-138-0740, 410-138-0760, 410-138-0780

Proposed Repeals: 410-138-0530, 410-138-0610

Proposed Ren. & Amends: 410-138-0000 to 410-138-0030

Last Date for Comment: 6-20-10

Summary: The Targeted Case Management (TCM) Services Program administrative rules govern Division of Medical Assistance Programs' (Division) payments for services provided to certain targeted client groups. As a result of the expected approval before July 1, 2010 of State Plan Amendments 08-13, 08-14, and 08-15, the Division needs to amend these rules to bring the HIV, Babies First/CaCoon, Tribal, and Substance Abusing Pregnant Women and Parents With Children Under Age 18 programs into compliance with the State Plan Amendment (SPA) and current Federal rules and regulations. Contingent upon and immediately upon receipt of the Center for Medicare and Medicaid Services (CMS) approval for expansion of TCM programs, the Division will begin implementation to extend the existing HIV and Substance Abusing Pregnant Women and Parents With Children Under Age 18 programs to new unit of government providers. Contingent upon approval, the Division will adopt four new rules, to implement new programs - Asthma Healthy Homes (SPA 10-02, approval pending). CMS will provide the retroactive dates for the HIV and Substance Abusing Pregnant Women and Parents With Children Under Age 18. Possible dates are in parentheses: HIV (January 1, 2009 or July 1, 2009) and Substance Abusing Pregnant Women and Parents With Children Under Age 18 (July 1, 2009).

The Division also plans to consolidate rule 410-138-0610 with 410-138-0600, repealing 410-138-0610. In addition, 410-138-0530 will be consolidated with 410-138-0500, repealing 410-138-0530. Other text will be revised to improve readability and to take care of necessary "housekeeping" corrections.

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

Rule Caption: Hospital Provider Tax Rate Reduction.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750, 2009 OL Ch. 867 §17, 2007 OL Ch. 780 §1 & 2003 OL Ch. 736 §2 & 3

Proposed Amendments: 410-050-0861

Last Date for Comment: 6-21-10, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: The proposed hospital provider tax rule change reduces the tax rate from 2.8% to 2.32%, effective July 1, 2010.

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: 250 Winter St NE, Salem, OR 97301

Telephone: (503) 947-5250

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**Department of Human Services,
Public Health Division
Chapter 333**

Rule Caption: Adoption of rules for the operation and licensure of Hospice Programs.

Date:	Time:	Location:
6-24-10	1 p.m.	800 NE Oregon St., Suite 1E Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 443.860

Other Auth.: 2009 OL Ch. 793

Stats. Implemented: ORS 443.850, 443.860 & 443.869

Proposed Adoptions: 333-035-0045, 333-035-0050, 333-035-0055, 333-035-0060, 333-035-0065, 333-035-0070, 333-035-0075, 333-035-0080, 333-035-0085, 333-035-0090, 333-035-0095, 333-035-0100

Last Date for Comment: 6-25-10, 5 p.m.

Summary: The Department of Human Services, Public Health Division is proposing to permanently adopt Oregon Administrative Rules relating to the establishment of standards for the operation and licensing of Hospice Programs in response to the passage of SB 161 during the 2009 legislative session. These rules will provide a process for licensing, handling complaints, investigations of complaints, surveys, and discipline for hospice programs by assessing a civil penalty.

Rules Coordinator: Brittany Sande

Address: Department of Human Services, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: Edits, amendments and adoption of rules related to Radiation Protection Services.

Date:	Time:	Location:
6-22-10	9 a.m.	800 NE Oregon St., Rm. 1E Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 431.925–431.955 & 453.605–453.807

Other Auth.: 10 CFR Parts 1–199

Stats. Implemented: ORS 431.925–431.955 & 453.605–453.807

Proposed Adoptions: 333-102-0032, 333-120-0545

Proposed Amendments: 333-102-0001, 333-102-0015, 333-102-0025, 333-102-0030, 333-102-0035, 333-102-0115, 333-102-0125, 333-102-0190, 333-102-0250, 333-102-0285, 333-102-0305, 333-102-0340, 333-102-0900, 333-103-0003, 333-103-0010, 333-103-0015, 333-103-0030, 333-103-0035, 333-106-0005, 333-106-0055, 333-106-0325, 333-119-0010, 333-119-0020, 333-119-0060, 333-119-0080, 333-119-0120, 333-119-0200, 333-120-0015, 333-120-0500, 333-120-0550

Last Date for Comment: 6-25-10, 5 p.m.

Summary: The Department of Human Services, Public Health Division, Radiation Protection Services Section is proposing to permanently adopt and amend Oregon Administrative Rules (OAR) in chapter 333, divisions 102, 103, 106, 119 and 120 related to radiation protection. Changes to the OARs are necessary to comply with the Nuclear Regulatory Commission's (NRC) Code of Federal Regulations (CFR); Adopt, revise and repeal rules to comply with implemented CFRs for compatibility with NRC regulations per the state agreement; Amend division 103 to increase radioactive material licensing fees by 20% and change annual fees to assigned quarter-

ly invoice dates to licensees; Division 106 rules are being revised to address new and emerging technology; and Division 119 is being revised to address tanning operator training within the industry.

Rules Coordinator: Brittany Sande

Address: Department of Human Services, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: Updating rules for Medical Marijuana pertaining to application documentation, card replacement fee, and attending physicians.

Date:	Time:	Location:
7-30-10	11 a.m.	Portland State Office Bldg. 800 NE Oregon St., Conference Rm. 1A Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300–475.346

Proposed Amendments: 333-008-0010, 333-008-0020, 333-008-0030, 333-008-0040, 333-008-0050, 333-008-0060, 333-008-0080

Last Date for Comment: 8-6-10, 5 p.m.

Summary: The Department of Human Services, Public Health Division, Oregon Medical Marijuana Program is amending administrative rules in chapter 333, division 8 to clarify existing rule and add guidance in order to:

(1) More clearly define what an immature plant is in order to alleviate confusion amongst growers and law enforcement.

(2) Clarify the procedures regarding acceptable documentation accompanying an application for the registry so that applicant processing time improves.

(3) Establish a fee to cover the cost to issue a replacement registry identification card.

(4) Include procedures to verify compliance with the OMMA for attending physicians whom have over 450 such patients.

Rules Coordinator: Brittany Sande

Address: Department of Human Services, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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**Department of Human Services,
Seniors and People with Disabilities Division
Chapter 411**

Rule Caption: Adult Foster Homes.

Date:	Time:	Location:
6-15-10	3 p.m.	Human Services Bldg. 500 Summer St. NE Rooms 137CD Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.070

Other Auth.: SB 162 (2009) - 2009 OL Ch. 44, SB 163 (2009) - 2009 OL Ch. 72, SB 287 (2009) - 2009 OL Ch. 418, SB 670 (2009) - 2009 OL Ch. 708, HB 2442 (2009) - 2009 OL Ch. 837, HB 3698 (2010) - 2010 OL Ch. 93

Stats. Implemented: ORS 124.050–124.095, 443.001–443.004, 443.705–443.825

Proposed Amendments: 411-050-0400, 411-050-0405, 411-050-0408, 411-050-0410, 411-050-0412, 411-050-0415, 411-050-0420, 411-050-0430, 411-050-0435, 411-050-0440, 411-050-0443, 411-050-0444, 411-050-0445, 411-050-0447, 411-050-0455, 411-050-0460, 411-050-0465, 411-050-0480, 411-050-0481, 411-050-0487, 411-050-0490, 411-050-0491

Proposed Repeals: 411-050-0400(T), 411-050-0410(T), 411-050-0412(T), 411-050-0415(T), 411-050-0420(T), 411-050-0440(T), 411-050-0444(T), 411-050-0455(T), 411-050-0460(T), 411-050-0480(T), 411-050-0481(T), 411-050-0487(T)

Last Date for Comment: 6-21-10, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: To comply with the 2009 legislative changes from Senate Bill 162, Senate Bill 163, Senate Bill 287, Senate Bill 670, House Bill 2442, and the 2010 legislative changes from House Bill 3698, the Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to update the adult foster home rules in OAR chapter 411, division 050 to permanently:

- Reference the definition of abuse to OAR 411-020-0002 for incidents occurring on or after January 1, 2010;
- Prohibit an individual convicted of a specific crime from being licensed or working in any capacity in an adult foster home;
- Increase the allowable civil penalty amounts for certain types of abuse;
- Provide increased privacy protection for residents, complainants, and witnesses to a complaint investigation;
- Allow revocation, denial, or suspension of a license if the applicant or licensee has a history of substantial non-compliance in any other licensed facilities;
- Require the licensee to provide written notice of any substantiated finding of abuse where the victim of the abuse has a mental illness or developmental disability and receives services from the adult foster home;
- Make the licensee and employees mandatory reporters for some instances of elder abuse;
- Require SPD to determine if a nursing assistant applicant or employee of the applicant has been responsible for abuse prior to the issuance of a license;
- Require that the licensee's employment application include a question asking if the applicant has been found to have committed abuse;
- Require moneys and fees collected under ORS 443.705 to 443.825 to be paid to the Quality Care Fund;
- Require smoking regulations to be in compliance with the Oregon Indoor Clean Air Act and OAR 333-015-0025 to 333-015-0090;
- Require residents to be free of discrimination in regard to sexual orientation; and
- Allow SPD to apportion substantiated abuse to the licensee, an individual, or both the licensee and individual.

In addition, SPD is proposing to:

- Define subject individual;
- Clarify relative adult foster home and limited foster home requirements;
- Clarify the number of caregivers required in determining license capacity;
- Clarify portability of criminal records checks;
- Require all subject individuals to self-report any potentially disqualifying convictions and the licensee to notify SPD;
- Prohibit an exception to the minimum age requirement for the licensee and other caregivers;
- Require that fireplaces have approved protective glass screens or metal mesh screens anchored to the top and bottom;
- Require the licensee to comply with any final order of SPD;
- Require licensees to have an active address for electronic mail and for the licensee to check and review electronic mail at least two times weekly; and
- Provide general housekeeping to reflect current practices, improve readability, and establish consistency with other SPD rules.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301
Telephone: (503) 945-6398

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Rule Caption: Residential Care and Assisted Living Facilities.

Date:	Time:	Location:
6-16-10	2 p.m.	Human Services Bldg. 500 Summer St. NE Rooms 137CD Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 181.534, 410.070 443.004 & 443.450

Other Auth.: HB 2139 (2009) - 2009 OL Ch. 539 , HB 2442 (2009) - 2009 OL Ch. 837, HB 3698 (2010) - 2010 OL Ch. 93

Stats. Implemented: ORS 181.534, 443.004, 443.400 to 443.455 & 443.991

Proposed Adoptions: 411-054-0133

Proposed Amendments: 411-054-0005, 411-054-0013, 411-054-0016, 411-054-0025, 411-054-0065, 411-054-0105, 411-054-0120

Proposed Repeals: 411-054-0005(T), 411-054-0016(T), 411-054-0025(T), 411-054-0065(T), 411-054-0105(T), 411-054-0120(T), 411-054-0133(T)

Last Date for Comment: 6-21-10, 5 p.m.

Summary: To comply with the 2009 legislative changes from House Bill 2139 and House Bill 2442 and the 2010 legislative changes from House Bill 3698, the Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to update the residential care (RCF) and assisted living facility (ALF) rules in OAR chapter 411, division 054 to permanently:

- Reference the definition of abuse to OAR 411-020-0002 for incidents occurring on or after January 1, 2010;
- Prohibit an individual convicted of a specific crime from working in any capacity in a RCF or ALF;
- Provide that SPD's Central Office shall issue a written notice of finding for each allegation of wrongdoing;
- Require the provider to post and make available to the residents, the resident's families, and the general public, written notice that finds substantiated abuse when committed against individuals with developmental disabilities or mental health diagnosis;
- Provide that complaint investigations be sent to providers within seven days of completion for review and comments if applicable;
- Increase the civil penalty amount for certain incidents of abuse;
- Authorize the appointment of a temporary manager; and
- Provide general housekeeping to reflect current practices, improve readability, and establish consistency with other SPD rules.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301
Telephone: (503) 945-6398

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Rule Caption: Employment and Alternatives to Employment Services for Individuals with Developmental Disabilities.

Date:	Time:	Location:
6-21-10	3 p.m.	Human Services Bldg. 500 Summer St. NE Rooms 137AB Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050 & 410.070

Other Auth.: HB 2442 (2009) - 2009 OL Ch. 837

Stats. Implemented: ORS 430.610, 430.630 & 430.670

Proposed Amendments: 411-345-0020, 411-345-0080, 411-345-0100, 411-345-0210, 411-345-0230, 411-345-0290

Proposed Repeals: 411-345-0020(T), 411-345-0080(T), 411-345-0100(T), 411-345-0210(T), 411-345-0230(T), 411-345-0290(T)

Last Date for Comment: 6-23-10, 5 p.m.

Summary: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to amend the rules in OAR chapter 411, division 345 relating to employment and alternatives to employment services for individuals with developmental disabilities to permanently:

- Implement House Bill 2442 (2009) by changing the definition of abuse for individuals with developmental disabilities, adding a requirement to inquire of an applicant if the applicant has been found to have committed abuse, adding a requirement to prohibit the use of public funds for purposes of employment when a person has been convicted of certain crimes, and adding a requirement to prohibit hiring a person when they have been convicted of certain crimes; and

NOTICES OF PROPOSED RULEMAKING

• Implement a provider service payment limitation effective February 1, 2010.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301

Telephone: (503) 945-6398

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Rule Caption: Services for Individuals with Developmental Disabilities.

Date:	Time:	Location:
6-21-10	1:30 p.m.	Human Services Bldg. 500 Summer St. NE Rooms 137AB Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070 & 430.640

Other Auth.: HB 2442 (2009) - 2009 OL Ch. 837

Stats. Implemented: ORS 427.005, 427.007, 430.021, 430.215, 430.610-430.695, 443.400-443.455 & 443.705-443.835

Proposed Amendments: 411-300-0110, 411-300-0155, 411-300-0170, 411-300-0200, 411-300-0220, 411-305-0010, 411-305-0020, 411-305-0023, 411-305-0050, 411-305-0090, 411-305-0110, 411-305-0115, 411-305-0140, 411-308-0020, 411-308-0030, 411-308-0090, 411-308-0100, 411-308-0110, 411-308-0130, 411-320-0020, 411-320-0030, 411-320-0140, 411-325-0020, 411-325-0100, 411-325-0160, 411-325-0190, 411-328-0560, 411-328-0610, 411-328-0670, 411-330-0010, 411-330-0020, 411-330-0060, 411-330-0070, 411-330-0100, 411-330-0120, 411-330-0140, 411-330-0160, 411-335-0020, 411-335-0030, 411-335-0100, 411-340-0020, 411-340-0030, 411-340-0040, 411-340-0050, 411-340-0070, 411-340-0080, 411-340-0130, 411-340-0140, 411-340-0160, 411-350-0020, 411-350-0050, 411-350-0080, 411-350-0110, 411-350-0120, 411-355-0010, 411-355-0040, 411-355-0050, 411-355-0060, 411-355-0090, 411-355-0120

Proposed Repeals: 411-300-0110(T), 411-300-0155(T), 411-300-0170(T), 411-300-0200(T), 411-300-0220(T), 411-305-0010(T), 411-305-0020(T), 411-305-0023(T), 411-305-0110(T), 411-305-0115(T), 411-305-0140(T), 411-308-0020(T), 411-308-0030(T), 411-308-0090(T), 411-308-0100(T), 411-308-0110(T), 411-308-0130(T), 411-320-0020(T), 411-320-0030(T), 411-320-0140(T), 411-325-0020(T), 411-325-0100(T), 411-325-0160(T), 411-325-0190(T), 411-328-0560(T), 411-328-0610(T), 411-328-0670(T), 411-330-0010(T), 411-330-0020(T), 411-330-0060(T), 411-330-0070(T), 411-330-0100(T), 411-330-0120(T), 411-330-0140(T), 411-330-0160(T), 411-335-0020(T), 411-335-0030(T), 411-335-0100(T), 411-340-0020(T), 411-340-0030(T), 411-340-0040(T), 411-340-0050(T), 411-340-0070(T), 411-340-0080(T), 411-340-0130(T), 411-340-0140(T), 411-340-0160(T), 411-350-0020(T), 411-350-0050(T), 411-350-0080(T), 411-350-0110(T), 411-350-0120(T), 411-355-0010(T), 411-355-0040(T), 411-355-0050(T), 411-355-0060(T), 411-355-0090(T), 411-355-0120(T)

Last Date for Comment: 6-23-10, 5 p.m.

Summary: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to permanently amend:

• Various rules relating to services for individuals with developmental disabilities to implement House Bill 2442 (2009) by changing the definition of abuse for individuals with developmental disabilities, adding a requirement to inquire of an applicant if the applicant has been found to have committed abuse, adding a requirement to prohibit the use of public funds for purposes of employment when a person has been convicted of certain crimes, adding a requirement to prohibit hiring a person when they have been convicted of certain crimes, and adding notification requirements to residents, residents' guardians, and case managers when abuse of an adult has been substantiated in 24-hour residential services under OAR chapter 411, division 325.

• OAR 411-305-0050 to clarify age criteria for family support service eligibility by reflecting services end the day before the individual's 18th birth date. Previous language allowed services through the month of the individual's 18th birth date in order to facilitate continuity of care. However, individuals 18 years and older are now eligible for and entitled to support services under OAR chapter 411, division 340.

• OAR 411-305-0090 to clarify that the amount of direct assistance or immediate access funds shall be determined by the community developmental disability program (CDDP) per child instead of per family.

• OAR 411-308-0090 to remove language that prohibits the use of Medicaid state plan personal care services in conjunction with long-term support services for children with developmental disabilities.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301

Telephone: (503) 945-6398

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Rule Caption: Foster Homes for Children with Developmental Disabilities.

Date:	Time:	Location:
6-15-10	1:30 p.m.	Human Services Bldg. 500 Summer St. NE Rooms 137CD Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070, 430.215, 443.830 & 443.835

Other Auth.: ORS 109.675, 181.534, HB 2371 (2007) - 2007 OL Ch. 205, HB 2442 (2009) - 2009 OL Ch. 837 & HB 3114 (2009) - 2009 OL Ch. 853

Stats. Implemented: ORS 443.830 & 443.835

Proposed Amendments: 411-346-0100, 411-346-0110, 411-346-0120, 411-346-0130, 411-346-0140, 411-346-0150, 411-346-0160, 411-346-0165, 411-346-0170, 411-346-0180, 411-346-0190, 411-346-0200, 411-346-0210, 411-346-0220, 411-346-0230

Proposed Repeals: 411-346-0110(T), 411-346-0150(T), 411-346-0180(T), 411-346-0220(T)

Last Date for Comment: 6-21-10, 5 p.m.

Summary: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to amend the rules in OAR chapter 411, division 346 relating to foster homes for children with developmental disabilities to permanently:

• Implement House Bill 2442 (2009) by changing the definition of abuse for adults with developmental disabilities, adding a requirement to inquire of an applicant if the applicant has been found to have committed abuse, adding a requirement to prohibit the use of public funds for purposes of employment when a person has been convicted of certain crimes, and adding a requirement to prohibit hiring a person when they have been convicted of certain crimes;

• Implement House Bill 3114 (2009) by adding reporting and consent requirements for the administration of more than one psychotropic or any antipsychotic medications to a child in foster care;

• Add requirements for the development of Emergency Preparedness Plans in response to House Bill 2371 (2007); and

• Add requirements of providers to implement the use of single action hardware on doors utilized for egress to increase safety in foster care homes during the need to exit the home in the event of a fire.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301

Telephone: (503) 945-6398

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Rule Caption: Adult Foster Homes for Individuals with Developmental Disabilities.

NOTICES OF PROPOSED RULEMAKING

Date: 6-16-10
Time: 3:30 p.m.
Location: Human Services Bldg.
500 Summer St. NE
Rooms 137CD
Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050 & 410.070

Other Auth.: House Bill 2371 (2007) - 2007 OL Ch. 205, HB 2442 (2009) - 2009 OL Ch. 837 & HB 3114 (2009) - 2009 OL Ch. 853

Stats. Implemented: ORS 443.705-443.825

Proposed Amendments: 411-360-0010, 411-360-0020, 411-360-0030, 411-360-0040, 411-360-0050, 411-360-0060, 411-360-0070, 411-360-0080, 411-360-0090, 411-360-0100, 411-360-0110, 411-360-0120, 411-360-0130, 411-360-0140, 411-360-0150, 411-360-0160, 411-360-0170, 411-360-0180, 411-360-0190, 411-360-0200, 411-360-0210, 411-360-0220, 411-360-0230, 411-360-0240, 411-360-0250, 411-360-0260, 411-360-0270

Proposed Repeals: 411-360-0020(T), 411-360-0040(T), 411-360-0050(T), 411-360-0090(T), 411-360-0110(T), 411-360-0210(T), 411-360-0270(T)

Last Date for Comment: 6-21-10, 5 p.m.

Summary: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is proposing to amend the rules in OAR chapter 411, division 360 relating to foster homes for adults with developmental disabilities (AFH-DD) to permanently:

- Implement House Bill 2442 (2009) by changing the definition of abuse for individuals with developmental disabilities, requiring licensees to ask applicants in the AFH-DD if they have ever been found to have committed abuse, prohibiting the use of public funds for employment (directly or indirectly), prohibiting the employment of a person when a person has been convicted of certain crimes as defined in House Bill 2442, and adding notification requirements to residents, residents guardians, and case managers when abuse of an adult with developmental disabilities has been substantiated in an AFH-DD;

- Implement House Bill 3114 (2009) by adding requirements for consent and reporting for children and young adults in child welfare custody that are on more than one psychotropic medication. This applies to AFH-DD as some homes may support individuals fitting this age range within an AFH-DD for transitional purposes;

- Require the development of emergency planning in the event of a natural or man made disaster to comply with House Bill 2371 (2007);

- Address the utilization of medical marijuana in an AFH-DD setting to assure adherence to Oregon Medical Marijuana Program (OMMP) regulations and Centers for Medicare and Medicaid Services (CMS) payment for services, given OMMP is not recognized by the federal government;

- Increase the level of experience for 2B level AFH-DD providers to include two years working with individuals with challenging behaviors to assure that the skills and abilities to meet the needs of the population are met, and decrease likelihood of failed placements and protective services in behavioral homes;

- Require mandated civil penalties as required by statute and enhanced civil penalty per House Bill 2442;

- Require the use of single action hardware on doors used for egress to increase the safety of those served in AFH-DD; and

- Require that the licensee maintain documentation for employees to include specific required training, as well as training on the Emergency Plan, orientation to the AFH-DD, Individual Support Plans, Nursing Care Plans, and Behavior Support Plans if applicable to assure that employees are fully aware of care plans and requirements needed to meet the needs of the population served.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301

Telephone: (503) 945-6398

Department of Justice Chapter 137

Rule Caption: Disclosure of information to Attorney General to monitor and enforce tobacco product manufacturer compliance.

Date: 6-23-10
Time: 9 a.m.
Location: 340 Vista Ave. SE
Salem, OR 97302

Hearing Officer: Kristen Berberick, AAG

Stat. Auth.: ORS 323.865

Stats. Implemented: ORS 323.865

Proposed Adoptions: 137-105-0050

Last Date for Comment: 6-22-10

Summary: The Attorney General regulates the sale of tobacco products in Oregon. ORS 323.862 authorizes the Department of revenue to disclose to the Attorney General information submitted to the Department relating to cigarettes, tobacco product manufacturers, and tobacco retailers so that the Attorney General can “monitor and enforce compliance” by tobacco product manufacturers. OAR 137-105-0050 clarifies the meaning of the certain terms used in ORS 323.862, including “information” and “monitoring and enforcing compliance.”

Rules Coordinator: Carol Riches

Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301

Telephone: (503) 378-5555

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**Department of Oregon State Police,
Office of State Fire Marshal
Chapter 837**

Rule Caption: Update NFPA Standard references from 2002 to 2007 and make general grammatical corrections.

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476.030

Proposed Amendments: 837-041-0050

Last Date for Comment: 7-1-10

Summary: Updates a reference to NFPA Standard No. 13 and No. 72 from outdated 2002 to bring up to date of 2007 Edition. Correct minor grammar and usage of “shall” and “may.”

Rules Coordinator: Pat Carroll

Address: Department of Oregon State Police, Office of State Fire Marshal, 4760 Portland Rd. NE, Salem, OR 97305

Telephone: (503) 934-8276

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**Department of Public Safety Standards and Training
Chapter 259**

Rule Caption: Technical updates to rules involving “leaves” from employment by public safety officers.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.652, 181.653 & 181.667

Proposed Amendments: 259-008-0005, 259-008-0020, 259-008-0030, 259-008-0060, 259-008-0064, 259-008-0065, 259-008-0067, 259-008-0076

Last Date for Comment: 6-21-10, Close of Business

Summary: The proposed rule amendments update references to “leaves” in DPSST’s division 8 rules governing public safety officers, for consistency with the statutory provisions regarding leaves from a public safety employer.

Rules Coordinator: Marilyn Lorange

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

Telephone: (503) 378-2427

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Rule Caption: Update list of discretionary disqualifying crimes for the fire service.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.662

Proposed Amendments: 259-009-0070

Last Date for Comment: 6-21-10, Close of Business

NOTICES OF PROPOSED RULEMAKING

Summary: Adds attempt, solicitation, and conspiracy to commit Measure 11 crimes to list of discretionary convictions for fire service certification.

Rules Coordinator: Marilyn Loran

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2427

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Rule Caption: Update requirements for Fire Officer certification.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Proposed Amendments: 259-009-0062

Last Date for Comment: 6-21-10, Close of Business

Summary: Update requirements for Fire Officer certification consistent with current NFPA standards.

Rules Coordinator: Marilyn Loran

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2427

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Rule Caption: Update Wildland Interface definitions and standards for the fire service.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

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

Last Date for Comment: 6-21-10, Close of Business

Summary: Update Wildland Interface definitions and standards based on National Wildfire Coordinating Group (NWCG) requirements, and comments received when proposed rules was previously opened for comment.

Rules Coordinator: Marilyn Loran

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2427

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Rule Caption: Increase licensing and certification fees for private security providers.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Proposed Amendments: 259-060-0500

Last Date for Comment: 6-21-10, Close of Business

Summary: Increase fees necessary for the self-sustaining program to continue current operations and service levels.

Rules Coordinator: Marilyn Loran

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2427

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Department of Revenue

Chapter 150

Rule Caption: Inheritance Tax Natural Resource Credit; Capital loss carrybacks; Farm capital Gain; Information returns.

Date:	Time:	Location:
6-22-10	10 a.m.*	955 Center St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 305.100 & 314.360

Stats. Implemented: ORS 118.140, 118.160, 317.013, 317.063, 314.360 & 2010 OL Ch. 107

Proposed Adoptions: 150-317.063, 150-188.NOTE

Proposed Amendments: 150-118.140, 150-118.160-(B), 150-317.013, 150-314.360

Proposed Repeals: 150-188.NOTE(T)

Last Date for Comment: 6-22-10, 5 p.m.

Summary: *The hearing will open at 10 a.m. If no person appears to testify at the hearing, the hearing will close at 10:15 a.m.

150-188.NOTE explains the procedure for filing claims for refund of inheritance tax paid on natural resource property as provided in 2010 Oregon Laws chapter 107 (HB 3696), Sections 86 and 87 direct the Department of Revenue to adopt rules that explain how claims for refund may be filed with the department.

150-118.140 explains how and when additional tax is reported when a person disposes of property for which an estate claimed a natural resource property tax credit against Oregon inheritance tax.

150-118.160-(B) is amended to delete language that states an Oregon inheritance tax return is not required unless a federal return is required, as the rule language does not reflect statutory changes.

150-317.013 clarifies that corporations are required to carry back capital losses.

150-317.063 clarifies definitions and requirements related to claiming a reduced rate of tax on certain dispositions of farm capital gain property.

150-314.360 specifies the requirements for electronic submission of information returns to the department.

Rules Coordinator: Debra L. Buchanan

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301-2555

Telephone: (503) 945-8653

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Rule Caption: Tobacco license denial includes noncompliance with other tax programs.

Date:	Time:	Location:
6-22-10	10 a.m.*	955 Center St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 323.107, 323.130 & 323.530

Proposed Amendments: 150-323.107, 150-323.130, 150-323.530

Last Date for Comment: 6-22-10, 5 p.m.

Summary: *The hearing will open at 10 a.m. If no person appears to testify at the hearing, the hearing will close at 10:15 a.m.

150-323.107, *Denial of Wholesaler's License*; 150-323.130, *Denial of Cigarette Distributor's License*; 150-323.530, *Denial of Other Tobacco Products Distributor's License* are amended to provide that criteria for denying a cigarette wholesaler's license, a cigarette distributor's license or an "other tobacco products" distributor's license include noncompliance with any tax program administered by the Department of revenue.

Rules Coordinator: Debra L. Buchanan

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301-2555

Telephone: (503) 945-8653

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Rule Caption: Biomass tax credit; composite tax returns; representation of limited liability companies; military pay.

Date:	Time:	Location:
6-22-10	10 a.m.*	955 Center St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 305.100, 314.840 & 315.144

Stats. Implemented: ORS 305.230, 314.775, 314.778, 314.781, 314.784, 315.141, 315.144, 316.014 & 316.680

Proposed Adoptions: 150-315.144, 150-314.778, 150-314.781, 150-314.784

Proposed Amendments: 150-305.230, 150-314.775, 150-314.840, 150-315.141, 150-316.014, 150-316.680(1)(c)-(A)

Last Date for Comment: 6-22-10, 5 p.m.

Summary: *The hearing will open at 10 a.m. If no person appears to testify at the hearing, the hearing will close at 10:15 a.m.

150-315.141 and 150-315.144 explain 2009 statutory changes related to the biomass tax credit. The rules also explain the process by which the credit may be sold or transferred.

NOTICES OF PROPOSED RULEMAKING

150-314.775, 150-314.778, 150-314.781, 150-314.784 explain how composite tax returns are filed and provide that a credit for taxes paid to another state generally cannot be claimed on the return.

150-305.230 and 150-314.840 explain who may represent a limited liability company in proceedings before the department.

150-316.014 explains the treatment of net operating losses that are carried to a year for which the taxpayer claimed amnesty.

150-316.680(1)(c)-(A) reflects legislative changes to the maximum subtraction allowed for active duty pay.

Rules Coordinator: Debra L. Buchanan

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301-2555

Telephone: (503) 945-8653

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Rule Caption: Urban renewal; appraisal of centrally assessed property; delayed annexations by cities; Local Budget Law; appraisal methodology.

Date:	Time:	Location:
6-22-10	10 a.m.*	955 Center St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 305.100, 308.655 & 457.470

Stats. Implemented: ORS 285C.170, 294.450, 307.110, 307.340, 308.027, 308.225, 308.234, 308.655, 457.010, 457.430, 457.440, 457.455 & 457.470

Proposed Adoptions: 150-308.225, 150-457.440(2)

Proposed Amendments: 150-294.450(3), 150-308.234, 150-457.430, 150-457.440(9)

Proposed Repeals: 150-285C.170, 150-307.110, 150-307.340, 150-308.027

Proposed Ren. & Amends: 150-308.205-(B) to 150-308.655

Last Date for Comment: 6-22-10, 5 p.m.

Summary: *The hearing will open at 10 a.m. If no person appears to testify at the hearing, the hearing will close at 10:15 a.m.

150-294.450(3), *Transfers of Appropriations*, is amended to conform the rule to a new law (SB 916) passed by the 2009 Legislature, effective January 1, 2010. SB 916 changed a long standing provision that only allowed unbudgeted transfers from the General Fund to another fund by governing body resolution. Resolution transfers can now be made from any fund.

150.308.225, *Filing Requirements for Delayed "Island" Annexations*, is adopted to clarify the filing requirements for annexations by cities under ORS 308.225.

150-308.234, *Appraisal of Real Property*, is amended to clarify "Market Area" definition, and explain that a market area need not be contiguous properties, or border a subject property.

150-308.205-(B) to 150-308.655: The rule is amended to reference the 2009 version of the Western State Association of Tax Administrators (WSATA) Appraisal Handbook. The handbook is the official appraisal guideline for centrally assessed property under ORS 305505 to 308.665 for ad valorem taxes. The rule is also renumbered to correspond to the central assessment statute and be located with other centrally assessed rules for ease of location.

150-457.430, *Certification of Urban Renewal Frozen Value*, Oregon Law 2009, chapter 700 (HB 3056) allows an urban renewal agency to request that a plan's frozen value be permanently reset to a higher amount. If the frozen value changes, it is necessary to apportion the new frozen value among the code areas. This rule provides instructions for that apportionment. This rule is also needed because the location of centrally assessed utility property sometimes cannot be accurately determined. As a result, the assessor must sometimes apportion its value among the code areas.

150-457.440(2), *Notice to Assessor of Amounts to be Raised for Urban Renewal*, An urban renewal (UR) agency must notify the county assessor each year of how much division of tax, and possibly special levy the agency desires for each urban renewal plan. The choices that are available to an agency are dependent on the type of plan, are not clearly described in statute, and have just been made

more complex by recent legislation (HB 3056). The rule describes the choices for each type of plan and instructs the agencies on the method of the notice. HB 3056 also allows an agency to notify the assessor to permanently increase the frozen value of a plan area. This rule describes the method for that notice.

150-457.440(9), *Urban Renewal Certification, Calculation and Distribution*, explains how the assessor calculates urban renewal division of tax an special levy. This amendment incorporates the policy changes made by HB 3056 and HB 2809 (2009). It also updates some technical terms to current definitions and adds clarification. It also removes all reference to Option Two plus plans, non of which still exist.

150-285C.170, 150-307.110, 150-307.340 and 150-308.027: The computer-assisted valuation rule and these exemption rules are no longer necessary.

Rules Coordinator: Debra L. Buchanan

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301-2555

Telephone: (503) 945-8653

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Department of Transportation Chapter 731

Rule Caption: Procedures for grants and loans under the Multimodal Transportation Fund program.

Stat. Auth.: ORS 184.616, 184.619 & 2005 OL Ch. 816

Stats. Implemented: 2005 OL Ch. 816 & 2009 OL Ch. 865, Sec. 10(1)

Proposed Amendments: 731-035-0020, 731-035-0040, 731-035-0060, 731-035-0070, 731-035-0080

Last Date for Comment: 6-21-10

Summary: The proposed amendments implement Section 10(1) of HB 2001, to allocate at least five percent of the net proceeds of lottery bonds used for the ConnectOregon III program to rural airports and to eliminate the two percent multimodal study fee required of all recipients of grants/loans under the Multimodal Transportation Fund.

Text of proposed and recently adopted ODOT rules can be found at website: <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

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Department of Transportation, Driver and Motor Vehicle Services Division Chapter 735

Rule Caption: Collection of Biometric Data for Driver License, Driver Permit or Identification Card.

Stat. Auth.: ORS 184.616, 184.619 & 802.010

Stats. Implemented: ORS 807.024, 807.110 & 807.400

Proposed Amendments: 735-062-0016

Last Date for Comment: 6-21-10

Summary: ORS 807.024 requires each person who applies for a driver license, driver permit or identification card to submit to the collection of biometric data. ORS 801.163 defines biometric data as the physical characteristics of a person's face that can be used to authenticate a person's identity. A person submits to the collection of biometric data by having his or her photograph taken. DMV uses facial recognition technology to determine if the person photographed is the same person who was issued previously under that identity and if the person has ever been issued under another identity. The facial recognition technology requires a clear view of the person's iris and pupil of each eye. To improve the functional reliability of each photograph, DMV proposes to amend OAR 735-062-0016 to establish that a person must remove his or her glasses when photographed for a driver license, driver permit or identification card. The proposed rule also requires the person to remove any clothing or similar material covering the person's face, and any head covering, unless the

NOTICES OF PROPOSED RULEMAKING

head covering is being worn for medical or religious reasons. No clothing or head covering may interfere with obtaining a full-faced photograph.

Text of proposed and recently adopted ODOT rules can be found at website: <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

Department of Transportation, Highway Division Chapter 734

Rule Caption: Fee for Issuance of Sno-Park Parking Permits.

Stat. Auth.: ORS 184.616, 811.595 & 811.600

Stats. Implemented: ORS 811.600

Proposed Amendments: 734-020-0070

Last Date for Comment: 6-21-10

Summary: This rule establishes the fee for parking permits issued for winter recreation parking (Sno-Park) areas. Revenue generated from the sale of Sno-Park permits is accounted for separately in the Highway Fund. Funds in the account are primarily used for enforcement of the permit requirement and snow removal in the designated areas. There are three types of permits available to users of Sno-Parks, these are: an annual permit required from November 1 through April 30, a three-day permit valid for three consecutive days, and a one-day permit valid for a specific calendar day. In order to adequately fund the Sno-Park program, to keep up with increasing costs, and to provide service to the recreation community, an increase in the permit fees was recommended by the Winter Recreation Advisory Committee. The committee was established in ORS 802.350 to advise the Department on matters relating to the Sno-Park program.

Text of proposed and recently adopted ODOT rules can be found at website: <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Highway Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Adoption of a new rule describing and governing weight declaration for a solo motor vehicle.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.450

Stats. Implemented: ORS 825.005 & 825.474

Proposed Adoptions: 740-035-0142

Last Date for Comment: 6-21-10

Summary: This new rule is necessary to provide direction and consistent application regarding a motor carrier's declaration of maximum vehicle weight when operating a solo commercial motor vehicle without a trailer. For the purpose of properly reporting and paying weight-mile tax, a motor carrier must declare a maximum weight at which a motor vehicle or combination of vehicles is intended to operate. Some motor vehicles have multiple weight declarations because they operate in various configurations, pulling different size trailers or no trailers at all. The proposed rule clarifies how to properly determine a declared solo weight for various vehicle types.

Text of proposed and recently adopted ODOT rules can be found at website: <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Motor Carrier Transportation Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

Rule Caption: ODOT intends to amend rules regarding commercial vehicle inspector qualifications.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented:

Proposed Amendments: 740-100-0015

Last Date for Comment: 6-21-10

Summary: This rule describes the qualifications and standards for a commercial vehicle inspector. The proposed amendment addresses a current qualification that only individuals employed by ODOT or agencies or parties under contract with ODOT may qualify to be certified to perform commercial vehicle inspections. ODOT enters into both compensated and non-compensated contracts with law enforcement agencies to conduct commercial vehicle inspections. The proposed amendment removes the contract requirement for an Executive Branch agency of state government. Non-Executive Branch agencies of state government and other parties including local governments and private contractors would still be required to enter into a contract with ODOT to conduct commercial vehicle inspections in order for their employees to qualify for commercial vehicle inspector certification.

Text of proposed and recently adopted ODOT rules can be found at website: <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Motor Carrier Transportation Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

Department of Transportation, Transportation Safety Division Chapter 737

Rule Caption: Updates Transportation Safety Division's rules following legislative changes to the driver education program.

Stat. Auth.: ORS 184.616, 184.619, 802.345, 336.800, 336.805, 336.810, 802.110 & 2009 OL Ch. 394

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110 & 2009 OL Ch. 394

Proposed Amendments: 737-015-0020, 737-015-0030, 737-015-0090, 737-015-0100, 737-015-0110

Last Date for Comment: 6-21-10

Summary: These amendments implement legislation enacted by the 2009 Legislative Assembly. Chapter 394, Oregon Laws 2009 (SB 125) amends many of the statutes pertaining to student traffic safety education courses and adds new provisions. These statutory changes became effective July 1, 2009. Temporary rules were filed February 17, 2010. This rulemaking updates OAR 737-015-0020, 737-015-0030, 737-015-0090, 737-015-0100, and 737-015-0110 to make permanent those administrative rules and to be in compliance with these law changes.

Text of proposed and recently adopted ODOT rules can be found at website: <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Transportation Safety Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

Employment Department, Child Care Division Chapter 414

Rule Caption: Renames Criminal History Registry to Central Background Registry, expands list of subject individuals.

Date:	Time:	Location:
6-21-10	10 a.m.	General Services Bldg. 1225 Ferry St. SE Salem, OR 97310

6-23-10	1:30 p.m.	Tualatin Worksource Oregon 7995 SW Mohawk St. Tualatin, OR 97062
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Hearing Officer: Courtney Brooks

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.010

NOTICES OF PROPOSED RULEMAKING

Proposed Adoptions: 414-061-0065

Proposed Amendments: 414-061-0000, 414-061-0010, 414-061-0020, 414-061-0030, 414-061-0040, 414-061-0050, 414-061-0060, 414-061-0070, 414-061-0080, 414-061-0090, 414-061-0100, 414-061-0110, 414-061-0120

Last Date for Comment: 6-25-10

Summary: Renames Criminal History Registry to Central Background Registry. Expands list of subject individuals subject to background checks; now includes Metro Service District zoo employees, volunteers, and contractors; also includes respite care workers.

Rules Coordinator: Courtney Brooks

Address: Employment Department, Child Care Division, 875 Union St. NE, Salem, OR 97311

Telephone: (503) 947-1724

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Rule Caption: Amends rules regarding Registered Family Child Care Homes.

Date:	Time:	Location:
6-21-10	10 a.m.	General Services Bldg. 1225 Ferry St. SE Salem, OR 97310
6-23-10	1:30 p.m.	Tualatin Worksource Oregon 7995 SW Mohawk St. Tualatin, OR 97062

Hearing Officer: Courtney Brooks

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.010

Proposed Amendments: 414-205-0000, 414-205-0010, 414-205-0020, 414-205-0040, 414-205-0065, 414-205-0075, 414-205-0170

Last Date for Comment: 6-25-10

Summary: Amends rules regarding civil penalties for Registered Family Child Care Homes. Revises definition pertaining to special needs children. Prohibits providers who have had certain negative actions taken from providing certain types of exempt child care.

Rules Coordinator: Courtney Brooks

Address: Employment Department, Child Care Division, 875 Union St. NE, Salem, OR 97311

Telephone: (503) 947-1724

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Rule Caption: Amends rules regarding Certified Child Care Centers and adopts rules for civil penalties.

Date:	Time:	Location:
6-21-10	10 a.m.	General Services Bldg. 1225 Ferry St. SE Salem, OR 97310
6-23-10	1:30 p.m.	Tualatin Worksource Oregon 7995 SW Mohawk St. Tualatin, OR 97062

Hearing Officer: Courtney Brooks

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.010

Proposed Adoptions: 414-300-0415

Proposed Amendments: 414-300-0000, 414-300-0005, 414-300-0010, 414-300-0015, 414-300-0020, 414-300-0030, 414-300-0040, 414-300-0060, 414-300-0070, 414-300-0080, 414-300-0120, 414-300-0130, 414-300-0360, 414-300-0390, 414-300-0410

Last Date for Comment: 6-25-10

Summary: Amends rules pertaining to Certified Child Care Centers. Adds civil penalty provisions for serious and nonserious violations. Changes name of Criminal History Registry to Central Background Registry. Revises definition of special needs child. Prohibits providers who have had certain negative actions from providing certain types of exempt child care.

Rules Coordinator: Courtney Brooks

Address: Employment Department, Child Care Division, 875 Union St. NE, Salem, OR 97311

Telephone: (503) 947-1724

Rule Caption: Amends rules regarding Certified Family Child Care Homes and adopts rules for civil penalties.

Date:	Time:	Location:
6-21-10	10 a.m.	General Services Bldg. 1225 Ferry St. SE Salem, OR 97310
6-23-10	1:30 p.m.	Tualatin Worksource Oregon 7995 SW Mohawk St. Tualatin, OR 97062

Hearing Officer: Courtney Brooks

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.010

Proposed Adoptions: 414-350-0405

Proposed Amendments: 414-350-0000, 414-350-0010, 414-350-0020, 414-350-0030, 414-350-0040, 414-350-0050, 414-350-0080, 414-350-0090, 414-350-0100, 414-350-0110, 414-350-0400

Last Date for Comment: 6-25-10

Summary: Amends rules pertaining to Certified Family Child Care Homes. Adds civil penalty provisions for serious and nonserious violations. Changes name of Criminal History Registry to Central Background Registry. Revises definition of special needs child. Prohibits providers who have had certain negative actions from providing certain types of exempt child care.

Rules Coordinator: Courtney Brooks

Address: Employment Department, Child Care Division, 875 Union St. NE, Salem, OR 97311

Telephone: (503) 947-1724

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Rule Caption: Adds new rules for school age recorded programs.

Date:	Time:	Location:
6-21-10	10 a.m.	General Services Bldg. 1225 Ferry St. SE Salem, OR 97310
6-23-10	1:30 p.m.	Tualatin Worksource Oregon 7995 SW Mohawk St. Tualatin, OR 97062

Hearing Officer: Courtney Brooks

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.010

Proposed Adoptions: 414-425-0000, 414-425-0010, 414-425-0020, 414-425-0025, 414-425-0030, 414-425-0040

Last Date for Comment: 6-25-10

Summary: Adds new rules regarding requirements for recorded school age programs.

Rules Coordinator: Courtney Brooks

Address: Employment Department, Child Care Division, 875 Union St. NE, Salem, OR 97311

Telephone: (503) 947-1724

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Rule Caption: Adds new rules for preschool recorded programs.

Date:	Time:	Location:
6-21-10	10 a.m.	General Services Bldg. 1225 Ferry St. SE Salem, OR 97310
6-23-10	1:30 p.m.	Tualatin Worksource Oregon 7995 SW Mohawk St. Tualatin, OR 97062

Hearing Officer: Courtney Brooks

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.010

Proposed Adoptions: 414-450-0000, 414-450-0010, 414-450-0020, 414-450-0025, 414-450-0030, 414-450-0040

Last Date for Comment: 6-25-10

Summary: Adds new rules regarding requirements for recorded preschool programs.

Rules Coordinator: Courtney Brooks

Address: Employment Department, Child Care Division, 875 Union St. NE, Salem, OR 97311

Telephone: (503) 947-1724

NOTICES OF PROPOSED RULEMAKING

Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Establishes capitol project reporting requirements for Oregon hospitals.

Date: 6-15-10
Time: 11:30 a.m.
Location: 1225 Ferry St. SE
Mt. Neahkanie Room
Salem, OR 97301

Hearing Officer: Zarie Haverkate

Stat. Auth.: ORS 442.362

Stats. Implemented: ORS 442.361, 442, 362 & 442.991

Proposed Adoptions: 409-024-0000 – 409-024-0130

Last Date for Comment: 6-17-10, 5 p.m.

Summary: The Office for Oregon Health Policy and Research (OHPR) is adopting rules necessary to implement the capital project reporting requirement for hospitals mandated in ORS 442.362. The purpose of these rules is to implement the capital project reporting, public disclosure, and other applicable mandates of House Bill 2009, which was enacted by the 75th Legislative Assembly. The proposed rules are intended to fulfill this mandate by prescribing the capital project information that is reported, how it is reported, and how the information is disclosed to the public.

Proposed rules are available on the DHS website: <http://www.oregon.gov/OHPPR/rulemaking/index.shtml>

For hardcopy requests, call: (503) 373-1574.

Rules Coordinator: Zarie Haverkate

Address: 1225 Ferry St. SE, 1st Floor, Salem, OR 97301

Telephone: (503) 373-1574

Rule Caption: Amendments to Health Care Acquired Infection Reporting and Public Disclosure Rules

Date: 6-22-10
Time: 9 a.m.
Location: 1225 Ferry St. SE
Mt. Hood Rm. (basement)
Salem, OR 97301

Hearing Officer: Zarie Haverkate

Stat. Auth.: ORS 442.838 & 442.420(3)(d)

Stats. Implemented: ORS 179.505, 192.410, 192.496, 192.502, 442.400, 442.400, 442.405, 442.011, 442.015 & 442.838

Proposed Amendments: 409-023-0000, 409-023-0010

Last Date for Comment: 6-24-10, 5 p.m.

Summary: These proposed rules implement the health care acquired infection (HAI) reporting, public disclosure, and other applicable mandates of ORS 442.838, which was enacted by the 74th Legislative Assembly. These proposed rules are intended to fulfill the mandates by prescribing the HAIs that are reported, how they are reported, the health care facilities that report them, and how they are publicly disclosed.

Rules Coordinator: Zarie Haverkate

Address: 1225 Ferry St. SE, 1st Floor, Salem, OR 97301

Telephone: (503) 373-1574

Oregon Business Development Department Chapter 123

Rule Caption: The rules revise First Source Hiring Agreements.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.215(3) & 285C.615(7)

Stats. Implemented: ORS 285C.060, 285C.175, 285C.215, 285C.606 & 461.740

Proposed Amendments: 123-070-1000, 123-070-1100, 123-070-1500

Proposed Ren. & Amends: 123-070-2100 to 123-674-7700, 123-070-2200 to 123-674-7710, 123-070-2300 to 123-674-7720, 123-070-2400 to 123-674-7730

Last Date for Comment: 6-22-10

Summary: The revisions for these rules are basic housekeeping changes such as updating statute references and removing and updating definitions.

Rules 123-070-2100 through 123-070-2400 are being renumbered to be included in division 674 Standard Exemption on Taxable Enterprise zone Property. Division 674 is currently in the public comment phase and will become permanent on June 14, 2010. These changes to these rules are in keeping with division 674 and offer administrative advantages that improve context.

Rules Coordinator: Mindee Sublette

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

Telephone: (503) 986-0036

Rule Caption: These rules revise the Water/Wastewater Financing Program.

Stat. Auth.: ORS 285A.075 & 285B.563

Stats. Implemented: ORS 285B.560 - 285B.599

Proposed Adoptions: 123-043-0041

Proposed Amendments: 123-043-0015, 123-043-0035, 123-043-0055, 123-043-0075, 123-043-0085, 123-043-0102, 123-043-0105

Last Date for Comment: 6-22-10

Summary: These rules are being revised to replace the word "Authority" with "Department" in a few areas. Language has been added to the Application review and Approval rules regarding funding for technical assistance projects/ Language has also been added to the Contract Administration and Disbursement of Funds rules regarding the installation of meters no later than two years after the completion of a drinking water project with existing, active unmetered service connections.

Rules Coordinator: Mindee Sublette

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

Telephone: (503) 986-0036

Oregon Business Development Department, Oregon Arts Commission Chapter 190

Rule Caption: These rules revise the 1% For Art in Public Buildings.

Stat. Auth.: ORS 359.025 & 359.142

Stats. Implemented: ORS 276.073 - 276.090

Proposed Adoptions: 190-020-0012, 190-020-0013, 190-020-0074, 190-020-0080, 190-020-0085

Proposed Amendments: 190-020-0000, 190-020-0005, 190-020-0010, 190-020-0015, 190-020-0025, 190-020-0030, 190-020-0035, 190-020-0040, 190-020-0050, 190-020-0055, 190-020-0060, 190-020-0065

Proposed Repeals: 190-020-0045, 190-020-0070

Last Date for Comment: 6-22-10

Summary: These rules have been revised to include the Public Art Advisory Committee as well as information on the Pre-qualified Roster. The Selection Committee rules have been updated to better define its purpose. Two new rules have been added to explain the process and procedures for Relocation and Deaccession of Works of Art.

Rules Coordinator: Mindee Sublette

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

Telephone: (503) 986-0036

Oregon Criminal Justice Commission Chapter 213

Rule Caption: Amends Oregon Sentencing Guidelines to implement SB 570 (2009).

Stat. Auth.: ORS 137.667

Stats. Implemented: ORS 137.667 & SB 570 (2009)

Proposed Amendments: 213-008-0002

Proposed Repeals: 213-008-0002(T)

Last Date for Comment: 6-24-10

NOTICES OF PROPOSED RULEMAKING

Summary: Under ORS 137.667(2), the Oregon Criminal Justice Commission (the Commission) may adopt changes to the Oregon Sentencing Guidelines. SB 570 (2009) was effective January 1, 2010. That bill contains a directive to the Commission, requiring the Commission to “adopt rules that establish disproportionate impact as an aggravating factor that a court may consider as a substantial and compelling reason to impose an upward departure from a presumptive sentence under the rules of the commission.” Section 7, SB 570 (2009). The bill also defines the term “disproportionate impact.” *Id.* This rule is needed to implement this legislative directive. This rule had been previously adopted as a temporary rule. The temporary rules is being repealed with this filing.

Rules Coordinator: Craig Prins

Address: Oregon Criminal Justice Commission, 885 Summer St. NE, Salem, OR 97301

Telephone: (503) 378-4830

Oregon Health Licensing Agency, Board of Direct Entry Midwifery Chapter 332

Rule Caption: Decrease fees for application, initial license cost and renewal cost to reduce barriers for licensure.

Stat. Auth.: ORS 676.607, 676.615, 676.625 & 687.435

Stats. Implemented: ORS 676.605 & 676.606

Proposed Amendments: 332-020-0020

Last Date for Comment: 6-28-10

Summary: The Oregon Health Licensing Agency and Board of Direct Entry Midwifery is proposing to decrease cost and reduce barriers to licensure for unlicensed midwives. This also includes going from a two-year license cycle to a one-year cycle. The agency is synchronizing the delinquency fee to align it with other agency programs by applying a \$50 late fee for each year up to two-years. The fee changes are as follows:

	Current Fee	New Fee
Application	\$500	\$150
License	\$1900 for 2 years	\$630 for 1 year

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, Board of Direct Entry Midwifery, 700 Summer St. NE, Salem, OR 97301

Telephone: (503) 373-1917

Oregon Liquor Control Commission Chapter 845

Rule Caption: Adopt new rule setting standards for satellite liquor stores pilot program.

Date:	Time:	Location:
6-25-10	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Jennifer Huntsman

Stat. Auth.: ORS 471, ORS 471.750, 471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.750

Proposed Adoptions: 845-015-0200

Last Date for Comment: 7-9-10

Summary: The purpose of the satellite liquor stores pilot project is to determine the efficacy of operating satellite liquor stores in smaller communities where there is a fluctuating, seasonal demand due to tourism or other similar factors. The program will allow all parties to see how best to implement an ongoing program if the pilot project is successful. The pilot program will consist of up to six new satellite liquor stores operated by retail sales agents appointed on a temporary basis. The pilot program will last for up to three years for each temporary agent. Six months before the end of the three-year pilot, the performance of each pilot liquor store will be evaluated, and if successful, a process to create a permanent satellite liquor store will commence. Pilot program agents would be required to provide the Commission with all data related to the operation of the pilot liquor store. The proposed rule would set the standards and procedures the

Commission will use when locating and evaluating the pilot satellite liquor stores.

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: National certification exam attempt limit waiver for NCCPA certification for physician assistants.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-050-0020

Last Date for Comment: 6-28-10

Summary: The proposed rule allows a waiver of the requirement to pass the NCCPA certification exam within four attempts if the applicant is currently certified by the NCCPA.

Rules Coordinator: Malar Ratnathicam

Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201

Telephone: (971) 673-2713

Rule Caption: Adding “Emeritus” status.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265 & 677.510

Proposed Amendments: 847-050-0029

Last Date for Comment: 6-28-10

Summary: The proposed rule adds “Emeritus” status to be consistent with other rule changes in division 50.

Rules Coordinator: Malar Ratnathicam

Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201

Telephone: (971) 673-2713

Oregon State Marine Board Chapter 250

Rule Caption: Closure of the North Santiam River.

Date:	Time:	Location:
8-10-10	6:30–8 p.m.	City of Lyons City Hall Council Chambers 449 Fifth St. Lyons, OR 97358

Hearing Officer: Randy Henry

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & 830.175

Proposed Amendments: 250-020-0259

Last Date for Comment: 8-24-10, Close of Hearing

Summary: OSMB is proposing closure of the North Santiam River, within a specified time-frame with an identified sunset period, from below Niagara Falls to Packsaddle Park, an area of approximately 2.4 miles. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: June LeTarte

Address: 435 Commercial Street NE #400, Salem, OR 97309

Telephone: (503) 378-2617

Rule Caption: Establish a speed restriction in the Miller Arm area of Siltcoos Lake.

Date:	Time:	Location:
8-3-10	6:30–8 p.m.	Siuslaw Public Library Bromley Rm. 1460 Ninth St. Florence, OR 97439

Hearing Officer: Randy Henry

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & 830.175

Proposed Amendments: 250-020-0221

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 8-17-10, 5 p.m.

Summary: OSMB is proposing to amend the regulation by adopting a speed restriction in the Miller Arm area of Siltcoos Lake north of the buoy line located near Nightingales' Fishing Camp. House-keeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: June LeTarte

Address: 435 Commercial Street NE #400, Salem OR 97309

Telephone: (503) 378-2617

**Oregon University System,
Southern Oregon University
Chapter 573**

Rule Caption: Special Fees.

Date:
6-30-10

Time:
10 a.m.

Location:
Southern Oregon University
Churchill Bldg., Rm. 220
1250 Siskiyou Blvd.
Ashland, OR 97520

Hearing Officer: Staff

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 573-040-0005

Last Date for Comment: 6-30-10

Summary: The proposed rule amendments eliminate fees that are no longer necessary and establish, increase, or decrease fees to more accurately reflect the actual costs of instruction for certain courses and special services not otherwise funded through the institution's operating budget.

Rules Coordinator: Treasa Sprague

Address: Oregon University System, Southern Oregon University,
1250 Siskiyou Blvd., Ashland, OR 97520

Telephone: (541) 552-6319

**Secretary of State,
Archives Division
Chapter 166**

Rule Caption: Correcting OAR 166-200 to correct retention period.

Date:
6-22-10

Time:
9 a.m.

Location:
800 Summer St. NE
Salem, OR 97310

Hearing Officer: Connor Edmonds

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005-192.170 & 357.805-357.895

Proposed Amendments: 166-200-0090

Last Date for Comment: 6-22-10

Summary: Members of the original Advisory Committee for the full update of OAR 166-200 brought to the Archives Division's attention that the retention period listed for OAR 166-200-0090(21)(a) was incorrect and that it should be reduced. This proposed rule will correct the rule to reflect the Advisory Committee's previous decision.

Rules Coordinator: Julie Yamaka

Address: Secretary of State, Archives Division, 800 Summer St. NE,
Salem, OR 97310

Telephone: (503) 378-5199

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

Rule Caption: Updates current name availability rules.

Stat. Auth.: ORS 56.022, 58, 60, 62, 63, 65, 68, 70, 128, 183, 544 & 648

Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580, 544.005 & 648.051

Proposed Amendments: 160-010-0010, 160-010-0013, 160-010-0014

Last Date for Comment: 6-21-10

Summary: These rules detail the criteria used to determine if business names may be registered with the Corporations Division. The statutory standard is that names may only be registered if they are distinguishable on record. These rules define what does and does not make a name distinguishable.

Rules Coordinator: Karen Hutchinson

Address: Secretary of State, Corporation Division, 255 Capitol St.
NE, Suite 151, Salem, OR 97310

Telephone: (503) 986-2364

ADMINISTRATIVE RULES

Appraiser Certification and Licensure Board Chapter 161

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

Adm. Order No.: ACLB 2-2010

Filed with Sec. of State: 4-23-2010

Certified to be Effective: 4-23-10

Notice Publication Date: 3-1-2010

Rules Amended: 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

Rules Repealed: 161-010-0055, 161-002-0000(T), 161-010-0010(T), 161-010-0020(T), 161-010-0085(T), 161-015-0000(T), 161-015-0010(T), 161-015-0025(T), 161-015-0030(T), 161-020-0005(T), 161-020-0110(T), 161-020-0130(T), 161-020-0150(T), 161-025-0025(T), 161-025-0030(T), 161-025-0060(T), 161-030-0000(T), 161-050-0000(T), 161-050-0050(T)

Subject: Permanently repeals Oregon Administrative Rule 161, division 10, rule 0055 regarding prerequisite and education requirements for state licensed appraiser. Amends Oregon Administrative Rule 161, division 2, rule 0000 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 time requirements for education; division 25, rule 0025 regarding supervising appraisers; division 25, rule 0030 regarding appraiser standards; 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—(503) 485-2555

161-002-0000

Definitions

As used in OAR 161-01-005 to 161-50-050, the following terms (whether capitalized or not) shall have the following meanings:

(1) **“Accredited College or University”** means a college or university that is accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education.

(2) **“Administrator”** means the administrator of the Board appointed by the Board.

(3) **“Affiliate”** means a business organization sharing with a financial institution or insurance company some aspect of common ownership and control.

(4) **“Appraisal”** or **“Real Estate Appraisal”** means “appraisal” as defined in USPAP.

(5) **“Appraisal Foundation”** means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(6) **“Appraisal Report”** means “report” as defined in USPAP.

(7) **“Appraiser Assistant”** or **“AA”** means a person who is not licensed or certified as an appraiser, but is registered as an appraiser assistant under ORS 674.310, and who assists with real estate appraisal activity under the direct supervision of a certified or licensed appraiser.

(8) **“Appraisal Subcommittee”** or **“ASC”** means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) established pursuant to the Federal Act.

(9) **“Board”** or **“ACLB”** means the Appraiser Certification and Licensure Board established under ORS Chapter 674.

(10) **“Certificate”** means the document issued by the Board indicating that the person named thereon has satisfied the requirements for certification as a state certified residential or state certified general appraiser.

(11) **“Classroom hour”** as used in reference to qualifying and continuing education means 50 minutes out of each 60 minute segment.

(12) **“Completion”** means interpreting, analyzing and reconciling data or compiled data, including reviewing and adopting another person’s interpretations and reconciliations as one’s own.

(13) **“Complex one-to-four family residential property appraisal”** means an appraisal in which the property to be appraised, market conditions, or form of ownership is atypical. For example, atypical factors may include, but are not limited to:

- (a) Architectural style;
- (b) Age of improvements;
- (c) Size of improvements;
- (d) Size of lot;
- (e) Neighborhood land use;
- (f) Potential environmental hazard liability;
- (g) Property interests;
- (h) Limited readily available comparable sales data; or
- (i) Other unusual factors.

(14) **“Continuing Education”** means education that is creditable toward the education requirements that must be satisfied to renew a license, certificate or appraiser assistant registration.

(15) **“Direct Supervision”** of an appraiser assistant means:

(a) Disclosing in the appraisal report that the supervising appraiser has inspected the subject property both inside and out, and has made an exterior inspection of all comparables relied upon in the appraisal or disclose that the supervising appraiser did not inspect the subject property both inside and out, and did not inspect the exterior of comparables relied upon in the appraisal; and

(b) Reviewing the appraiser assistant’s appraisal report(s) to ensure research of general and specific data has been adequately conducted and properly reported, application of appraisal principles and methodologies has been properly applied, that any analysis is sound and adequately reported, and that any analysis, opinions, or conclusions are adequately developed and reported so that the appraisal report is not misleading; and

(c) Reviewing the appraiser assistant’s work product and discussing with the appraiser assistant any edits, corrections or modifications that need to be made to that work product to satisfy OAR 161-002-0000(14)(b); and

(d) Accepting sole and total responsibility for the appraisal report by signing the appraisal report and certifying that the appraisal report has been prepared in compliance with the current edition of the Uniform Standards of Professional Appraisal Practice.

(16) **“Federal Act”** means Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3310 et seq.).

(17) **“Federal Financial Institution Regulatory Agency”** means:

- (a) The Board of Governors of the Federal Reserve System;
- (b) The Federal Deposit Insurance Corporation;
- (c) The Office of the Comptroller of the Currency;
- (d) The Office of Thrift Supervision; or
- (e) The National Credit Union Administration.

(18) **“Financial Institution”** means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(19) **“Good Standing”** means the status of a person whose license, certificate or registration is not currently suspended or been revoked.

(20) **“Issuance”** means the act of communicating the opinion of value either in writing or orally.

(21) **“License”** means the document issued by the Board indicating that the person named thereon has satisfied all requirements for licensure as a state licensed appraiser.

(22) **“Licensee”** means any person who holds an active or inactive Oregon appraiser license, certified residential appraiser certificate, or certified general appraiser certificate.

(23) **“Mortgage banker”** has the meaning defined in ORS 59.840.

(24) **“Non-residential”** appraising means to render a value on real property other than one-to-four family residential properties.

(25) **“One-to-four family residential property”** means a property that includes one to four residential units and is residential in character, i.e., zoning, land use.

(26) **“Preparation”** means compiling data, including reviewing and adopting such compiled data as one’s own.

ADMINISTRATIVE RULES

(27) **“Prerequisite education”** means the initial qualifying educational requirements to become licensed or certified with the Board.

(28) **“Professional real estate activity”** has the meaning defined in ORS 696.010.

(29) **“Qualifying Education”** means education that is creditable toward the education requirements for initial licensure or certification under one or more of the three real estate appraiser classifications.

(30) **“Real estate appraisal activity”** has the meaning defined in ORS 674.100.

(31) **“Real Estate”** or **“Real Property”** means an identified parcel or tract of land, together with any improvements, that includes easements, rights-of-way, undivided or future interests or similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights or similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

(32) **“State Certified General Appraiser or “SCGA”** means an individual who has been certified as a state certified general appraiser by the Board.

(33) **“State Certified Residential Appraiser or “SCRA”** means an individual who has been certified as a state certified residential appraiser by the Board.

(34) **“State Licensed Appraiser or “SLA”** means an individual who has been licensed as a state licensed appraiser by the Board.

(35) **“Subdivision”** means either an act of subdividing land or an area or a tract of land subdivided to create four or more lots within a calendar year.

(36) **“Supervising Appraiser”** means a licensee who is directly supervising appraiser assistants pursuant to OAR 161-025-0025.

(37) **“Supervising Appraiser Endorsement”** means the document issued by the Board indicating that the licensee named thereon has satisfied all requirements of OAR 161-010-0085 to be a Supervising Appraiser.

(38) **“Transaction Value”** means:

(a) For loans or other extensions of credit, the amount of the loan or extension of credit; and

(b) For sales, leases, purchases and investments in or exchange of real property, the market value of the real property interest involved; and

(c) For the pooling of loans or interest in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

(d) For determinations of the transaction value of real property or interests in real property in circumstances other than described in the proceeding (a) to (c) of this section, the market value of the real property interest involved.

(e) In condemnation or partial taking actions, the transaction value is deemed to be the value of the larger parcel before the taking.

(39) **“Uniform Standards of Professional Appraisal Practice”** or **“USPAP”** means the standards adopted and published by the Appraisal Standards Board of the Appraisal Foundation dated April 27, 1987, as amended January 1, 2010.

(40) **“Workfile”** means “workfile” as defined in USPAP.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-010-0000; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 2-1996, 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 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 2-2004, f. 5-25-04, cert. ef. 6-1-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-28-06; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 5-2007(Temp), f. 11-1-07, cert. ef. 1-1-08 thru 6-27-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 2-2009(Temp), f. 1-28-09, cert. ef. 1-30-09 thru 7-28-09; Administrative correction 8-21-09; ACLB 4-2009, f. & cert. ef. 10-27-09; ACLB 5-2009(Temp), f. 12-15-09, cert. ef. 1-1-10 thru 6-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10

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, including 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. 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; ACLB 2-2010, f. & cert. ef. 4-23-10

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. 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; ACLB 2-2010, f. & cert. ef. 4-23-10

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.

ADMINISTRATIVE RULES

(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 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; ACLB 2-2010, f. & cert. ef. 4-23-10

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. 1-28-09, cert. ef. 1-30-09 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10

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; ACLB 2-2010, f. & cert. ef. 4-23-10

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; ACLB 2-2010, f. & cert. ef. 4-23-10

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 license or 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.

ADMINISTRATIVE RULES

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, 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; ACLB 2-2010, f. & cert. ef. 4-23-10

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; ACLB 2-2010, f. & cert. ef. 4-23-10

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) Legal 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

ADMINISTRATIVE RULES

(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:

- (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.

ADMINISTRATIVE RULES

(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 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; ACLB 2-2010, f. & cert. ef. 4-23-10

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; ACLB 2-2010, f. & cert. ef. 4-23-10

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; ACLB 2-2010, f. & cert. ef. 4-23-10

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.

ADMINISTRATIVE RULES

(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.

(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; ACLB 2-2010, f. & cert. ef. 4-23-10

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 certified appraiser.

(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 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; ACLB 2-2010, f. & cert. ef. 4-23-10

161-025-0060

Appraisal Standards and USPAP

(1) All licensees must develop and communicate each appraisal assignment in compliance with these administrative rules and USPAP.

(2) A licensee employed by a group or organization that conducts itself in a manner that does not conform to USPAP Standards must take steps that are appropriate under the circumstances to ensure compliance with the Standards.

(3) All licensees must certify to what extent they personally inspected the property that is the subject of the appraisal assignment. Each report must clearly state that the subject property was: inspected both inside and out; inspected from the exterior only; or was not personally inspected by the licensee.

(4) In addition to certifying as to the extent of the subject's inspection, all licensees must also certify to what extent each of the comparable sales relied upon in the appraisal were personally inspected.

(5) All licensees must disclose in all appraisal reports whether the comparable sales analyzed in the appraisal report were or were not confirmed by a party to the transaction or an agent or representative of a party to the transaction.

(6) All licensees testifying or presenting evidence in an administrative or judicial proceeding must base their testimony or evidence only upon a written summary or self-contained appraisal report in compliance with USPAP, reflecting a report date that precedes the date of testimony, unless such testimony is being compelled by legal subpoena.

(7) The "Uniform Standards of Professional Appraisal Practice", 2010-2011 Edition, approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, dated April 27, 1987, as amended on January 1, 2010, are incorporated into the Administrative Rules of the Appraiser Certification and Licensure Board as the standards of professional conduct which shall guide the behavior of licensed and certified appraisers in the State of Oregon. Copies of the Uniform Standards of Professional Appraisal Practice may be obtained from the Appraisal Foundation located at 1029 Vermont Avenue, N.W., Suite 900, Washington D.C. 20005-3517.

(8) All licensees must list their certificate or license number and expiration date in each appraisal report.

ADMINISTRATIVE RULES

(9) All licensees must comply with USPAP in all valuation activity, unless such valuation activity qualifies as an exclusion to real estate appraisal activity under ORS 674.100(2)(h).

(10) Notwithstanding any other provision of these rules, a licensee acting in one of the following capacities is not subject to the requirements of Standard 3 of USPAP when examining an appraisal report and workfile as part of an official investigation being conducted by the Board:

- (a) Board member;
- (b) Employee; or
- (c) Contractor or volunteer serving at the request of the Board.

[Publications: Publications 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 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-1994; ACLB 2-1996, 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. 7-1-89; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 3-2000(Temp), f. 11-9-00, cert. ef. 11-9-00 thru 5-8-01; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-28-06; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 5-2007(Temp), f. 11-1-07, cert. ef. 1-1-08 thru 6-27-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2009, f. 1-28-09, cert. ef. 1-30-09; ACLB 5-2009(Temp), f. 12-15-09, cert. ef. 1-1-10 thru 6-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10

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 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; ACLB 2-2010, f. & cert. ef. 4-23-10

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:

- (a) The appraiser is a non-resident of Oregon;
- (b) The appraiser's business is of a temporary nature; and
- (c) 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:

- (a) The required registration fee, and
- (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 appli-

cant'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; ACLB 2-2010, f. & cert. ef. 4-23-10

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; ACLB 2-2010, f. & cert. ef. 4-23-10

Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: To amend and adopt rules that clarifies requirements related to registration or application for registration.

Adm. Order No.: BEELS 1-2010

Filed with Sec. of State: 5-12-2010

Certified to be Effective: 5-12-10

Notice Publication Date: 4-1-2010

Rules Adopted: 820-010-0530

Rules Amended: 820-001-0000, 820-010-0212, 820-010-0213, 820-010-0214, 820-010-0215, 820-010-0305, 820-010-0440, 820-010-0450, 820-010-0470, 820-010-0610, 820-010-0625, 820-010-0635

Subject: OAR 820-010-0530 – Provides the process to request a waiver of the biennial renewal fees and continuing professional

ADMINISTRATIVE RULES

development requirements when a registrant is in the United States active military.

OAR 820-001-0000 – Includes the International Society of Automation (at their request) to receive notification of Board remarking.

OAR 820-010-0212 – To clarify that the take-home examination must be submitted prior to the release of examination results; not before receiving a certificate of registration, which would imply the individual passed the examination.

OAR 820-010-0213 – To clarify that the take-home examination must be submitted prior to the release of examination results; not before receiving a certificate of registration, which would imply the individual passed the examination.

OAR 820-010-0214 – To clarify that the take-home examination must be submitted prior to the release of examination results; not before receiving a certificate of registration, which would imply the individual passed the examination.

OAR 820-010-0215 – To clarify that individuals who are submitting a re-application to a subsequent examination must include evidence of further preparation.

OAR 820-010-0305 – Delete the fee for annual renewal of an inactive registration.

OAR 820-010-0440 – Delete Photogrammetry from the Fall examination administration.

OAR 820-010-0450 – Housekeeping; consistency in verbiage.

OAR 820-010-0470 – To clarify the review of examinations administered by the Board; delete Washington Structural III and include the certified water right examiner test.

OAR 820-010-0610 – To clarify the certificates issued by the Board.

OAR 820-010-0625 – Delete language inconsistent with OAR 820-010-0615.

OAR 820-010-0635 – To clarify continuing education requirements as a condition of registration renewal.

Rules Coordinator: Mari Lopez—(503) 362-2666, ext. 26

820-001-0000

Rule Changes

Before permanently adopting, amending, or repealing any rule, the Oregon Board of Examiners for Engineering and Land Surveying will give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least twenty-one (21) days prior to the effective date.

(2) By mailing or electronic mailing a copy of the notice to persons on the agency's mailing list established pursuant to ORS 183.335(8) at least twenty-eight (28) days before the effective date of the rule.

(3) By mailing or electronic mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least forty-nine (49) days before the effective date of the rule; and

(4) By mailing, electronic mailing, or furnishing a copy of the notice to:

- (a) Publications:
 - (A) The Associated Press; and
 - (B) Portland Business Today.
- (b) State Societies:
 - (A) American Council of Engineering Companies of Oregon;
 - (B) Professional Engineers of Oregon;
 - (C) Professional Land Surveyors of Oregon;
 - (D) Structural Engineers Association of Oregon; and
 - (E) Oregon Association of County Engineers and Surveyors.
- (c) Local branches and chapters of the national societies listed below:
 - (A) American Society of Heating, Refrigeration, and Air Conditioning Engineers;
 - (B) American Institute of Industrial Engineers;
 - (C) American Society of Civil Engineers;
 - (D) American Society of Mechanical Engineers;
 - (E) Institute of Electrical and Electronic Engineers;
 - (F) Illuminating Engineers Society;
 - (G) American Institute of Chemical Engineers; and
 - (H) International Society of Automation
- (d) Colleges, universities and community colleges within the State with an engineering and/or land surveying degree program.

(e) Capitol Press Room.

(5) The agency may update the mailing list described in section (2) of this rule annually by requesting persons to confirm that they wish to remain on the mailing list. If a person does not respond to a request for confirmation within twenty-eight (28) days of the date that the agency sends the request, the agency will remove the person from the mailing list. Any person removed from the mailing list will be immediately returned to the mailing list upon request, provided that the person provides a mailing address or electronic mailing address to which notice may be sent.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 18, f. & ef. 1-13-76; EE 1-1981, f. 5-19-81, ef. 6-1-81; EE 2-1985, f. 12-4-85, ef. 12-16-85; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 2-2004, f. & cert. ef. 7-14-04; BEELS 1-2006(Temp), f. & cert. ef. 6-23-06 thru 12-12-06; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0212

Applications for Registration as Professional Engineers (PE) Based on Examination

(1) Applicants for registration as a professional engineer must submit documentation, compliant with OAR 820-010-0215, to include:

- (a) Application for Registration by Examination;
- (b) Experience Details form including active practice in engineering;
- (c) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of engineering as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(d) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(e) Official verification of successful completion of the Fundamentals of Engineering examination.

(2) Each applicant must pass a take-home examination on the laws and rules in Oregon prior to the release of results from the examination.

(3) Application must be accompanied by the \$225.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0213

Applications for Registration as Professional Land Surveyors (PLS) Based on Examination

(1) Applicants for registration as a professional land surveyor must submit documentation to include:

- (a) Application for Registration by Examination;
- (b) Experience Details form including active practice in land surveying;

(c) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of land surveying as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(d) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(e) Official verification of successful completion of the Fundamentals of Land Surveying examination.

(2) Each applicant must pass a take-home examination on the laws and rules in Oregon prior to the release of results from the examination.

(3) Application must be accompanied by the \$265.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0214

Applications for Registration as Professional Photogrammetrists (RPP) Based on Examination

(1) Applicants for registration as a professional photogrammetrist must submit documentation to include:

- (a) Application for Registration by Examination;

ADMINISTRATIVE RULES

(b) Experience Details form including active practice in photogrammetric mapping;

(c) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of photogrammetric mapping as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(d) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(e) Official verification of successful completion of the Fundamentals of Land Surveying examination.

(2) Each applicant must pass a take-home examination on the laws and rules in Oregon prior to the release of results from the examination.

(3) Application must be accompanied by the \$245.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0215

Form of Applications

(1) Applications for registration as professional engineers, professional land surveyors, professional photogrammetrists and for enrollment as an EI, an LSI, or an application for certification as a water right examiner will be made on printed forms issued by the Board in accordance with Board instructions.

(2) All applications must be accompanied by the appropriate fee.

(3) The following must be submitted to the Board in a single package by the application deadline in OAR 820-010-0442:

(a) Application;

(b) Experience Details form;

(c) Reference Details forms;

(d) Request for Reasonable Accommodations to Oregon Specific Examinations;

(e) Explanation of any work performed in conjunction with any educational program as defined in OAR 820-010-0010; and

(f) If applicable, any evidence of further preparation for re-admittance to a subsequent examination as required in OAR 820-010-0465.

(4) Applications for registration as professional engineers, professional land surveyors, or professional photogrammetrists must be accompanied by a completed take-home examination on the laws and rules in Oregon.

(5) The following documents may be submitted by the issuer to the Board office and received no later than March 1 for the Spring examination administration or no later than September 1 for the Fall examination administration:

(a) Official verification of examinations and/or substantially equivalent examinations successfully passed;

(b) Official verification of current registration by another jurisdiction;

(c) Official transcripts or course-by-course evaluations; or

(d) NCEES Records.

(6) Applicants who do not comply with this rule will be considered failing to complete the application process and subject to OAR 820-010-0300.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1983, f. 2-28-83, ef. 3-1-83; EE 2-1986, f. 3-26-86, ef. 3-31-86; EE 4-1987, f. & ef. 12-1-87; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; Renumbered from 820-010-0220; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 4-2008, f. & cert. ef. 12-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0305

Fees

(1) The Board has determined an outside testing provider will administer examinations on behalf of the Board. In addition to state fees, all approved applicants are charged for the test administration fee in addition to any book or scoring fees or any other examination-related fees. The applicant must pay all these costs in advance to the Board and the outside testing provider. The amount for each specific application is compiled in section (2) of this rule. Where applicable, the initial activation and certificate fee must be included. The total amount for each specific application is compiled in a fee schedule published separately. The amount to be submitted will be equal to a total of items (a) through (c) in this section. Actual

dollar amounts for application, initial activation, renewal and certificate are listed in sections (2) and (3) of these rules:

(a) Fee for application.

(b) Fee for initial activation equal to one year renewal (one time fee applies to PE, PLS, RPP, and CWRE only; not applicable to reexamination).

(c) Fee for issuance of first certificate (one time fee applies to PE, PLS, RPP, and CWRE only).

(2) Fees for examination application:

(a) Initial fundamentals of engineering examination application — \$35.

(b) Initial fundamentals of land surveying examination application — \$35.

(c) Initial professional engineering (PE) examination application — \$100.

(d) Initial professional geotechnical examination application — \$375.

(e) Initial professional structural engineering examination application — \$575.

(f) Initial professional land surveying examination application — \$140.

(g) Initial professional photogrammetric mapping examination application — \$120.

(h) Certified Water Right Examiner test application — \$50.

(i) Fundamentals of engineering examination re-application — \$25.

(j) Fundamentals of land surveying examination re-application — \$25.

(k) Professional engineering (PE) examination re-application — \$90.

(l) Professional geotechnical examination re-application — \$365.

(m) Professional structural engineering examination re-application — \$565.

(n) National portion of professional structural engineering examination re-application — \$85.

(o) Oregon requirement of professional structural engineering examination re-application — \$480.

(p) Professional land surveying (PLS) examination re-application — \$130.

(q) Oregon law portion of PLS examination re-application — \$55.

(r) National portion of PLS examination re-application — \$75.

(s) Professional photogrammetric examination re-application — \$110.

(t) Certified Water Rights Examiner test re-application — \$40.

(u) Proctor Request — \$100.

(3) Fees for certification, registration, and renewal:

(a) Professional wall certificate — \$35.

(b) Application for registration as a professional engineer — \$250.

(c) Application for registration as a professional land surveyor — \$250.

(d) Application for registration as a registered professional photogrammetrist — \$250.

(e) Temporary permit issued under ORS 672.109 and 672.127 — \$100.

(f) Re-issuance of lost or mutilated pocket card — \$10.

(g) Issuance of certificate without examination based on experience as provided under ORS 672.255 — \$250.

(h) Re-score of an Oregon specific examination item — \$50.

(i) Annual renewal of a professional engineering certificate — \$90.

(j) Annual renewal of a professional land surveyor certificate — \$90.

(k) Annual renewal of a registered professional photogrammetrist certificate — \$90.

(l) Delinquency renewal fee — \$80 for any part of each two-year renewal period during delinquency.

(m) Fee for reinstatement for inactive or retired registrant or certificate holder — \$225.

(n) Annual renewal of water right examiner certificate — \$20.

(o) Verification of certification(s) and/or registration(s) — \$15.

Stat. Auth.: ORS 670.310, 672.153, 672.155, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 2-1980, f. & ef. 5-14-80; EE 4-1981, f. & ef. 12-14-81; EE 2-1984(Temp), f. & ef. 5-7-84; EE 2-1984(Temp), f. & ef. 5-7-84; EE 4-1984, f. & ef. 12-11-84; EE 2-1987, f. & ef. 7-2-87; EE 3-1987, f. & ef. 8-25-87; EE 2-1989, f. 1-3-89, cert. ef. 1-15-89; EE 1-1990(Temp), f. & cert. ef. 5-21-90; EE 1-1991(Temp), f. 8-14-91, cert. ef. 9-1-91; EE 2-1991, f. & cert. ef. 9-23-91; EE 1-1992, f. & cert. ef. 2-3-92; EE 2-1992, f. & cert. ef. 2-4-92; EE 4-1992, f. & cert. ef. 7-22-92; EE 2-1993(Temp), f. & cert. ef. 2-22-93; EE 3-1993, f. & cert. ef. 6-3-93; EE 2-1994, f. & cert. ef. 7-22-94; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; EE 2-1997, f. & cert. ef. 8-6-97; BEELS 3-1998, f. & cert. ef. 5-11-98; BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2000, f. & cert. ef. 1-14-00; BEELS 3-2000, f. 3-17-00, cert. ef. 3-20-00; BEELS 3-2001, f. & cert. ef. 11-26-01; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 4-2002, f. & cert. ef. 12-3-02; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-

ADMINISTRATIVE RULES

2006, f. & cert. ef. 11-21-06; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0440

Schedule of Examinations

Examinations will be held at times and locations determined by the Board or the outside testing provider. A Spring examination is usually scheduled in April and a Fall examination is usually scheduled in October. Each applicant accepted for examination will be notified of the time and location of the scheduled test. Examinations are offered based upon the following schedule:

- (1) Spring examinations held in April are:
 - (a) NCEES Fundamentals of Engineering.
 - (b) NCEES Fundamentals of Land Surveying.
 - (c) NCEES Principles and Practice Examinations in the following

branches:

- (A) Chemical.
- (B) Civil.
- (C) Electrical and Computer.
- (D) Environmental.
- (E) Land Surveying.
- (F) Mechanical.
- (G) Naval Architecture/Marine.
- (H) Structural II.
- (d) Certified Water Right Examiner.
- (e) Oregon Specific Forest.
- (f) Oregon Specific Land Surveying.
- (g) Photogrammetry.

- (2) Fall examinations held in October are:

- (a) NCEES Fundamentals of Engineering.
- (b) NCEES Fundamentals of Land Surveying.
- (c) NCEES Principles and Practice Examinations in the following

branches:

- (A) Agricultural.
- (B) Chemical.
- (C) Civil.
- (D) Control Systems.
- (E) Electrical and Computer.
- (F) Environmental.
- (G) Fire Protection.
- (H) Industrial.
- (I) Land Surveying.
- (J) Mechanical.
- (K) Metallurgical.
- (L) Nuclear.
- (M) Structural II.
- (d) Oregon Specific Acoustical.
- (e) California Geotechnical.
- (f) Oregon Specific Land Surveying.
- (g) Washington Structural III.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1992, f. & cert. ef. 2-3-92; EE 2-1993(Temp), f. & cert. ef. 2-22-93; EE 3-1993, f. & cert. ef. 6-3-93; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; EE 3-1994(Temp), f. & cert. ef. 11-21-94; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 5-2000, f. & cert. ef. 10-19-00; BEELS 3-2001, f. & cert. ef. 11-26-01; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0450

Branches Examined and Issued by the Board

The Board may conduct examinations and issue registrations in accordance with the following:

(1) Examinations may be offered annually and successful examinees will be registered as professional engineers especially qualified in one of the branches listed below. The applicant will be limited to the selection of examination questions pertaining to that branch:

- (a) Acoustical;
- (b) Agricultural;
- (c) Chemical;
- (d) Civil;
- (e) Control Systems;
- (f) Electrical and Computer;
- (g) Environmental;
- (h) Fire Protection;
- (i) Forest;
- (j) Geotechnical;
- (k) Industrial;

- (l) Mechanical;
- (m) Metallurgical;
- (n) Naval Architecture/Marine;
- (o) Nuclear;
- (p) Structural.

(2) Persons desiring to be registered as a professional engineer naming a branch other than one listed under section (1) of this rule as one in which the individual is especially qualified may petition the Board to amend the list. Procedures are designated in the Model Rules of Procedure under the Administrative Procedure Act, OAR 137-001-0070. Information in the petition shall include:

- (a) The public need for recognition of the new discipline;
- (b) The number of potential registrants that would be affected;
- (c) Whether the new branch is a specialty under an already recognized discipline; and
- (d) Recommendations for examination sources in that discipline.

(3) The Board may, at its option, discontinue examining and registering in any branch at any time that it receives fewer than six qualified applicants in that branch in a three-year period.

(4) For a registration as a professional land surveyor the applicant will be examined in land surveying.

(5) For a registration as a professional photogrammetrist the applicant will be examined in photogrammetry.

(6) For certification as a water right examiner, the applicant will be examined on water right applications and the preparation of claims of beneficial use.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 2-1978, f. 12-21-78, ef. 1-1-79; EE 1-1981, f. 5-19-81, ef. 6-1-81; EE 1-1984, f. & ef. 3-6-84; EE 2-1986, f. 3-26-86, ef. 3-31-86; EE 4-1987, f. & ef. 12-1-87; EE 1-1992, f. & cert. ef. 2-3-92; EE 3-1992, f. 3-19-92, cert. ef. 4-1-92; EE 5-1993, f. 8-3-93, cert. ef. 8-13-93; BEELS 5-2000, f. & cert. ef. 10-19-00; BEELS 3-2001, f. & cert. ef. 11-26-01; BEELS 1-2004, f. & cert. ef. 1-26-04; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0470

Review of Examinations Administered by the Board

(1) With respect to the acoustical, forest, and four-hour Oregon Specific land surveying examinations administered by the board, an applicant may submit a written request to review the applicant's own examination results. The board will allow a two-hour examination review when the applicant failed the examination and the applicant achieved a score within five points of the cutoff score. With respect to such reviews:

(a) An applicant may examine the test booklet, solution pamphlet and answer key.

(b) An acoustical, forest, or Oregon Land Survey 4-hour Law applicant may review the examination on only one occasion. The board will prescribe a time and place for the review. Applicants must notify the board at least five days before the scheduled date that they review their examinations. Applicants who fail to review their examination at the prescribed time and place will not be allowed to reschedule a review of the examination.

(c) All examination reviews will be conducted in the presence of a person designated by the board.

(d) Except as allowed by the board for persons requiring disability assistance, no person may accompany the applicant during the examination review.

(e) The applicant will not take any materials into nor remove any materials from the location where the examination review is conducted.

(f) The applicant may prepare and submit a written request for rescoring the applicant's examination, provided that the applicant's score otherwise satisfies the requirements of this section, while at the location where the examination review is conducted.

(2) The board may rescore an essay response for a qualified applicant if the applicant demonstrates, in writing, sufficient technical justification that their solution deserves reconsideration. The board's rescore determination is final and not subject to further review. An applicant requesting the board to rescore an examination must submit a complete written request within the two-hour timeframe.

(3) With respect to the certified water right examiner test, an applicant may submit a written request to review the applicant's own test results. The board will allow an examination review where the applicant failed the test and the applicant achieved a score within five points of the cutoff score. With respect to such reviews:

(a) An applicant may examine only the question, solution, and answer key for the failed problem.

(b) An applicant may review the test on only one occasion. The board will prescribe a time and place for the review.

ADMINISTRATIVE RULES

(c) All test reviews will be conducted in the presence of a person designated by the board.

(d) Except as allowed by the board for persons requiring disability assistance, no person may accompany the applicant during the test review.

(4) Fee for rescore requests of examinations must accompany the written request. Acoustical, forest, certified water right test, or Oregon Land Survey 4-hour Law examination — \$50/ per item to be rescored. Fee is payable to the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS).

(5) As the Washington Board does not facilitate examination reviews and appeals, Washington Structural III examination reviews are not permitted.

(6) As the California Board does not facilitate examination reviews and appeals, California Geotechnical examination reviews are not permitted.

(7) Photogrammetry examination reviews are not permitted.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 3-1986, f. & cert. ef. 7-21-86; EE 1-1989, f. & cert. ef. 1-3-89; EE 1-1992, f. & cert. ef. 2-3-92; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0530

United States Military Registrants

(1) Upon written request, biennial renewal fees and continuing professional development units may be waived while a registrant holding a registration to practice engineering, land surveying, or photogrammetry in Oregon is on active duty with the Armed Forces of the United States.

(2) An active duty registrant with the Armed Forces of the United States may return a registration to its former status upon written notification to the Board within 60 days of the date of honorable discharge. Former status will be restored, if applicable, by satisfying and submitting proof of completion of 15 PDH units per year for each year (or part of a year) in active military status on the Continuing Professional Development Organizational Form. Biennial renewal fees will not be required until the biennial renewal period following the date of honorable discharge.

(3) If a registrant fails to notify the Board in writing within 60 days from the date of honorable discharge, or within the registration biennial renewal period in which the honorable discharge becomes effective, whichever is the longer period of time, that person may be subject to fees, including late-payment fees, assessed by the Board or other registration requirements in accordance with ORS Chapter 672.

Stat. Auth.: ORS 408.450 & 672.255(1)(g)

Stats. Implemented: ORS 672.020(1), 672.025(1), 672.028(1) & 672.045(1)

Hist.: BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0610

Certificates

Certificates shall be of a design approved by the Board. These shall bear on their face a notation stating that the registrant is qualified to practice land surveying, photogrammetry, engineering, especially qualified in a particular branch, or to engage in the professional activities of a certified water right examiner as defined in ORS Chapter 537 and OAR chapter 690; this qualification having been determined by a written examination.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 670.310 & 672.255

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 16, f. 3-5-74, ef. 3-25-74; EE 20, f. & ef. 12-15-77; EE 1-1992, f. & cert. ef. 2-3-92; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0625

Registration and Certificate Number

Professional engineer, professional land surveyor, and professional photogrammetrist registration numbers; EI and LSI enrollment numbers; and water right examiner certificate numbers will be issued by the Board consecutively in the order in which applicants make application to and qualify before the Board. No discrimination or preference will be permitted in issuing numbers.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 2-1986, f. 3-26-86, ef. 3-31-86; EE 4-1987, f. & ef. 12-1-87; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 1-2010, f. & cert. ef. 5-12-10

820-010-0635

Continuing Professional Development

The purpose of professional development requirements is to demonstrate a continuing level of competency of professional land surveyors,

engineers and photogrammetrists. Every registrant shall meet the professional development requirements as a condition of registration renewal.

(1) Requirements. Every registrant is required to obtain 30 PDH units during each biennial renewal period. Registrants who are licensed for a part of a renewal period shall obtain a prorated amount of PDH. If a registrant exceeds the requirement in any renewal period, a maximum of 15 PDH units in courses/activities may be carried forward into the next renewal period.

(2) PDH units may be earned as follows:

(a) Successful completion of college courses;

(b) Successful completion of short courses, tutorials, correspondence, web based courses, televised and videotaped courses;

(c) Active participation in seminars, in-house courses, workshops, and professional conventions;

(d) Teaching or instructing in (a) through (c) above;

(e) Authoring or co-authoring published papers, articles or books;

(f) Active participation in professional or technical societies;

(g) Self study;

(h) Mentoring of engineering, land surveying, or photogrammetry topics;

(i) Non-technical educational activities related to the registrants employment;

(j) Passing a board prepared take home test.

(3) PDH units for each renewal period may be obtained as follows:

(a) 1 College Semester hour equals 45 PDH;

(b) 1 College Quarter hour equals 30 PDH;

(c) 1 Continuing Education unit equals 10 PDH;

(d) 1 hour of professional education in course work, seminars, professional conventions, workshops equals 1 PDH;

(e) For teaching, apply multiple of 2 (teaching credit is valid for teaching a given course or seminar one time only and does not apply to full time faculty teaching college courses);

(f) For authoring or co-authoring a paper, article or book, appearing in a recognized professional or technical publication, up to a maximum of 10 PDH;

(g) 2 PDH for active participation in a professional or technical society. Up to a maximum of 6 PDH per renewal period;

(h) Self study of relevant materials such that the registrant's knowledge of the subject significantly improves the registrant's ability to work in the subject area. Up to a maximum of 6 PDH;

(i) Mentoring of nonlicensed individuals not under your supervision in the field of engineering, land surveying, or photogrammetry. Each 10 hours spent mentoring will provide 1 PDH with a maximum of 2 PDH per year;

(j) 1 PDH per hour for developing, writing, or scoring an Oregon Specific examinations. Up to a maximum of 8 PDH per renewal period.

(4) Determination of Credit. The Board has final authority with respect to approval of courses, credit, PDH values for courses and other methods of earning credit. The Board may maintain a list of courses and activities which it has approved. The Board will approve without listing courses which are sponsored by nationally recognized technical societies and those technical societies listed in 820-001-0000(4)(b)(A) through (E) and (4)(c)(A) through (G). The Board will approve PDH units obtained by a registrant from the list provided by NCEES Registered Continuing Education Providers Program. Criteria for determination of credit shall follow these guidelines:

(a) Credit for college or community college approved courses will be based upon course credit established by the college;

(b) Credit for qualifying seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn PDH units for the actual time of each program;

(c) Credit determination for activities is the responsibility of the registrant and is subject to review by the Board.

(5) Record keeping. Each registrant is charged with the responsibility of maintaining records of his/her own professional education activities. Every registrant shall report their professional education activities on a form approved by the Board only when requested by the Board to do so. The duty of maintaining records to support credits claimed is the responsibility of the registrant. Records required include, but are not limited to:

(a) A record showing the activity claimed, sponsoring organization, date, location, duration, instructor's or speaker's name, and PDH units earned; and

(b) Attendance verification records in the form of completion certificates, paid receipts, or other documents supporting evidence of attendance.

ADMINISTRATIVE RULES

These records must be retained for five (5) years. Copies may be requested by the Board for audit verification purposes.

(6) Delinquent, retired or inactive registrants must complete PDH requirements as outlined in OAR 820-010-0520 in order to attain active status.

(7) In the event a registrant holds a license in another state that has a lesser PDH requirement than Oregon or no PDH requirement, the registrant will need to satisfy Oregon's 30 PDH requirement to renew the Oregon license. In the event a registrant holds a license in another state that has a higher PDH requirement than Oregon, the registrant will be able to renew registration in Oregon upon fulfilling the other jurisdiction's higher requirement.

(8) Multiple Registrants. The number of PDH units required shall remain a total of 30 PDH per renewal period for persons who hold registration as an engineer, land surveyor, or photogrammetrist. At least one third (1/3) of the PDH units required in courses/activities shall be related to each registration.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.375

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.375

Hist.: BEELS 2-2000, f. & cert. ef. 2-17-00; BEELS 5-2000, f. & cert. ef. 10-19-00; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 1-2003, f. & cert. ef. 1-28-03; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 2-2007, f. & cert. ef. 4-5-07; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2009, f. & cert. ef. 5-15-09; BEELS 1-2010, f. & cert. ef. 5-12-10

Board of Licensed Professional Counselors and Therapists Chapter 833

Rule Caption: Amend rules for requirements for licensure as professional counselor, marriage/family therapist.

Adm. Order No.: BLPCT 3-2010

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-3-10

Notice Publication Date: 4-1-2010

Rules Adopted: 833-020-0201, 833-020-0301

Rules Amended: 833-010-0001, 833-020-0031, 833-020-0041, 833-020-0051, 833-020-0061, 833-030-0021, 833-030-0031, 833-040-0021, 833-040-0031, 833-040-0041, 833-050-0011, 833-050-0021, 833-050-0051, 833-050-0081, 833-060-0012, 833-060-0022, 833-060-0032, 833-070-0011, 833-110-0011

Rules Repealed: 833-020-0201(T), 833-070-0011(T)

Subject: Establish definition of "clinical supervision".

Revise requirements for supervision of work experience for those applying for license via reciprocity or direct methods.

Revise requirements for supervision of work experience for those applying for internships.

Correct license application fee amounts required for applicants needing criminal background check.

Add components of professional disclosure statements for licensees and license applicants.

Add rule requiring licensees to keep Board apprised of contact information and changes.

Revise rule number references to reflect new rule structure.

Rules Coordinator: Becky Eklund—(503) 378-5499, ext. 3

833-010-0001

Definitions

The definitions of terms used in ORS 675.705 to 675.835 and these administrative rules of the Board are:

(1) "Accredited college or university" means the college or university is a fully accredited member of one of the regional institutional accreditation bodies.

(2) "Accredited program" means the graduate program is fully accredited by COAMFTE, CACREP, or CORE.

(3) "Board approved program" means a graduate program that the Board has found to be comparable to an accredited program.

(4) "CACREP" means the Council for Accreditation of Counseling and Related Educational Programs.

(5) "Clinical experience" means the professional practice of applying principles and methods to provide assessment, diagnosis, and treatment of individuals and families with mental health disorders.

(6) "COAMFTE" means the Commission on Accreditation of Marriage and Family Therapy Education.

(7) "CORE" means the Council on Rehabilitation Education.

(8) Direct client contact hours" means only those clinical experience hours that are therapeutic or a combination of assessment and subsequent therapeutic interactions.

(9) "Distance learning" means coursework, or training that does not involve attending a presentation or program in the presence of the instructor or facilitator and other courses through electronic communication.

(10) "Distance Services" means any use of technology that replaces face to face delivery of counseling or therapy service. Such technologies include, but are not limited to, use of computer hardware and software, telephones, the internet, online assessment instruments and other communication devices.

(11) "Electronic communication" means communication through use of videoconference, telephone, teleconference, internet, electronic mail, chat-based, or video-based.

(12) "Equivalent" means comparable in content and quality, but not identical.

(13) "Intern registration plan" means a written description of post-graduate supervised work experience activities an applicant must complete to qualify for a license as a professional counselor or marriage and family therapist.

(14) "Official transcript" means a document certified by an accredited college or university indicating degree earned, hours and types of coursework, examinations and scores, completed by the student; and submitted by the school to the Board.

(15) "Practicing" means engaging in any of the activities listed in the definitions of marriage and family therapy and professional counseling set forth in ORS 675.705, including but not limited to providing clinical supervision to another mental health professional who is providing counseling or therapeutic services to clients.

(16) "Receipt" means the date received by the Board office as shown by US Postal Service postmark, or date received stamp if document was not mailed or without postmark.

(17) "Registered intern" means an applicant for licensure who has met the educational requirement for licensure, and is in the process of obtaining the required supervised work experience under a registration plan approved by the Board.

(18) "Hour Equivalents" means that when requirements for licensure are given in quarter hours, the following formula will be used to determine equivalent hours:

(a) Two semester hours is equal to three quarter hours;

(b) One semester is equal to 1.5 quarters;

(c) One quarter credit hour equals 10 clock hours;

(d) One semester credit hour equals 15 clock hours.

(19) "Supervision" means a professional relationship between a qualified supervisor and an intern, counselor, or therapist during which the supervisor provides guidance and professional skill development and oversight to the intern, counselor or therapist.

Stat. Auth.: ORS 675.715 & 675.785

Stats. Implemented: ORS 675.785

Hist.: LPCT 1-1990(Temp), f. & cert. ef. 3-6-90; LPCT 2-1990, f. 8-31-90, cert. ef. 9-1-90; LPCT 2-1992, f. 11-30-92, cert. ef. 12-1-92; LPCT 1-1993, f. 12-30-93, cert. ef. 1-1-94; LPCT 1-1998, f. 1-2-98, cert. ef. 1-5-98; BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-020-0031

Intern Registration Method

(1) The intern registration method is required for applicants who seek acceptance of post-degree supervised clinical experience completed in Oregon after June 30, 2002. The intern registration method requires applicant to obtain Board approval of a proposed plan for completing required hours of supervised clinical experience. No less than 1,000 hours of supervised clinical experience must be completed under an approved plan.

(2) Applicants approved for registration as an intern who maintain registration status and meet the conditions for annual renewal will be allowed five years to complete the experience requirements, as specified in OAR 833 division 50, to be approved for licensure or for examination. Failure to meet the experience requirements for licensure within five years will result in expiration of registration and closure of the application file.

(3) The intern may petition the Board to allow renewal for up to one year of registration beyond the maximum five years if he/she can show good cause for such extension.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

ADMINISTRATIVE RULES

833-020-0041

Direct Method

(1) The direct method is required for applicants who seek acceptance of supervised clinical experience completed in another jurisdiction or in Oregon before June 30, 2002.

(2) The direct method requires the applicant to document no less than the total minimum number of supervised clinical experience hours required for licensure, all of which must have been completed prior to the date of application for licensure.

(3) Supervised clinical experience hours must include no less than 480 post-degree client contact hours completed within 60 months immediately prior to the application for licensure.

(4) Applicants seeking licensure as a professional counselor must meet the requirements specified in OAR 833, division 30.

(5) Applicants seeking licensure as a marriage and family therapist must meet the requirements specified in OAR 833, division 40.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-020-0051

Reciprocity Method

(1) The reciprocity method is required for applicants who seek acceptance of supervised clinical experience previously used to obtain a comparable license in another jurisdiction. The reciprocity method requires the applicant to document that the experience requirements under which the applicant obtained a comparable license held in another state are equivalent to the standards required for Oregon licensure as a professional counselor or as a marriage and family therapist.

(2) The Board will review each application designating the reciprocity method to determine if licensing is appropriate. The Board will compare the minimum standards in effect in the other jurisdiction when it granted a license with the current education, clinical experience, and examination standards required for Oregon licensure.

(3) Application for licensure must be submitted to the Board office and be on forms provided by the Board.

(4) Application for licensure must be accompanied by:

(a) The non-refundable application fee;

(b) Official transcript of graduate degree that qualified the individual for licensure in the other state;

(c) Verification of licensure from the other state and information on the education, clinical experience and examination requirements for licensure in that state at the time licensure was granted; and

(d) Professional disclosure statement.

(5) To qualify for licensure via reciprocity:

(a) The applicant must document holding:

(A) A graduate degree in counseling, or marriage and family therapy or a related degree from a college or university that was regionally accredited at time of graduation that meets the requirements under OAR 833 division 60 Majority Standards for Graduate Degrees; and

(B) A current, active license in another state comparable to the Oregon license requested either that of professional counselor or marriage and family therapist. Temporary, probationary, expired, revoked, or suspended licenses will not be considered.

(b) The jurisdiction of licensure must verify that the applicant has not been disciplined for misconduct or incompetence.

(c) The license held must have:

(A) Required at least a graduate degree in counseling (for LPC) or graduate degree in marriage and family therapy or related degree with systemic coursework (for LMFT);

(B) Been issued to an applicant whose qualifying degree meets Majority Standards for Graduate Degrees in 833 division 60.

(C) Required documentation of supervised clinical experience performing direct client counseling or marriage and family therapy, which must have included no less than:

(i) At least 1,000 post-degree direct client contact hours in two years or the equivalent for licensed professional counselor;

(ii) At least 2,000 post-degree direct client contact hours earned in at least 3 years for licensed marriage and family therapist.

(D) Required passage of a competency examination as a condition for licensure; and

(E) Been obtained by a method of application that involved state review of documentation of education and clinical experience under adopted standards, and not obtained through reciprocity; act of portability; mutual recognition; recognition of non-governmental, professional certification

or membership; waiver of any of the education, experience, or examination requirements; or "grandparenting".

(d) The applicant must pass the Oregon law and rules examination.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-020-0061

Re-Licensure Method

(1) The re-licensure method is required for applicants who have previously been licensed by the Board. The re-licensure method requires the applicant, as a previous Board licensee, to request a new license with a new license number, but without documenting further supervised clinical experience.

(2) To be considered for re-licensure, licensees whose licenses have been expired for less than two years from last date of renewal must file:

(a) An application for re-licensure, using forms provided by the Board that must include a sworn statement that there is no reason for denial, including that applicant:

(A) Has not been subject to any disciplinary action by a professional mental health licensing or certification agency; and

(B) Has not been convicted of a crime related to practice within the mental health field.

(b) Payment of the current application fee plus one current annual renewal fee;

(c) Updated professional disclosure statement, statement that the applicant is not currently practicing professional counseling or marriage and family therapy, or request for waiver of the professional disclosure statement; and

(d) Report listing 20 hours of continuing education meeting the standards set forth in OAR 833-080-0011, completed within one year prior to the date the Board will receive the new application or within the year allowed for application to be completed.

(3) To be considered for re-licensure, licensees whose licenses have been expired for two or more years from last date of renewal must file:

(a) A new application, using forms provided by the Board, to show compliance with the standards in effect at the time the Board will receive this new application;

(b) The application fee;

(c) Proposed professional disclosure statement, statement that applicant is not currently practicing professional counseling or marriage and family therapy, or request for waiver of the professional disclosure statement; and

(d) Request for examination or proof of passage of a competency examination acceptable to the Board which was passed within 10 years of date of new application.

(4) All applicants for re-licensure must successfully pass the current law and rules section of the state examination.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-020-0201

Licentee Professional Disclosure Statement

(1) To be approved by the Board, the professional disclosure statement shall include the information set forth in and required by ORS 675.755 and:

(a) The name of the business as part of the business address;

(b) Philosophy and approach to counseling or marriage and family therapy, including reference to any codes of standards or ethics to which the licensee subscribes;

(c) A statement indicating adherence to the Oregon Licensing Board's Code of Ethics set forth in OAR chapter 833, division 100;

(d) The bill of rights of clients listed in OAR 833, division 100, Code of Ethics;

(e) Formal education and training, title of highest relevant degree earned, school granting degree, and major coursework;

(f) Oregon licensure requirements for continuing education as well as any significant post-degree work relating to professional practice;

(g) The standard fee for service, including discounted rates or sliding scale and a statement that no fees will be charged and no additional fee will be added to another set fee such as a hospital room daily charge.

(2) The statement must include the name, address, and telephone number of the Oregon Board of Licensed Professional Counselors and Therapists.

(3) Professional disclosure statement must be available in a format that meets the following specifications:

ADMINISTRATIVE RULES

(a) No less than 8-1/2 inches wide by 11 inches long; and
(b) With clear type no smaller than 10 point so it is easily read and accessible to people with disabilities.

(4) Licensees must provide each client with a professional disclosure statement consistent with the content and in a format as specified in OAR 833-020-0201(1), (2), and (3).

(5) Licensees must make a reasonable effort to assist the client to understand the information presented in the disclosure statement as required by the Code of Ethics.

(6) Exemptions to the professional disclosure statement requirements set forth in ORS 675.755 include:

(a) Applicants for licensure not practicing professional counseling or marriage and family therapy in Oregon, except those seeking registration as an intern;

(b) Licensees not practicing professional counseling or marriage and family therapy in Oregon;

(c) Licensees providing crisis response; and

(d) Licensees who have submitted a written request and can satisfy the Board that there is good cause to be exempt from specific requirements and have received written exemption from the Board.

(7) Prior to providing services, the licensee must furnish each client with a copy of a professional disclosure statement. If the licensee fails to provide the statement, the licensee may not charge the client a fee for services.

(8) Whenever a licensee changes a professional disclosure statement, the new statement must be presented to the Board for approval.

Stat. Auth.: ORS 675.785

Stats. Implemented: ORS 675.755 & 675.785

Hist.: BLPCT 2-2010(Temp), f. 1-8-10, cert. ef. 1-11-10 thru 7-9-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-020-0301

Current Information to Board

(1) All licensees must provide current contact information to the Board, including:

(a) Physical residence address and post office box, if applicable;

(b) Electronic mail address;

(c) Home and work telephone numbers; and

(d) An updated, current Professional Disclosure Statement being provided to clients.

(2) Licensees must inform the Board office in writing of any changes to information within 30 days of the change.

Stat. Auth.: ORS 675.785

Stats. Implemented: ORS 675.755 & 675.785

Hist.: BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-030-0021

Experience Requirements for Licensure as a Professional Counselor

(1) To qualify for licensure as a professional counselor under ORS 675.715(3) and 675.720, an applicant must have completed the equivalent of three years of full-time supervised clinical counseling experience that consisted of no less than 2,400 supervised direct client contact hours of counseling. The supervised counseling experience must be:

(a) Completed in Oregon prior to June 30, 2002;

(b) Completed in another state or country prior to application;

(c) Completed while a registered intern with the Board;

(d) Up to 400 hours of supervised direct client contact completed during the clinical portion of the qualifying graduate degree program; or

(e) Any combination of hours completed as indicated in (a), (b), (c) and (d).

(2) Direct client contact hours for applicants seeking the professional counselor license, may be comprised of pre-degree hours plus post-degree hours.

(3) Direct client contact hours must have been face to face with a client or clients and/or contact via electronic communication consistent with OAR 833 division 90.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-030-0031

Supervision of Direct Client Contact Hours

(1) For those applying for licensure through the direct or reciprocity methods, supervision must satisfy the following requirements:

(a) Taken place within the same calendar month as the completed direct client contact hours;

(b) Been provided by someone other than a spouse or relative by blood or marriage or a person with whom the applicant has or had a personal relationship;

(c) Been the result of a professional relationship between a qualified supervisor and a counselor. Such relationship involves discussions based on case notes, charts, records, and available audio or visual tapes. The supervisee presents assessments and treatment plans for the clients being seen. The supervisor focuses on the appropriateness of the plans and the supervisee's therapeutic skill. In contrast to consultation, the supervisor has the authority to direct treatment plans. In contrast to therapy, the supervisor will identify counter-transference issues and develop a plan for the supervisee to work through those issues independently;

(d) Total no less than two (2) hours of supervision for months where 45 or less direct client contact hours are completed; or total no less than three (3) hours of supervision for months where 46 or more direct client contact hours are completed; and

(e) Been conducted in a professional setting, face to face, one to one, except:

(A) Up to 75 percent of the individual supervision hours may have been by electronic communication; and

(B) Up to 50 percent of the supervision may have been received in a group setting, which:

(i) Included no more than ten (10) supervisees for supervision taking place before July 1, 1998 or six (6) supervisees for supervision on or after July 1, 1998;

(ii) Where the leadership did not shift from one supervisor to another; and

(iii) Was not a staff or team meeting, intensive training seminar, discussion group, consultation session, or quality assurance or review group.

(2) The supervisor, at the time of supervision must have:

(a) Three years of post-graduate clinical experience as a licensed mental health professional; and

(b) 30 clock hours of training in supervision theory and practice through post-master's workshops or post-master's graduate level academic coursework for any supervision hours provided after June 30, 1992.

(3) The supervisor at the time of supervision also must have:

(a) Been a National Certified Counselor (NCC), Certified Clinical Mental Health Counselor (CCMHC), Certified Rehabilitation Counselor (CRC); or Certified Career Counselor (CCC); or

(b) Held a license as a professional counselor in the State of Oregon or held an Oregon or other state certification or licensure judged comparable by the Board, such as standard school counselors or psychologist associates or those state-licensed as clinical psychologists, clinical social workers, and marriage and family therapists.

(4) In lieu of sections (2) and (3) the supervisor at the time of supervision may have been an approved supervisor through American Association for Marriage and Family Therapy, the Center for Credentialing and Education, or the American Association of Pastoral Counselors.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-040-0021

Experience Requirements for Licensure as a Marriage and Family Therapist

(1) To qualify for licensure as a marriage and family therapist under ORS 675.715(4) and 675.720, an applicant must have at least three years of full-time supervised clinical experience that consisted of no less than 2,000 supervised client contact hours of therapy with at least 1,000 of those hours working with couples and families.

(2) Direct client contact hours must have been:

(a) Obtained after receipt of the qualifying graduate degree;

(b) Obtained in three or more different years; and

(c) Face to face with a client or clients including through electronic communication.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-040-0031

Supervision of Direct Client Contact Hours

(1) For those applying for licensure through the direct or reciprocity methods, supervision must:

(a) Take place within the same calendar month as the completed direct client contact hours;

ADMINISTRATIVE RULES

(b) Be provided by someone other than a spouse or relative by blood or marriage or a person with whom the applicant has or had a personal relationship;

(c) Be the result of a professional relationship between a qualified supervisor and a counselor. Such relationship involves discussions based on case notes, charts, records, and available audio or visual tapes. The supervisee presents assessments and treatment plans for the clients being seen. The supervisor focuses on the appropriateness of the plans and the supervisee's therapeutic skill. In contrast to consultation, the supervisor has the authority to direct treatment plans. In contrast to therapy, the supervisor will identify counter-transference issues and develop a plan for the supervisee to work through those issues independently; and

(d) Total no less than two (2) hours of supervision for months where 45 or less direct client contact hours are completed; or total no less than three (3) hours of supervision for months where 46 or more direct client contact hours are completed; and

(e) Be conducted in a professional setting, face to face, one to one, except:

(A) Up to 75 percent of the individual supervision hours may be by electronic communication; and

(B) Up to 50 percent of the supervision may have been received in a group setting, which:

(i) Included no more than ten (10) supervisees for supervision taking place before July 1, 1998 or six (6) supervisees for supervision on or after July 1, 1998;

(ii) Where the leadership does not shift from one supervisor to another; and

(iii) Is not a staff or team meeting, intensive training seminar, discussion group, consultation session, or quality assurance or review group.

(2) The supervisor, at the time of supervision must have been:

(a) A supervisor approved by the American Association for Marriage and Family Therapy or a diplomate in the American Association of Pastoral Counselors; or

(b) Licensed as a marriage and family therapist or hold an equivalent certification or license as determined by the Board, such as that required for clinical psychologists, clinical social workers and professional counselors; and

(A) Been trained specifically in the systemic approach to couples and family therapy;

(B) Completed a minimum of five (5) years of clinical experience; and

(C) For any supervision hours after June 30, 1992, completed thirty (30) clock hours of training in supervision theory and practice in post-master's academic coursework or equivalent training, as determined by the Board.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-040-0041

Examination Requirement for Licensure as a Marriage and Family Therapist

(1) All applicants for licensure as a marriage and family therapist must pass an examination consisting of two separate examination sections: a competency section and an Oregon law and rules section.

(2) To qualify for licensure as a marriage and family therapist under ORS 675.715(5), an applicant must pass a competency examination prescribed by the Board or have passed other approved alternative exams, within 10 years from the date of application for licensure.

(3) The Board prescribes as the competency section the computerized marital and family therapy examination of the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) in association with the Professional Examination Service.

(4) To qualify to sit for the competency examination, a LMFT applicant must:

(a) Submit an application;

(b) Meet the graduate program and coursework requirements prescribed in OAR 833 division 60; and

(c) Meet the supervised clinical experience requirements prescribed in OAR 833-040-0031.

(5) Candidates will pay exam and exam administration fees to the prescribed examination providers.

(6) Passing scores will be:

(a) Established by the AMFTRB for applicants who plan to take the exam after making application for Oregon licensure; or

(b) Established by the agency verifying passage of its examination for applicants who have completed an approved alternative examination.

(7) The Board will notify examinees, in writing only, of the results of their examination.

(8) Following passage of the approved competency examination, the Board requires passage of an Oregon state law and rules examination, with a passing score as determined by the Board.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-050-0011

Intern Registration Method

The intern registration method is required for applicants who seek acceptance of post-degree supervised clinical experience completed in Oregon after June 30, 2002. The intern registration method requires applicant to obtain Board approval of an internship plan for completing required supervised direct client contact.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-050-0021

Application for Registration as Intern

(1) An applicant for registration must:

(a) Meet all registration requirements in effect at the time the application is submitted;

(b) Request registration on Board approved forms;

(c) Submit a professional disclosure statement for board approval as part of his or her application;

(d) Submit an application fee as specified in OAR 833-070-0011;

(e) Meet the graduate degree standards for licensure according to OAR 833, division 60;

(f) Agree to complete supervised clinical experience hours to meet the total number of hours required for licensure; and

(g) Abide by the Board's laws and rules.

(2) Applicants for professional counselor and marriage and family therapist must pay a fee for each license.

(3) Applicants approved for registration as an intern will have five years to complete the supervised direct client contact hours necessary for licensure or for examination. The intern may petition the Board to allow extension of registration for up to one year beyond the maximum five years if he/she can show good cause for such extension.

(4) Registered interns may indicate registration or use the title "registered intern", "LPC intern", "LMFT intern" or any permutation in connection with a practice that is covered by an approved plan.

(5) Former applicants who re-apply may transfer direct client contact hours accrued under a board-approved plan to their new plan.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-050-0051

Intern Registration Plan

(1) Applicants for intern registration must submit an intern plan in the form and manner required by the Board.

(2) The intern plan must include information to show how supervised clinical experience hours will be accrued and that the activities will meet Board requirements for professional counselor and/or marriage and family therapist. The intern plan will include:

(a) Name, addresses, telephone numbers, and email addresses of the parties: intern, supervisor(s), and intern's employer if applicable;

(b) Description of clinical experience: where counseling/therapy will be performed, where supervision will be provided, activities or services performed by intern, content of supervision;

(c) How the intern will meet licensure requirements;

(d) Responsibilities of all parties;

(e) Agreement of the supervisor, administrator of agency or employer of the intern, and the intern; and

(f) Signatures of all parties.

(3) An approved intern plan may cover up to three separate practices, such as private practice and employment by two different, autonomous programs.

(4) To maintain registration, the intern must meet the conditions in the approved plan.

(5) The intern must carry out the registration plan as approved.

Changes to the plan must be approved by the Board.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

ADMINISTRATIVE RULES

Stats. Implemented: ORS 675.785 - 675.835
Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-050-0081

Supervision

(1) Supervision of direct client contact must take place within the same calendar month as the completed direct client contact hours.

(2) Supervision meetings must take place at least twice per month, and in different weeks.

(3) Supervision meetings must be no less than one hour, defined as no less than 50 minutes.

(4) Supervision must total at least:

(a) Two (2) hours for months in which 45 or fewer hours of direct client contact are completed; or

(b) Three (3) hours for months in which 46 or more hours of direct client contact are completed.

(5) At least 25% of supervision hours must be conducted in a professional setting, face to face. Up to 75% of supervision hours may be conducted through electronic communication.

(6) At least 50% of the required number of monthly supervision hours must be individual supervision 1-to-1.

(7) Group supervision must meet the following requirements at each meeting.

(a) Include no more than six (6) supervisees;

(b) Have leadership that does not shift from one supervisor to another; and

(c) Not be a staff or team meeting, intensive training seminar, discussion group, consultation session, or quality assurance or review group.

(8) If in any month an intern does not receive the minimum supervision hours required, no client contact hours will be credited for that month.

(9) Interns must take steps to ensure consistency in supervision throughout the internship. The intern must request approval from the Board to change supervisors more than three times during the internship and provide steps taken to ensure consistency when changing supervisors.

(10) An approved plan for a single practice, such as private practice or employment by one agency offering services at one or more sites, may have no more than two supervisors at any given time.

(11) The supervisor must have the authority to:

(a) Review all case records, billings, appointment books, and client population;

(b) Review and determine appropriateness of individual charts and case records;

(c) Direct the intern to refer clients to other therapists when client needs are outside the intern's scope of practice; and

(d) Determine appropriate client caseload to be served by the intern.

(12) The supervisor of LPC interns, at the time of supervision must:

(a) Be provided by someone other than a spouse or relative by blood or marriage or a person with whom the application has or had a personal relationship; and

(b) Have completed at least 30 clock hours of training in supervision theory and practice through post-master's workshops or post-master's graduate level academic coursework.

(c) The supervisor at the time of supervision also must have:

(A) Held a license for at least 3 years in Oregon as a professional counselor or held an Oregon certification or licensure for 3 years judged comparable by the Board, such as Oregon standard school counselors or Oregon psychologist associates or those state licensed as clinical psychologists, clinical social workers, and marriage and family therapists.

(d) In lieu of section (12)(c), the supervisor at the time of supervision may have been an approved supervisor through American Association for Marriage and Family Therapy or the American Association of Pastoral Counselors.

(13) The supervisor of LMFT interns, at the time of supervision must have:

(a) Been provided by someone other than a spouse or relative by blood or marriage or a person with whom the application has or had a personal relationship;

(b) Completed at least 30 clock hours of training in supervision theory and practice in post-master's academic coursework or equivalent training, as determined by the Board;

(c) Been trained specifically in the systemic approach to couples and family therapy; and

(d) Completed a minimum of five (5) years of clinical experience.

(e) The supervisor at the time of supervision also must:

(A) Be licensed by the State of Oregon as a marriage and family therapist or hold an equivalent Oregon certification or license as determined by

the Board, such as that required for clinical psychologists, clinical social workers and professional counselors or

(B) Be a supervisor approved by the American Association for Marriage and Family Therapy or a diplomate in the American Association of Pastoral Counselors.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-060-0012

Comparable Full Standards

A graduate degree shall be determined by the Board as comparable in content and quality to degrees from CACREP, COAMFTE, or CORE approved programs, if issued by a degree-granting program that meets the following standards. The degree was from an institution that:

(1) Was a fully accredited member of one of the regional institutional accreditation bodies at the time the degree was granted;

(2) Offered a minimum of a master's degree;

(3) Was of at least two years' duration and is at least:

(a) 48 semester credit hours or 72 quarter hours for graduate degrees granted before October 1, 2014; or

(b) 60 semester credit hours or 90 quarter credit hours for graduate degrees granted on or after October 1, 2014.

(4) Included all coursework requirements set forth in OAR 833-060-0042 or 833-060-0052.

(5) Included a required supervised clinical experience for all students of no less than:

(a) 600 total clock hours to include 240 direct client contact hours, for graduate degrees granted before October 1, 2014; or

(b) 700 total clock hours to include 280 direct client contact hours, for graduate degrees granted on or after October 1, 2014; and

(6) Facilitated a practicum and/or internship experience that:

(a) Had supervisory staff with a minimum of a master's degree in the program emphasis and with pertinent professional experience;

(b) Made provision for faculty monitoring of operations;

(c) Kept records of student-client contact hours including summary of student progress by the supervisor;

(d) Had a written agreement with the program and student specifying learning objectives;

(e) Had a mechanism for program evaluation; and

(f) Maintained adherence to the Oregon Board Code of Ethics OAR 833 division 100.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-060-0022

Majority Standards for Graduate Degrees

Pursuant to ORS 675.715(1)(d), a graduate degree will meet a majority of the Board's standards if issued by a degree granting program that:

(1) Was from a regionally accredited institution that provided training in counseling or marriage and family therapy;

(2) Offered a minimum of a master's degree;

(3) Was at least two years in duration;

(4) Included coursework requirements for the degree as set forth in OAR 833-060-0042 or 833-060-0052; and

(5) Included a degree-required practicum/clinical experience with on-site supervisors having competence in counseling or marriage and family therapy and field supervision.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-060-0032

Additional Graduate Training to Supplement Degree Program

(1) Training used to supplement a degree program pursuant to OAR 833-060-0022 must be taken and successfully completed for graduate credit at an accredited college or university.

(2) To fulfill the requirements for the clinical/applied experience, the applicant must complete a supervised clinical experience of no less than 700 clock hours.

(3) The requirement for a graduate program clinical experience may be waived if:

(a) The applicant has at least five years of full-time post-degree experience; and

(b) For marriage and family therapy degrees, the majority of clinical experience consisted of work in relationship issues.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

ADMINISTRATIVE RULES

Stats. Implemented: ORS 675.785 - 675.835
Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-070-0011

Fees

Fees established by the Board of Licensed Professional Counselors and Therapists are as follows:

- (1) Application for licensure:
 - (a) Without criminal background check — \$125; or
 - (b) With criminal background check — \$172.25.
- (2) Initial license — \$100.
- (3) Annual renewal of license in accordance with OAR 833-120-0011.
 - (a) Without criminal background check — \$125; or
 - (b) With criminal background check — \$172.25.
- (4) Restoration fee — \$50.
- (5) Examination:
 - (a) For professional counselor license — Candidates will pay exam and exam administration fees to the prescribed examination providers.
 - (b) For marriage and family therapist license — Candidates will pay exam and exam administration fees to the prescribed examination providers.
- (6) Duplicate license or certificate of licensure — \$5.
- (7) Verification of licensure or examination scores for applicant or licensee to other licensing or certifying agencies — \$10.
- (8) Annual renewal of registration as intern in accordance with OAR 833-120-0011

- (a) Without criminal background check — \$80; or
- (b) With criminal background check — \$127.25.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 2-2010(Temp), f. 1-8-10, cert. ef. 1-11-10 thru 7-9-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

833-110-0011

Response to Complaints

(1) Charges or information, filed by any person, group of persons, or the Board on its own action that a counselor or therapist, licensee, or applicant for licensure is incompetent or has committed an act or acts in violation of ORS 675.745, 675.755, or 675.765, the licensing law or rules adopted by the Board including the Code of Ethics will be considered a complaint of professional misconduct.

(2) Charges or information, filed by any person, group of persons, or the Board on its own action that a person who does not hold a valid license issued under ORS 675.715 is or has indicated state licensure as a professional counselor or marriage and family therapist will be considered a complaint of title violation.

(3) The Board will make forms available to the public and encourage complainants to use the Board's form. However, the complaint may be filed in any format, written or oral as long as it:

- (a) Is filed at the Board office;
- (b) Includes a first and last name of the counselor or therapist who is the subject of the complaint; and
- (c) Indicates incompetence, or action that may be considered misconduct or violation of the law or rules administered by the Board.

(4) Upon receipt of a complaint, a complaint file will be opened. The complaint will be immediately assigned to a delegated representative who will conduct a preliminary investigation or review and determine if additional investigation and the assignment of additional investigators is necessary or file a report with the Board recommending the complaint be dismissed without further action.

(5) Additional investigators will be assigned by a delegated representative of the Board and the subject of the complaint will be notified that he/she is under investigation and provided with general information regarding the nature of his/her conduct that is being investigated. Notification may request a written response. Licensees and applicants must cooperate with Board representatives during investigations.

(6) At the conclusion of the investigation, a report will be filed with the Board in accordance with ORS 676.165–676.180. The report will:

- (a) Describe evidence, summarize witness interviews, and present any disciplinary history with the Board; and
- (b) Be submitted within 120 days from the date the complaint was filed, unless a 30-day extension or subsequent 30-day extensions were granted by a delegate of the Board for just cause, which may include but not be limited to complexity of case, location of evidence or witnesses, unavailability of witnesses, number of other pending actions involving licensee/applicant that affect ability to obtain evidence, ability of investigator to accomplish task due to workload, health, work schedule, or previous per-

sonal commitments, end of appointment, termination of employment or contract, or legal actions.

(7) Following review of the investigation report, the Board may dismiss the complaint, issue a warning, propose disciplinary action, propose non-disciplinary action, negotiate a stipulated agreement in lieu of hearing, default, or disciplinary action. Board discussions will be in executive session, closed to the public. Decisions as to action will be voted upon during a public meeting, but case numbers will be used. Decisions to propose disciplinary action, suspension, revocation, or denial of license, will be made known to the public if adopted by a majority vote of the Board. A notice of intent to propose disciplinary action with opportunity for hearing will be issued by the Board Administrator and served upon the applicant or licensee, and may be provided to the complainant.

(8) The Board will maintain written procedures for handling complaints, which will be available through the Board office.

(9) Complaint and information gathered by investigation into licensee or applicant competency or conduct will be kept confidential in accordance with ORS 676.165–676.180. The Board must not reveal when a complaint has been filed nor identify the identity of the person or persons filing the complaint. Only information included in the notice to take disciplinary action voted by a majority of the Board and the final order or stipulated agreement will be available to the public.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10

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Board of Nursing
Chapter 851

Rule Caption: Rule to provide consistent language regarding violations relating to impairment.

Adm. Order No.: BN 2-2010(Temp)

Filed with Sec. of State: 4-19-2010

Certified to be Effective: 4-19-10 thru 10-15-10

Notice Publication Date:

Rules Adopted: 851-045-0070

Subject: These rules cover the standards and scope of practice for the licensed practical nurse and registered nurse. This new proposed rule will provide consistent language regarding violations relating to impairment.

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

851-045-0070

Conduct Derogatory to the Standards of Nursing Defined

Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:

- (1) Conduct related to the client's safety and integrity:
 - (a) Developing, modifying, or implementing standards of nursing practice/care which jeopardize patient safety.
 - (b) Failing to take action to preserve or promote the client's safety based on nursing assessment and judgment.
 - (c) Failing to develop, implement and/or follow through with the plan of care.
 - (d) Failing to modify, or failing to attempt to modify the plan of care as needed based on nursing assessment and judgment, either directly or through proper channels.
 - (e) Assigning persons to perform functions for which they are not prepared or which are beyond their scope of practice/scope of duties.
 - (f) Improperly delegating tasks of nursing care to unlicensed persons in settings where a registered nurse is not regularly scheduled.
 - (g) Failing to supervise persons to whom nursing tasks have been assigned.
 - (h) Failing to teach and supervise unlicensed persons to whom nursing tasks have been delegated.
 - (i) Leaving a client care assignment during the previously agreed upon work time period without notifying the appropriate supervisory personnel and confirming that nursing care for the client(s) will be continued.
 - (j) Leaving or failing to complete any nursing assignment, including a supervisory assignment, without notifying the appropriate personnel and confirming that nursing assignment responsibilities will be met.

ADMINISTRATIVE RULES

(k) Failing to report through proper channels facts known regarding the incompetent, unethical, unsafe or illegal practice of any health care provider.

(l) Failing to respect the dignity and rights of clients, regardless of social or economic status, age, race, religion, sex, sexual orientation, national origin, nature of health needs, or disability.

(m) Engaging in or attempting to engage in sexual contact with a client; and

(n) Failing to maintain professional boundaries with a client.

(2) Conduct related to other federal or state statute/rule violations:

(a) Abusing a client. The definition of abuse includes, but is not limited to, intentionally causing physical or emotional harm or discomfort, striking a client, intimidating, threatening or harassing a client, wrongfully taking or appropriating money or property, or knowingly subjecting a client to distress by conveying a threat to wrongfully take or appropriate money or property in a manner that causes the client to believe the threat will be carried out.

(b) Neglecting a client. The definition of neglect includes, but is not limited to, carelessly allowing a client to be in physical discomfort or be injured.

(c) Engaging in other unacceptable behavior towards or in the presence of a client such as using derogatory names or gestures or profane language.

(d) Failing to report actual or suspected incidents of client abuse through the proper channels in the work place and to the appropriate state agencies.

(e) Failing to report actual or suspected incidents of child abuse or elder abuse to the appropriate state agencies.

(f) Unauthorized removal or attempted removal of narcotics, other drugs, supplies, property, or money from clients, the work place, or any person.

(g) Soliciting or borrowing money, materials, or property from clients.

(h) Using the nurse client relationship to exploit the client by gaining property or other items of value from the client either for personal gain or sale, beyond the compensation for nursing services.

(i) Possessing, obtaining, attempting to obtain, furnishing, or administering prescription or controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs.

(j) Aiding, abetting, or assisting an individual to violate or circumvent any law, rule or regulation intended to guide the conduct of nurses or other health care providers.

(k) Failing to conduct practice without discrimination on the basis of age, race, religion, sex, sexual orientation, national origin, nature of health needs, or disability.

(l) Violating the rights of privacy, confidentiality of information, or knowledge concerning the client, unless required by law to disclose such information or unless there is a "need to know."

(m) Violating the rights of privacy, confidentiality of information, or knowledge concerning the client by obtaining the information without proper authorization or when there is no "need to know."

(n) Unauthorized removal of client records, client information, facility property, policies or written standards from the work place; and

(o) Failing to dispense or administer medications, including Methadone, in a manner consistent with state and federal law.

(3) Conduct related to communication:

(a) Inaccurate recordkeeping in client or agency records.

(b) Incomplete recordkeeping regarding client care; including, but not limited, to failure to document care given or other information important to the client's care or documentation which is inconsistent with the care given.

(c) Falsifying a client or agency record or records prepared for an accrediting or credentialing entity; including, but not limited to, filling in someone else's omissions, signing someone else's name, record care not given, and fabricating data/values.

(d) Altering a client or agency record or records prepared for an accrediting or credentialing entity; including, but not limited to, changing words/letters/numbers from the original document to mislead the reader of the record, adding to the record after the original time/date without indicating a late entry.

(e) Destroying a client or agency record or records prepared for an accrediting or credentialing entity.

(f) Directing another person to falsify, alter or destroy client or agency records or records prepared for an accrediting or credentialing entity.

(g) Failing to maintain client records in a timely manner which accurately reflects management of client care, including failure to make a late entry within a reasonable time period.

(h) Failing to communicate information regarding the client's status to members of the health care team (physician, nurse practitioner, nursing supervisor, nurse co-worker) in an ongoing and timely manner; and

(i) Failing to communicate information regarding the client's status to other individuals who need to know; for example, family, and facility administrator.

(4) Conduct related to achieving and maintaining clinical competency:

(a) Performing acts beyond the authorized scope or the level of nursing for which the individual is licensed.

(b) Failing to conform to the essential standards of acceptable and prevailing nursing practice. Actual injury need not be established.

(c) Assuming duties and responsibilities within the practice of nursing for direct client care, supervisory, managerial or consulting roles without documented preparation for the duties and responsibilities and when competency has not been established and maintained; and

(d) Performing new nursing techniques or procedures without documented education specific to the technique or procedure and clinical preceptored experience to establish competency.

(5) Conduct related to impaired function:

(a) Practicing nursing when unable/unfit to perform procedures and/or make decisions due to physical impairment as evidenced by documented deterioration of functioning in the practice setting and/or by the assessment of a health care provider qualified to diagnose physical condition/status.

(b) Practicing nursing when unable/unfit to perform procedures and/or make decisions due to psychological or mental impairment as evidenced by documented deterioration of functioning in the practice setting and/or by the assessment of a health care provider qualified to diagnose mental condition/status; and

(c) Practicing nursing when physical or mental ability to practice is impaired by use of drugs, alcohol or mind-altering substances.

(d) Use of drugs, alcohol or mind-altering substances to an extent or in a manner dangerous or injurious to the licensee or others or to an extent that such use impairs the ability to conduct safely the practice for which the licensee is licensed.

(6) Conduct related to licensure or certification violations:

(a) Practicing nursing without a current Oregon license or certificate.

(b) Practicing as a nurse practitioner or clinical nurse specialist without a current Oregon certificate.

(c) Allowing another person to use one's nursing license or certificate for any purpose.

(d) Using another's nursing license or certificate for any purpose.

(e) Resorting to fraud, misrepresentation, or deceit during the application process for licensure or certification, while taking the examination for licensure or certification, while obtaining initial licensure or certification or renewal of licensure or certification.

(f) Impersonating any applicant or acting as a proxy for the applicant in any nurse licensure or certification examination; and

(g) Disclosing the contents of the examination or soliciting, accepting or compiling information regarding the contents of the examination before, during or after its administration.

(7) Conduct related to the licensee's relationship with the Board:

(a) Failing to provide the Board with any documents requested by the Board.

(b) Failing to answer truthfully and completely any question asked by the Board on an application for licensure or during the course of an investigation or any other question asked by the Board.

(c) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except client-attorney privilege.

(d) Violating the terms and conditions of a Board order; and

(e) Failing to comply with the terms and conditions of Nurse Monitoring Program agreements.

(8) Conduct related to the client's family:

(a) Failing to respect the rights of the client's family regardless of social or economic status, race, religion or national origin.

(b) Using the nurse client relationship to exploit the family for the nurse's personal gain or for any other reason.

(c) Theft of money, property, services or supplies from the family; and

(d) Soliciting or borrowing money, materials or property from the family.

(9) Conduct related to co-workers: Violent, abusive or threatening behavior towards a co-worker which either occurs in the presence of clients or otherwise relates to the delivery of safe care to clients.

ADMINISTRATIVE RULES

(10) Conduct related to advanced practice nursing:

(a) Ordering laboratory or other diagnostic tests or treatments or therapies for one's self.

(b) Prescribing for or dispensing medications to one's self.

(c) Using self-assessment and diagnosis as the basis for the provision of care which would otherwise be provided by a client's professional caregiver.

(d) Billing fraudulently.

(e) Failing to release patient records upon receipt of request or release of information, including after closure of practice, and within a reasonable time, not to exceed 60 days from receipt of written notification from patient.

(f) Ordering unnecessary laboratory or other diagnostic test or treatments for the purpose of personal gain; and

(g) Failing to properly maintain patient records after closure of practice or practice setting.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150, 678.111 & 678.390

Hist.: BN 4-2008, f. & cert. ef. 6-24-08; BN 2-2010(Temp), f. & cert. ef. 4-19-10 thru 10-15-10

Rule Caption: Clarification provided to rules relating to nurse practitioner continuing education and certification.

Adm. Order No.: BN 3-2010(Temp)

Filed with Sec. of State: 4-19-2010

Certified to be Effective: 4-19-10 thru 10-15-10

Notice Publication Date:

Rules Amended: 851-050-0138

Subject: These rules cover nurse practitioners. This rule amendment is to provide clarification to the rules relating to nurse practitioner continuing education and certification.

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

851-050-0138

Renewal of Nurse Practitioner State Certification

(1) Renewal of state certification shall be on the same schedule as the renewal system of the registered nurse license. The requirements for recertification are:

(a) Current unencumbered license as a registered nurse in the state of Oregon.

(b) Submission of all required application fees. Fees are not refundable. An application that has not been completed during the current biennial renewal cycle shall be considered void.

(c) Completion of 100 clock hours of continuing education related to advanced practice nursing and to the area(s) of population focus certification. Proof of National Board certification may be used to meet structured accredited continuing education course requirements for the current renewal cycle for up to 50% of the total CE requirement.

(d) Persons initially certified on or after January 1, 2011 shall provide Verification of current national Board certification in a role and population focus congruent with educational preparation and current Oregon nurse practitioner certification.

(e) Verification of practice hours which meet the practice requirement in OAR 851-050-0004.

(f) Verification of utilization of prescriptive authority which meets the requirements specified in OAR 851-056-0014 unless already certified as an Oregon Nurse Practitioner without prescriptive authority.

(2) An applicant for renewal who has graduated from the nurse practitioner program less than two years prior to his/her first renewal will not be required to document the full 100 clock hours of continuing education. The applicant's continuing education will be prorated on a monthly basis based on the length of time between graduation and the date of the first renewal.

(3) Nurse practitioners shall maintain accurate documentation and records of any claimed continuing education and practice hours for no less than five years from the date of submission to the Board.

(4) Renewal shall be denied if the applicant does not meet the practice, prescribing, or continuing education requirement for renewal.

(5) Applications for renewal up to 60 days past the expiration date shall meet all requirements for renewal and pay a delinquent fee.

(6) Any individual whose nurse practitioner certification is expired may not practice or represent themselves as a nurse practitioner in Oregon until certification is complete, subject to civil penalty.

(7) Any individual initially licensed after January 1, 2011, whose nurse practitioner national certification is expired may not practice or rep-

resent themselves as a nurse practitioner in Oregon regardless of state certification subject to civil penalty.

Stat. Auth.: ORS 678.375 & 678.380

Stats. Implemented: ORS 678.380

Hist.: NER 34, f. & ef. 10-1-76; NER 5-1981, f. & ef. 11-24-81; NER 8-1985, f. & ef. 12-9-85; NB 3-1990, f. & cert. ef. 4-2-90; Renumbered from 851-020-0310; NB 2-1992, f. & cert. ef. 2-13-92; NB 8-1993, f. & cert. ef. 8-23-93; NB 7-1996, f. & cert. ef. 10-29-96; BN 10-2003, f. & cert. ef. 10-2-03; BN 8-2004, f. 5-4-04, cert. ef. 5-12-04; BN 13-2006, f. & cert. ef. 10-5-06; BN 7-2008, f. & cert. ef. 11-26-08; BN 9-2009, f. 12-17-09, cert. ef. 1-1-10; BN 3-2010(Temp), f. & cert. ef. 4-19-10 thru 10-15-10

Rule Caption: Rules to provide consistent language regarding to violations to impairment.

Adm. Order No.: BN 4-2010(Temp)

Filed with Sec. of State: 4-19-2010

Certified to be Effective: 4-19-10 thru 10-15-10

Notice Publication Date:

Rules Amended: 851-063-0090

Subject: These rules cover standards and authorized duties for certified nursing assistants and certified mediation aides. This rule amendment provides consistent language regarding violations relating to impairment.

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

851-063-0090

Conduct Unbecoming a Nursing Assistant

A CNA, regardless of job location, responsibilities, or use of the title "CNA," who, in the performance of nursing related duties, may adversely affect the health, safety or welfare of the public, may be found guilty of conduct unbecoming a nursing assistant. Conduct unbecoming a nursing assistant includes but is not limited to:

(1) Conduct related to the client's safety and integrity:

(a) Leaving a nursing assistant assignment without properly notifying appropriate supervisory personnel;

(b) Failing to report to proper authorities information regarding incompetent, unethical or illegal practice of any health care provider;

(c) Failing to respect client rights and dignity regardless of social or economic status, personal attributes or nature of health problems or disability;

(d) Failing to report actual or suspected incidents of client abuse; or

(e) Engaging in sexual misconduct related to the client or to the workplace.

(2) Conduct related to other federal or state statutes/rule violations:

(a) Knowingly aiding, abetting or assisting an individual to violate or circumvent any law, rule or regulation intended to guide the conduct of health care providers;

(b) Violating the rights of privacy, confidentiality of information or knowledge concerning the client, unless required by law to disclose such information;

(c) Discriminating against a client on the basis of age, race, religion, sex, sexual preference, national origin or disability;

(d) Abusing a client. The definition of abuse includes but is not limited to intentionally causing physical harm or discomfort, striking a client, intimidating, threatening or harassing a client;

(e) Neglecting a client. The definition of neglect includes but is not limited to unreasonably allowing a client to be in physical discomfort or be injured;

(f) Engaging in other unacceptable behavior or verbal abuse towards or in the presence of a client such as using derogatory names or gestures or profane language;

(g) Using the client relationship to exploit the client by gaining property or other items of value from the client either for personal gain or sale, beyond the compensation for services;

(h) Possessing, obtaining, attempting to obtain, furnishing or administering prescription or controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; or

(i) Removing or attempting to remove drugs, supplies, property or money from the workplace without authorization.

(3) Conduct related to communication:

(a) Inaccurate recordkeeping in client or agency records;

(b) Incomplete recordkeeping regarding client care; including but not limited to failure to document care given or other information important to the client's care or documentation which is inconsistent with the care given;

(c) Falsifying a client or agency record; including but not limited to filling in someone else's omissions, signing someone else's name, recording care not given, fabricating data/values;

ADMINISTRATIVE RULES

(d) Altering a client or agency record; including but not limited to changing words/letters/numbers from the original document to mislead the reader of the record, adding to the record after the original time/date without indicating a late entry;

(e) Destroying a client or agency record;

(f) Failing to maintain client records in a timely manner which accurately reflects management of client care, including failure to make a late entry within a reasonable time period; or

(g) Failing to communicate information regarding the client's status to the supervising nurse or other appropriate person in a timely manner.

(4) Conduct related to the client's family:

(a) Failing to respect the rights of the client's family regardless of social or economic status, race, religion or national origin;

(b) Using the CNA client relationship to exploit the family for the CNA's personal gain or for any other reason;

(c) Stealing money, property, services or supplies from the family; or

(d) Soliciting or borrowing money, materials or property from the family.

(5) Conduct related to co-workers: violent, abusive, threatening, harassing or intimidating behavior towards a co-worker which either occurs in the presence of clients or otherwise relates to the delivery of safe care to clients.

(6) Conduct related to achieving and maintaining clinical competency:

(a) Failing to competently perform the duties of a nursing assistant;

(b) Performing acts beyond the authorized duties for which the individual is certified; or

(c) Assuming duties and responsibilities of a nursing assistant without nursing assistant training or when competency has not been established or maintained.

(7) Conduct related to impaired function:

(a) Use of drugs, alcohol or mind-altering substances to an extent or in a manner dangerous or injurious to the nursing assistant or others or to an extent that such use impairs the ability to conduct safely the duties of a nursing assistant; or

(b) Having a physical or mental condition that makes the nursing assistant unable to perform safely the duties of a nursing assistant.

(8) Conduct related to certificate violations:

(a) Providing, selling, applying for or attempting to procure a certificate by willful fraud or misrepresentation;

(b) Functioning as a medication assistant without current certification as a medication assistant;

(c) Altering a certificate of completion of training and/or nursing assistant certification issued by the Board;

(d) Disclosing contents of the competency examination or soliciting, accepting or compiling information regarding the contents of the examination before, during or after its administration;

(e) Allowing another person to use one's nursing assistant certificate for any purpose;

(f) Using another's nursing assistant certificate for any purpose; or

(g) Representing oneself as a CNA without current, valid CNA certification.

(9) Conduct related to the certificate holder's relationship with the Board:

(a) Failing to cooperate with the Board during the course of an investigation. The duty to cooperate does not include waiver of confidentiality privileges, except if a client is harmed. This waiver of confidentiality privileges does not apply to client-attorney privilege.

(b) Failing to answer truthfully and completely any question asked by the Board on an application for initial certification, renewal of certification or recertification;

(c) Failing to provide the Board with any documents requested by the Board; or

(d) Violating the terms and conditions of a Board order.

Stat. Auth.: ORS 678.442

Stats. Implemented: ORS 678.442

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 9-2002(Temp), f. & cert. ef. 3-5-02 thru 8-1-02;

BN 16-2002, f. & cert. ef. 7-17-02; BN 12-2009, f. & cert. ef. 12-17-09; BN 4-2010(Temp),

f. & cert. ef. 4-19-10 thru 10-15-10

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

Adm. Order No.: BN 5-2010

Filed with Sec. of State: 4-21-2010

Certified to be Effective: 4-21-10

Notice Publication Date: 3-1-2010

Rules Adopted: 851-010-0024

Rules Repealed: 851-010-0024(T)

Subject: The 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; BN 5-2010, f. & cert. ef. 4-21-10

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Board of Pharmacy

Chapter 855

Rule Caption: Amend rules for pharmacy interns and pharmacist licensure requirements, and adopt new rules for hospital pharmacies.

Adm. Order No.: BP 3-2010

Filed with Sec. of State: 4-29-2010

Certified to be Effective: 4-30-10

Notice Publication Date: 3-1-2010

Rules Adopted: 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

Rules Amended: 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

Rules Repealed: 855-031-0015, 855-031-0033, 855-031-0040, 855-041-0120, 855-041-0125, 855-041-0130, 855-041-0132

Subject: The amended rules for pharmacy interns provide greater flexibility for approved schools and colleges of pharmacy to manage their students and to provide quality experiential education for them. Rules also update requirements for pharmacist licensure requirements, foreign pharmacy graduates and change intern licenses from four-year to two-year licenses. New rules for hospital pharmacies provide regulatory structure that reflects many new technologies that are now in use in hospitals for drug management. Rules provide controls to maximize patient safety.

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

855-019-0120

Licensure

Before licensure as a pharmacist, an applicant must meet the following requirements:

(1) Provide evidence from a school or college of pharmacy approved by the Board that they have successfully completed all the requirements for graduation and, starting with the graduating class of 2011, including not less than 1440 hours of School-based Rotational Internships as that term is defined in OAR 855-031-0005, and that a degree will be conferred;

ADMINISTRATIVE RULES

(2) Pass the North American Pharmacist Licensure Examination (NAPLEX) exam with a score of not less than 75. This score shall remain valid for only one year unless the Board grants an extension. A candidate who does not attain this score may retake the exam after a minimum of 91 days;

(3) Pass the Multistate Pharmacy Jurisprudence Examination (MPJE) exam with a score of not less than 75. The applicant may not take the MJPE until they have graduated from a school or college of pharmacy approved by the Board. A candidate who does not attain this score may retake the exam after a minimum of 30 days. The MJPE score shall be valid for 6 months unless extended by the Board;

(4) Submit a completed application form that may be obtained from the Board office, and pay the fee specified in Division 110 of this chapter of rules.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.151
Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; 1PB 1-1981(Temp), f. & ef. 4-1-81; 1PB 2-1981, f. & ef. 8-20-81; 1PB 3-1985, f. & ef. 12-2-85; PB 3-1991, f. & cert. ef. 9-19-91; PB 4-1992, f. & cert. ef. 8-25-92; PB 1-1994, f. & cert. ef. 2-2-94; PB 1-1996, f. & cert. ef. 4-5-96; BP 1-2002, f. & cert. ef. 1-8-02; Renumbered from 855-019-0005, BP 2-2008, f. & cert. ef. 2-20-08; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-019-0130

Licensure by Reciprocity

(1) An applicant for licensure as a pharmacist by reciprocity must meet the requirements of ORS 689.265 and the following requirements:

(a) Be a graduate of a school or college of pharmacy approved by the Board;

(b) Have passed the NAPLEX or equivalent examination with a score of not less than 75;

(c) Have passed the MPJE with a score of not less than 75;

(d) Be licensed and in good standing in the state from which the applicant bases the reciprocity application;

(e) Have either:

(A) Been engaged in the practice of pharmacy for period of at least one year including a minimum of 1440 hours of work experience as a licensed pharmacist. Evidence supporting this work experience shall be provided at time of application; or

(B) Met the internship requirements of this state within the one-year period immediately before the date of this application. Evidence from the school or college of pharmacy supporting this internship shall be provided at time of application.

(2) Licensure as a pharmacist in another state precludes licensure to practice as an intern in the State of Oregon, except for applicants for licensure by examination or by reciprocity who must acquire internship hours to become eligible for licensure, and then only until the required hours have been acquired.

(3) An applicant who has obtained their professional degree outside the United States is not eligible for licensure by reciprocity until they have met the requirements of OAR 855-019-0150.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.151 & 689.265
Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; 1PB 2-1981, f. & ef. 8-20-81; 1PB 1-1984, f. & ef. 2-16-84; PB 1-1989, f. & cert. ef. 1-3-89; PB 4-1992, f. & cert. ef. 8-25-92; PB 1-1996, f. & cert. ef. 4-5-96; BP 1-2002, f. & cert. ef. 1-8-02; BP 4-2002, f. 6-27-02, cert. ef. 7-1-02; Renumbered from 855-019-0015 & 855-019-0030, BP 2-2008, f. & cert. ef. 2-20-08; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-019-0150

Foreign Pharmacy Graduates

(1) Foreign Pharmacy Graduates applying for licensure in Oregon must meet the following requirements:

(a) Provide a copy of a valid visa permitting full time employment;

(b) Provide the original certificate issued by the Foreign Pharmacy Graduate Equivalency Examination Committee; and

(c) Provide evidence that they have passed the Test of English as a Foreign Language (TOEFL) Internet-based Test (IBT) with a minimum score of 26 in Speaking, 21 in Reading, 18 in Listening and 24 in Writing, however scores will be accepted until June 30, 2010 from candidates who have already passed or are scheduled to take the TOEFL and the Test of Spoken English (TSE).

(d) Pass the North American Pharmacist Licensure Examination (NAPLEX) exam with a score of not less than 75. A candidate who does not attain this score may retake the exam after a minimum of 91 days. This score shall only be valid for one year unless the Board grants an extension;

(e) After having completed the required number of intern hours, pass the MPJE with a score of not less than 75. A candidate who does not attain this score may retake the exam after a minimum of 30 days. The MPJE score shall only be valid for 6 months unless extended by the Board.

(2) An applicant must complete 1440 hours in pharmacy practice as an intern that must be certified to the Board by the preceptors.

(3) An applicant may not count internship hours or practice as a pharmacist completed outside the United States toward Oregon's internship requirement.

(4) An applicant may not count internship hours or practice as a pharmacist that is completed before passing the Foreign Pharmacy Graduate Equivalency Examination, and either the TOEFL with TSE, or TOEFL (IBT) exams toward Oregon's internship requirement.

(5) The Board may waive any requirement of this rule if a waiver will further public health or safety. A waiver granted under this section shall only be effective when it is issued in writing.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.151 & 689.255
Hist.: BP 2-2008, f. & cert. ef. 2-20-08; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-031-0005

Definitions

(1) An "intern" means any person who:

(a) Is enrolled in a course of study and is in good academic standing at a school or college of pharmacy that is approved by the Oregon Board of Pharmacy (Board); or

(b) Is a graduate of a school or college of pharmacy that is approved by the Board; or

(c) Is a foreign pharmacy graduate and holds a certificate from the Foreign Pharmacy Graduate Equivalency Committee (FPGEC); and

(d) Is licensed with the Board as an intern.

(2) A "preceptor" means a pharmacist or a person licensed by the Board to supervise the internship training of an intern.

(3) "Internship" means a professional experiential program or work experience.

(a) "Traditional Pharmacy-practice Internship (TPI)" means experience toward achieving competency in the practice of pharmacy for which no academic credit is granted to the intern.

(b) "School-based Rotational Internship (SRI)" means experience toward achieving competency in the practice of pharmacy in programs developed and administered by a school of pharmacy.

(c) "Other Internship" means experience toward achieving competency in the practice of pharmacy, other than in an internship as defined in (a) or (b), in a program approved by a school of pharmacy or the Board.

(4) "School of pharmacy": In this division of rules, "school of pharmacy" means a school or college of pharmacy that is approved by the Board.

Stat. Auth.: ORS 689.151 & 689.205
Stats. Implemented: 689.255
Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 7-1990, f. & cert. ef. 12-5-90; PB 3-1991, f. & cert. ef. 9-19-91; PB 1-1994, f. & cert. ef. 2-2-94; PB 1-1996, f. & cert. ef. 4-5-96; Administrative correction 2-15-00; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2007, f. & cert. ef. 6-29-07; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-031-0010

Internship License Application

(1) Applications for licensure as an intern may be obtained from the Board office or from the Board web site at www.pharmacy.state.or.us.

(a) Failure to completely, accurately and honestly answer all questions on the application form for licensure or renewal of licensure is grounds for discipline;

(b) Failure to disclose any arrest for a felony or misdemeanor, or any indictment for a felony may result in denial of the application.

(2) The Board may issue a license to a qualified intern after the receipt of:

(a) A completed application;

(b) Payment of the fee prescribed in OAR 855-110-0005;

(c) A current, passport regulation size photograph (full front, head to shoulders);

(d) Any fingerprint card or other documentation required by the Board to conduct a criminal background check; and

(e) Confirmation from a school of pharmacy that the applicant is enrolled in a course of study, except for foreign pharmacy graduates who must:

(A) Provide a copy of a valid visa permitting full-time employment;

(B) Provide the original certificate issued by the Foreign Pharmacy Graduate Equivalency Examination Committee; and

(C) Provide evidence that they have passed the Test of English as a Foreign Language (TOEFL) Internet-based Test (IBT) with a minimum score of 26 in Speaking, 21 in Reading, 18 in Listening and 24 in Writing, however scores will be accepted until June 30, 2010 from candidates who

ADMINISTRATIVE RULES

have already passed or are scheduled to take the TOEFL and the Test of Spoken English (TSE).

(3) The Board may issue an intern license after processing the application, however unless the applicant is a foreign graduate or an applicant for licensure by reciprocity, it is not valid until the intern has started a course of study. For licenses issued after May 1, 2010, the initial license is valid until the last day of November following the second anniversary of issue unless terminated automatically by any one of the following events. Renewed licenses are valid for two years unless terminated automatically by any one of the following events:

(a) Licensure to practice pharmacy is granted in any state; or

(b) The licensee, other than a foreign pharmacy graduate or an applicant for licensure by reciprocity, fails to maintain enrollment or active registration in a pharmacy degree program for a period greater than one year; or

(c) The licensee, other than a foreign pharmacy graduate or an applicant for licensure by reciprocity, has been graduated from a school of pharmacy for 12 months;

(d) The intern is dismissed, terminated or expelled by the school of pharmacy, or withdraws from the program.

(4) An intern must surrender their license to the Board within 30 days of one of the above events.

(5) Notwithstanding the requirements of section (3) above, upon written request the Board may waive any of the requirements of this rule if a waiver will further public health and safety. A waiver granted under this section shall only be effective when it is issued in writing.

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

Stat. Auth.: ORS 689.151 & 689.205

Stats. Implemented: ORS 689.207, 689.255 & 2009 OL Ch. 536

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 7-1990, f. & cert. ef. 12-5-90; PB 1-1994, f. & cert. ef. 2-2-94; BP 1-2001, f. & cert. ef. 3-5-01; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2007, f. & cert. ef. 6-29-07; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-031-0020

Internship Requirements and Responsibilities

(1) A licensed intern may practice in any one or a combination of the following approved internship experience areas:

(a) Traditional Pharmacy-practice Internship (TPI); however, an intern may not work in a TPI until they have satisfactorily completed the first academic year in a school of pharmacy. An intern working in a TPI must be supervised by a licensed pharmacist;

(b) School-based Rotational Internship (SRI); an intern must be supervised by a licensed pharmacist or other person approved by a school of pharmacy in order to obtain credit for SRI hours;

(c) Other Internship; these internship experiences must be approved by the school of pharmacy and supervised by a person approved by the school or the Board.

(2) An intern may not work more than 48 hours per week in SRIs.

(3) An intern must verify that their preceptor is currently licensed with the Board.

(4) An intern may not work in the practice of pharmacy unless supervised by a licensed pharmacist, except when an intern is working in a federal facility, however, to obtain credit for SRI experience in a federal facility located in Oregon, the intern must be licensed with the Board.

(5) An intern who is working in a pharmacy or other place of business must conspicuously display their intern license in the pharmacy or place of business.

(6) The school of pharmacy must maintain a record of each intern's SRIs. This record must be made available to the Board upon request.

(7) A school of pharmacy located in Oregon must submit a report on their experiential education program to the Board at the end of each academic year. This report must include the names of students who successfully completed the program and graduated. The school must maintain a list of preceptors and SRI sites, in and out-of-state, approved by the school and must make this list available to the Board upon request.

(8) An intern may make a voluntary report to the Board on any preceptor's aptitude and professionalism in performing the duties of a preceptor. An intern must make such a report upon request by the Board.

(9) An intern must notify the Board within 15 days of any change in their academic status that might affect their eligibility to work as an intern.

(10) An intern must notify the Board in writing within 15 days of a change in permanent residence.

(11) An intern must report to the Board within 10 days if they are:

(a) Convicted of a misdemeanor or a felony; or

(b) Arrested for a felony.

(12) An intern who has reasonable cause to believe that another licensee (of the Board or any other Health Professional Regulatory Board)

has engaged in prohibited or unprofessional conduct as these terms are defined in OAR 855-006-0005, must report that conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The intern shall report the conduct without undue delay, but in no event later than 10 working days after the intern learns of the conduct unless federal laws relating to confidentiality or the protection of health information prohibit disclosure.

Stat. Auth.: ORS 689.151, 689.205

Stats. Implemented: 689.255 & 2009 OL Ch. 536

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 7-1990, f. & cert. ef. 12-5-90; PB 3-1991, f. & cert. ef. 9-19-91; PB 1-1994, f. & cert. ef. 2-2-94; PB 3-1994, f. & cert. ef. 7-1-94; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2007, f. & cert. ef. 6-29-07; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-031-0030

Out-of-State Internship Experience

(1) In order for an Oregon intern to obtain credit for SRI experiences outside the State of Oregon, an intern must:

(a) Be licensed as required by state laws and rules in the state in which they will practice;

(b) Meet or exceed the minimum SRI requirements of the Board;

(2) In order for an out-of-state intern to practice in the State of Oregon, the intern must meet all requirements of these rules.

Stat. Auth.: ORS 689.151 & 689.205

Stats. Implemented: 689.255

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 7-1990, f. & cert. ef. 12-5-90; PB 1-1994, f. & cert. ef. 2-2-94; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2007, f. & cert. ef. 6-29-07; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-031-0045

Preceptor Registration and Responsibilities

(1) A preceptor license may be issued by the Board upon receipt of a completed application.

(2) A pharmacist preceptor must have been an actively practicing pharmacist for at least one year immediately prior to supervising an intern.

(3) A preceptor license must be renewed concurrent with licensure as a pharmacist and is valid through June 30.

(4) The preceptor may report to the Board voluntarily, the progress and aptitude of an intern under the preceptor's supervision, or must do so upon request of the Board.

(5) The preceptor must be responsible for supervision of the majority of the intern's SRI hours and must provide the intern with internship experiences, which in the preceptor's judgment will increase the intern's competency in the practice of pharmacy.

(6) A preceptor must maintain written or electronic records that support the number of TPI hours claimed by an intern while under their supervision. Such records must be retained for three years and made available to the Board upon request.

(7) Before supervising an intern in an SRI program, a preceptor must complete any training program required by the school of pharmacy.

(8) A pharmacist must not supervise more than one intern simultaneously at a TPI site.

(9) A preceptor must not supervise more than two interns simultaneously at an SRI site where patient specific recommendations for care, or medications are provided without prior written approval of the Board.

(10) Notwithstanding section (9) above, with the approval of a school of pharmacy, and when in their professional judgment it is appropriate, a preceptor may supervise up to 10 interns at public-health outreach programs such as health fairs which provide general information but not direct patient care.

(11) A preceptor must advise each school of pharmacy when they are supervising students from more than one school at the same time. This applies to both in-state and out-of-state schools or colleges of pharmacy.

(12) A preceptor must verify that their intern is currently licensed with the Board.

(13) A pharmacist acting as a preceptor in a federal facility is not required to be licensed as a pharmacist in Oregon, but is required to be licensed as a preceptor with the Board.

Stat. Auth.: ORS 689.151, 689.205

Stats. Implemented: 689.255

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 7-1990, f. & cert. ef. 12-5-90; PB 1-1994, f. & cert. ef. 2-2-94; PB 1-1996, f. & cert. ef. 4-5-96; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2004, f. & cert. ef. 3-12-04; BP 1-2007, f. & cert. ef. 6-29-07; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-031-0050

Eligibility for Exams — Foreign Pharmacy Graduates

In addition to the other requirements of this Division, a foreign pharmacy graduate must complete 1440 internship hours before applying to take the Multistate Pharmacy Jurisprudence Examination (MPJE) and

ADMINISTRATIVE RULES

before applying for licensure as a pharmacist as specified in OAR 855-019-0150. Evidence of completing this requirement must be provided to the Board by the applicant and must be authenticated by each preceptor.

Stat. Auth.: ORS 689.151 & 689.205
Stats. Implemented: 689.255

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 5-1990, f. & cert. ef. 4-12-90; PB 7-1990, f. & cert. ef. 12-5-90; PB 1-1994, f. & cert. ef. 2-2-94; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2007, f. & cert. ef. 6-29-07; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-031-0055

Eligibility for Exams and Pharmacist Licensure

(1) An intern is eligible to take the North American Pharmacist Licensure Examination (NAPLEX) and the MPJE, upon graduation and notification to the Board by the school of pharmacy that their degree, with not less than 1440 hours of SRI, has been conferred.

(2) Upon meeting all requirements for pharmacist licensure, and before practicing pharmacy in the State of Oregon, a person must:

(a) Complete an application for licensure including providing any fingerprint card or other documentation required by the Board to conduct a criminal background check;

(b) Pay the license fee as prescribed in OAR 855-110; and

(c) Obtain a license, which will expire on June 30 following the date of issue.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.135, 689.207, 689.225 & 689.275

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 1-1989, f. & cert. ef. 1-3-89; PB 5-1990, f. & cert. ef. 4-12-90; PB 7-1990, f. & cert. ef. 12-5-90; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2007, f. & cert. ef. 6-29-07; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6050

Definitions

(1) In these rules, OAR 855-041-6000 through 855-041-6999, the terms below have these meanings:

(a) "Automated Distribution Cabinet" (ADC) means a computerized drug storage device or cabinet that allows a drug to be stored and dispensed near the point-of-care, while controlling and tracking drug distribution;

(b) "Drug" means a drug, a prescription device, a biological medication, a chemical or any combination of these terms;

(c) "Central pharmacy" means a pharmacy within a licensed hospital with a single location and inventory, which prepares and distributes drugs to secondary storage areas in the facility, and remote locations;

(d) "Chief Pharmacy Officer" (CPO) means an Oregon licensed pharmacist who supervises the pharmacy operations in a hospital. The CPO may hold the title of Pharmacy Manager, Pharmacy Director, Director of Pharmacy, Pharmacy Administrator or other pharmacy supervisory management title within the organization. The PIC may also be the CPO if there is only one pharmacy in the hospital;

(e) "Drug profile" means a complete and comprehensive summary of a patient's current drugs and details of each drug including information such as active ingredient, strength and form, dose and directions for use, and other supplementary information;

(f) "Licensed Independent Practitioner" (LIP) means an individual permitted by law and by the organization to provide care and services, without direction or supervision, within the scope of the individual's license;

(g) "Out-patient" means a person who is not residing in the facility but who is registered with the facility and is using the facility for treatment or diagnostic services;

(h) "Remote storage area" means a patient care area which is part of the hospital that is under the supervision and control of the hospital's central pharmacy but is not located in the same building as the central pharmacy;

(i) "Secondary drug storage area" means an area in a hospital or licensed residential facility, which is supplied by a central pharmacy and may include facilities such as a drug room, a distribution cabinet or a hospital department;

(j) "Unit-dose" means a quantity of a drug designed to be administered to a patient, such as:

(A) An oral solid individually packaged or re-packaged;

(B) An oral liquid drawn up in a labeled oral syringe;

(C) An injectable product; or

(D) A pre-mixed IV product.

(2) Notwithstanding 855-006-0005 and 855-019-0200(2) and (3), for the purpose of these rules, OAR 855-041-6000 through 855-041-6999, verification or final verification means the confirmation by a pharmacist of the correctness, exactness and accuracy of the act, tasks, or function as specified elsewhere in this Division of rules.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6100

Registration

(1) Each central pharmacy must be registered with the Board. In a hospital with multiple central pharmacies, each pharmacy location must be registered with the Board.

(2) A secondary drug storage area within the hospital or in a structure physically attached to the hospital does not require a separate registration.

(3) A registered pharmacy in a hospital may use additional locations within the hospital, supervised by a pharmacist, without acquiring separate registrations for each additional location.

(4) A secondary drug storage area in a separate location must be registered as a drug room and must follow all rules that apply to secondary storage areas in the hospital.

(5) A residential healthcare facility that is licensed by DHS and that has a central pharmacy must register the pharmacy with the Board.

(6) Upon written request, the Board may waive any of the requirements of this rule if a waiver will further public health or safety or the health and safety of a patient. A waiver granted under this section shall only be effective when it is issued by the Board in writing. A waiver is not valid for more than five years.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155 & 689.305

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6150

General Pharmacy Requirements

(1) Each hospital pharmacy must have an Oregon licensed pharmacist designated as Pharmacist-in-Charge (PIC).

(2) A hospital that has more than one pharmacy must designate an Oregon licensed pharmacist as CPO or an equivalent position who has responsibility for directing pharmacy services in the hospital. The CPO may also be the PIC of one of the pharmacies.

(3) A hospital pharmacy may only be operated when under the direct supervision of an Oregon licensed pharmacist. The pharmacist shall be responsible for all areas of the hospital where drugs are stored, including remote storage areas

(4) The pharmacy must be operated at least part-time, five days a week.

(5) The hospital pharmacy must have adequate space so that drugs can be prepared in sanitary, well-lit, enclosed places. Space and equipment must be adequate for the pharmaceutical services provided including compounding, distributing, and storage of drugs and parenteral preparations.

(6) As a minimum, the pharmacy must have the following:

(a) Equipment listed in OAR 855-041-0040, except that a pharmacy that is only registered as an institutional drug outlet does not need to have an Official Poison and Exempt Narcotic Register;

(b) A drug formulary approved by the appropriate hospital committee;

(c) Pharmacy policy and procedures.

(7) All areas occupied by a hospital pharmacy must be secured to prevent access by unauthorized personnel.

(a) Whenever any area of a hospital pharmacy is not under direct supervision of a pharmacist, the area must be secured;

(b) The CPO shall designate in writing, by title and specific area, those persons who may have access to specific areas within the pharmacy;

(c) Unless otherwise permitted by these rules, a non-pharmacist may not have access to the pharmacy unless a pharmacist is on duty and present in the hospital.

(8) A residential healthcare facility that has a central pharmacy must comply with these rules.

(9) Upon written request, the Board may waive any of the requirements of this rule if a waiver will further public health or safety or the health and safety of a patient. A waiver granted under this section shall only be effective when it is in writing. A waiver is not valid for more than five years.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6200

Chief Pharmacy Officer and Pharmacist in Charge

(1) The CPO must specify the respective responsibilities of the CPO and the PIC if separate individuals hold these positions.

(2) In addition to the duties listed in this rule, the PIC has the responsibilities listed in OAR 855-019-0300.

(3) The CPO must establish policies and procedures that include:

(a) Procedures for general distribution of drugs throughout the hospital;

ADMINISTRATIVE RULES

(b) A procedure for review and revision of the policies and procedures not less than every three years;

(c) Procedures for the supervision of pharmacy services including storage, distribution, control and accountability for drugs including controlled drugs;

(d) Procedures to ensure that all areas of the hospital where drugs are stored are inspected not less than every two months to verify proper drug storage, documentation of distribution and administration of controlled substances, absence of outdated drugs, and the integrity of the emergency drug supplies;

(e) Policies and procedures that govern the preparation, verification and sterilization of parenteral drugs compounded within the hospital. Procedures must comply with OARs 855-045-0200 through 855-045-0270 and these rules;

(f) Procedures for administration of drugs, including self-administration;

(g) Procedures for labeling drugs;

(h) Policies and procedures that govern the filling and labeling of containers from which drugs are to be administered;

(i) Procedures for a Quality Assurance program to ensure that there is a planned, ongoing and systematic process for the monitoring and evaluation of the quality and appropriateness of pharmacy services, and for identifying and resolving problems. Such monitoring and evaluation must be accomplished through ongoing collection of information and periodic assessment of the collected information;

(j) Emergency drug distribution;

(k) Procedures for procurement of all drugs subject to approval of the appropriate committee of the hospital;

(l) Procedures to ensure that discontinued, outdated, adulterated or misbranded drugs are returned to the pharmacy for proper disposition, or that the PIC makes proper disposition or disposal of such drugs at the storage site;

(m) A recall procedure that can be quickly activated to assure the CPO and pharmacy staff, and the medical staff that all drugs included in the recall have been returned to the pharmacy for proper disposition;

(n) Policies and procedures for the use of investigational drugs;

(o) Procedures to be followed in the absence of the pharmacist.

(4) The CPO must:

(a) Participate in the development and revisions of a hospital formulary;

(b) Maintain an emergency and disaster plan for pharmacy services, and participate in the facility's emergency and disaster plan;

(c) Ensure that records of all transactions of the hospital pharmacy that are required by state and federal laws and regulations are maintained, and maintain accurate control and accountability for all pharmaceutical materials;

(d) Participate in the hospital's Quality Assurance program related to drugs;

(e) Comply with all inspection and other requirements of the pharmacy in accordance with all applicable state and federal laws and regulations.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6220

Records

(1) Unless specified otherwise, all records and documentation required by these rules, OAR 855-041-6000 through 855-041-6999 must be retained for three years and made available to the Board for inspection upon request. Records must be stored onsite for at least one year and may be stored in a secured off-site location if retrievable within three business days. Records and documentation may be written, electronic or a combination of the two.

(2) The PIC must ensure maintenance of written or electronic records and reports as necessary to ensure patient health, safety and welfare. Records must include:

(a) Patient profiles and drug administration records;

(b) Reports of suspected adverse drug reactions;

(c) Inspections of drug storage areas;

(d) Annual controlled substance inventories;

(e) Controlled drug accountability reports;

(f) Collaborative Drug Therapy agreements;

(g) Current hospital drug formulary;

(h) Any other records and reports required by state and federal laws and regulations.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155 & 689.508

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6240

Drug Administration

(1) In a hospital, a drug may only be administered upon an order initiated by:

(a) A member of the medical staff who has been granted clinical privileges;

(b) An authorized member of the house staff; or

(c) An authorized licensed practitioner.

(2) Each administration of a drug must be in accordance with policies and procedures approved by the appropriate committee of the hospital, must comply with all applicable laws, rules and regulations, and must follow usual and customary standards of good medical practice.

(3) Self-administration. A patient may only be permitted to self-administer a drug when specifically authorized by the treating or ordering practitioner, and when the patient has been educated and trained in the proper self-administration of the drug.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6250

Patient's Own Drugs and Other Drugs from Outside Sources

When a patient or a patient's agent brings a drug into the hospital, the drug may only be administered to the patient if:

(1) The practitioner or pharmacist has identified it and it is in a pharmacy labeled container; and

(2) Any administration is pursuant to a practitioner's order; or

(3) In the pharmacist's professional judgment, withholding the drug would be detrimental to the patient's health. In such a case, the pharmacist may authorize administration of the drug pursuant to a practitioner's order.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6260

Investigational Drugs

(1) All in-patient investigational drugs must be stored in the pharmacy and may only be distributed from the pharmacy when properly labeled.

(2) Information concerning the dosage form, route of administration, strength, actions, uses, side effects, adverse effects, interactions and symptoms of toxicity of such drugs must be available in the pharmacy.

(3) Investigational drugs may only be ordered by a designated physician-investigator or their authorized clinician, subject to the prior approval of the appropriate hospital committee.

(4) Each order must include the appropriate protocol number.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6270

Labeling

(1) Each pharmacy record keeping system must identify and document the pharmacist who verifies the drug.

(2) Each pre-packed drug, including a unit-dosed drug, prepared by the pharmacy and intended for use within the facility shall be in an appropriate container with a label that contains:

(a) The brand or generic name and expiration date;

(b) The manufacturer and lot number, or an internal pharmacy code that references manufacturer and lot number;

(c) The strength of the drug.

(3) In-patient: Each drug dispensed to an in-patient other than in a unit-dose or manufacturer's unit-of-use packaging must be labeled with the following information:

(a) Name and location of patient;

(b) Name and strength of drug;

(c) Route of administration, when necessary for clarification;

(d) Manufacturer and lot number, or internal pharmacy code;

(e) Auxiliary labels as needed, and

(f) Expiration date.

(4) A drug that is to be sent with the patient upon discharge must be labeled in accordance with ORS 689.505(5) and other rules in this Division. Drug counseling information must be provided to the patient or patient's agent.

(5) A label for an outpatient prescription must comply with ORS 689.505(5) and other rules in this Division.

(6) New bar coding or electronic label: When a new barcode or electronic label is used to identify a drug the pharmacist must verify and docu-

ADMINISTRATIVE RULES

ment the accuracy of the identification with all electronic verification systems prior to distribution.

(7) Whenever a drug is added to a parenteral solution under the direct supervision of a pharmacist, the admixture must be labeled with a distinctive supplementary label that contains

- (a) The name, quantity and concentration of the drug added and the primary solution;
- (b) The date and time of addition;
- (c) The expiration date;
- (d) The scheduled time for administration;
- (e) The infusion rate, when applicable;
- (f) The name or initials of person performing admixture;
- (g) The identification of the pharmacy where the admixture was performed; and
- (h) The name or initials of the verifying pharmacist.

(8) The label applied at a secondary storage or remote storage area by a nurse or physician must include: the patient name or patient identifier, quantity and concentration of the drug added and the primary IV solution; the date and time of addition and the initials of the nurse or physician adding the drug.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155 & 689.505
Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6300

Untitled

The CPO must make appropriate arrangements for provision of drugs to the medical staff and other authorized personnel by use of a night cabinet or by access to the pharmacy, or both, for situations when hospital pharmacy services are not available.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155 & 689.605
Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6305

Night Cabinet

(1) If a night cabinet is used, the following procedures must be followed:

(a) The cabinet or other enclosure located outside the pharmacy must be secure from unauthorized access;

(b) Only one authorized registered nurse on a shift may have access to the night cabinet and may remove drugs. Such nurse must be designated in writing by the appropriate committee of the hospital and prior to being given access to the night cabinet, must receive appropriate training in the proper procedures for access, removal of drugs, and recordkeeping;

(c) The PIC or designee must give this training, and must require, at a minimum, the following procedures:

(A) A drug may only be removed from the night cabinet on a practitioner's written order or a verbal order that has been reduced to writing;

(B) A copy of the practitioner's order must be left in the night cabinet for the pharmacist to verify for accuracy. Both the nurse supervisor and the verifying pharmacist must initial the order.

(2) In conjunction with the appropriate hospital committee, the CPO must develop an inventory of those drugs to be included in each cabinet and establish procedures to ensure that:

(a) Drugs are available and labeled as required by these rules;

(b) Only prepackaged drugs are placed in the cabinet;

(c) Quantities do not exceed those reasonable for immediate therapeutic requirements;

(d) Whenever a cabinet has been accessed, a written record is kept of the drug order and certification of the drug use;

(e) Controlled substances are kept securely and are accounted for using a reconciled perpetual inventory;

(f) An audit of controlled substances in the cabinet is conducted at least once per month. If a tamper-evident seal system is not used, a quality assurance program must be in place to identify any diversion.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155 & 689.505
Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6310

After Hours Access to Pharmacy

When a drug required to treat the immediate needs of a patient is not available from floor-stock or a night cabinet, it may be obtained from the pharmacy in accordance with the following procedures:

(1) Only one registered nurse supervisor on a shift may have access to the pharmacy and may remove drugs. The nurse supervisor must be designated in writing by the appropriate hospital committee and prior to being

permitted to obtain access to the pharmacy, must receive appropriate training in the proper procedures for access, removal of drugs, and recordkeeping;

(2) The PIC or designee must give such education and training, and must require, at a minimum, the following procedures:

(a) A drug may only be removed from the pharmacy on a practitioner's order that has been posted to the patient's medical record;

(b) A copy of the practitioner's order must be left either with the container from which the drug was removed or with an identical unit-dose, and must be placed conspicuously for a pharmacist to verify for accuracy;

(c) A record of each drug removed from the pharmacy by the nurse supervisor must include:

(A) Name and hospital location of the patient;

(B) Name and strength of drug distributed;

(C) Units used;

(D) Date and time of distribution;

(E) Initials of the nurse supervisor distributing the drug;

(F) Date and initials of the pharmacist who confirmed the accuracy of

the transaction.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155 & 689.605
Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6400

Emergency Dispensing by a Nurse

A hospital may provide for the emergency dispensing of a drug to an outpatient who is under the care of a practitioner who is a member of the hospital medical staff, when there is a legitimate medical need as described in hospital policies and procedures.

(1) A designated registered nurse may dispense a drug to an outpatient subject to the following:

(a) There is a prescription from a practitioner authorized to prescribe the drug or a verbal order that the nurse has reduced to writing. A practitioner who issues a verbal order or prescription must send a written prescription to the hospital pharmacy within seven days;

(b) The drug is in a manufacturer's bulk unit-of-use, such as an inhaler, or hospital pre-pack that has been labeled by the pharmacy with;

(A) Name of drug, strength, and number of units. When a generic name is used, the label must also contain the name of the manufacturer or distributor;

(B) Accessory cautionary information as required for patient safety;

(C) Product identification label if the drug is not in unit-of-use packaging;

(D) An expiration date after which the patient should not use the drug;

(E) Name, address and phone number of the hospital pharmacy.

(c) The following information must be added to the drug container by the nurse before dispensing to the patient:

(A) Name of patient;

(B) Directions for use by the patient;

(C) Date of issue;

(D) Unique identifying number;

(E) Name of prescribing practitioner;

(F) Initials of the dispensing nurse or practitioner.

(d) The patient must be given instructions on the use and precautions for taking the drug;

(e) A prescription must be completed by the practitioner or nurse.

This prescription must contain:

(A) Name of patient;

(B) Date of issuance;

(C) Name and strength of drug distributed;

(D) Units issued;

(E) Name of practitioner and initials of dispensing nurse;

(F) Instructions given to the patient.

(f) Any additional information required by state and federal laws and regulations for the distribution of a drug to an outpatient.

(2) The patient may not be given more than an emergency supply, as that is defined in the hospital policy and procedures.

(3) The pharmacist must verify, document and date the original prescription.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155 & 689.505
Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

ADMINISTRATIVE RULES

855-041-6410

Emergency Department Distribution

(1) A practitioner who is a member of the hospital's medical staff may dispense an emergency supply of drugs to a patient examined by them or by an associate practitioner subject to the following requirements:

(a) There is an order from a practitioner authorized to prescribe the drug in the patient's medical record;

(b) The drug is in a manufacturer's bulk unit-of-use, such as an inhaler, or hospital pre-pack that has been labeled by the pharmacy with:

(A) Name of drug, strength, and number of units. When a generic name is used, the label must also contain the name of the manufacturer or distributor;

(B) Accessory cautionary information as required for patient safety;

(C) Product identification label if the drug is not in unit-of-use packaging;

(D) An expiration date after which the patient should not use the drug;

(E) Name, address and phone number of the hospital pharmacy.

(c) The following information must be added to the drug container by the practitioner or nurse before dispensing to the patient:

(A) Name of patient;

(B) Directions for use by the patient;

(C) Date of issue;

(D) Unique identifying number as determined by policy and procedure;

(E) Name of prescribing practitioner;

(F) Initials of the dispensing nurse or practitioner.

(d) The patient must be given instructions on the use and precautions for taking the drug;

(e) A prescription or record of the distribution must be completed by the practitioner or nurse. This record must contain:

(A) Name of patient;

(B) Date of issuance;

(C) Drug name and strength distributed;

(D) Units issued;

(E) Name of practitioner;

(F) Initials of the dispensing nurse or practitioner; and

(G) Instructions given to the patient.

(f) Any additional information required by state and federal laws and regulations for the distribution of a drug to an outpatient;

(g) The record must be reviewed and documented by a pharmacist for accuracy and completeness.

(2) A controlled substance may only be distributed or dispensed to an outpatient by the examining practitioner after the patient has been examined by the practitioner and a legitimate medical purpose for a controlled substance has been determined. Distribution of a controlled substance must comply with all applicable state and federal laws and regulations.

(3) The pharmacy must determine the amount of each drug that constitutes an emergency supply. That amount may not exceed a four-day supply except for:

(a) A drug in the manufacturer's unit-of-use packaging such as an inhalant or a topical drug;

(b) A full course of therapy that may be dispensed if in the professional judgment of the pharmacist or practitioner this would be in the patient's best interest.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155 & 689.505

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6420

Emergency Kit and Code Cart

An emergency kit consists of those drugs which may be required to meet the immediate therapeutic needs of in-patients and which are not available from any other authorized source in sufficient time to prevent risk of harm to patients.

(1) An emergency kit may be placed in a code cart or as a stand-alone emergency kit.

(2) A pharmacist must verify and document the contents of each emergency kit.

(3) The CPO in cooperation with the appropriate hospital committee shall determine the list and quantity of drugs to be included in an emergency kit. The CPO must ensure that this list is reviewed annually.

(4) An emergency drug kit must use a tamper-evident system and be stored to prevent unauthorized access.

(5) All drugs in emergency kits and code carts must be labeled in accordance with OAR 855-041-6270.

(6) An emergency kit or code cart must be labeled to indicate that it is a drug supply for emergency use. A label must also contain the name, strength, quantity of all drugs in the kit or code cart and the expiration date of the kit. The label shall be affixed to or be available on the exterior of the code cart.

(7) The expiration date of an emergency kit or code cart must be the same as the earliest expiration date of any drug in the kit or cart. Prior to the expiration date, the pharmacist must replace expired drugs.

(8) Only an authorized person may remove a drug from an emergency kit or code cart. Any removal must be pursuant to a valid order or approved protocol.

(9) The pharmacy must be notified when an emergency kit or code cart has been opened or has expired and the pharmacist must restock or replace the emergency kit within a reasonable time.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6500

Practitioner's Drug Order

(1) An order for a drug for an in-patient must be transmitted to the pharmacy using a system that produces a direct or an electronic copy.

(2) A pharmacist must review the drug order before the initial dose is dispensed, and must document the review and DUR except:

(a) When a drug is dispensed under OAR 855-041-6310;

(b) In an emergency;

(c) When pharmacy services are not available; or

(d) When a LIP is present.

(3) An order for a drug must contain:

(a) The patient's name and location;

(b) The drug name and strength;

(c) Route of administration;

(d) Directions for use;

(e) The date and time; and

(f) The practitioner's written or electronic signature, or the signature of the practitioner's agent.

(4) The hospital must follow the following procedures for verbal drug orders:

(a) A verbal drug order should be used infrequently;

(b) A verbal drug order of an authorized individual may be accepted and transcribed only by a qualified person who has been identified by title or category in the hospital policies and procedures;

(c) A verbal order must be reduced to writing and read back to the prescribing practitioner to verify accuracy;

(d) A verbal order must be signed or initialed by the prescribing practitioner as soon as possible.

(5) A drug administered to a patient must be ordered by an authorized prescribing practitioner or otherwise allowed by these rules.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6510

In-patient Drug Profile

(1) Each pharmacist must ensure that a drug order for a patient requiring continuous drug therapy is entered into the patient's drug profile. The profile must contain:

(a) The patient's name, location and important clinical data such as age, height, weight, sex, chronic disease states, problem list and allergies;

(b) The drug name, strength, dosage form, route of administration and directions for administration;

(c) The drug therapy start and end date as applicable;

(d) The name or ID of the pharmacist responsible for entry or verification of the drug order.

(2) Prior to the drug being released for access by the nurse, a pharmacist must enter the drug order into a drug profile and perform a DUR except when:

(a) The drug is being dispensed from an after-hours cabinet in the absence of a pharmacist;

(b) The drug is from an emergency drug kit; or

(c) A system override is being used by a LIP or nurse to treat the emergency needs of a patient. Subject to a prescriber's order, a sufficient quantity to meet the emergency needs of the patient may be used until a pharmacist is available to review and confirm the drug order.

(3) The pharmacist must continue to monitor the appropriateness of the patient's drug utilization throughout the patient's stay in the hospital.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

ADMINISTRATIVE RULES

855-041-6520

Cart-fill

(1) A unit-dose cart-fill system is a pharmacy controlled unit-of-use drug distribution system.

(a) A unit-dose cart-fill system must provide for separation of drugs by patient name and location, and must be designed to record in an individual patient's record:

(A) The drug, dose strength, and dosing regimen of those drugs dispensed by the pharmacy;

(B) The number of doses dispensed;

(C) The date of the original order, and the date the order is discontinued.

(b) The system must:

(A) Provide a means for the pharmacist to verify the prescriber's original order;

(B) Provide a means for the pharmacist to verify the accuracy of the selected drug before the dose is delivered for administration to the patient; and

(C) Provide a mechanism to identify controlled substances.

(c) The pharmacist must verify the prescriber's original order and the accuracy of the selected drug.

(2) Controlled substances may be included in the unit-dose system if the system complies with all applicable state and federal laws and regulations.

(3) Each drug must be in unit-dose packaging when dispensed except when this is impracticable.

(4) A drug not dispensed in unit-dose packaging must be labeled in accordance with other rules in this Division.

(5) A drug in a single container multiple-dose package such as an inhaler or a topical drug must be labeled with the patient's name and location within the facility.

(6) A pharmacy technician, certified pharmacy technician, intern or pharmacist may fill daily unit-dose drug supplies for a hospital in-patient or a nursing home patient.

(7) The pharmacist must verify the accuracy of a unit-dose package before the dose is delivered for administration to the patient.

(8) Each drug must be stored in a locked area or locked cart.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6530

Robotic Distribution Systems

(1) A robotic drug distribution system used in a central pharmacy must be in a secure area under the control of the PIC and must be connected with the system that contains the patient's drug profile.

(2) The pharmacy must maintain the following documentation for each system:

(a) Details of the equipment including manufacturer's name, model and serial number;

(b) A description of how the system is used;

(c) Policies and procedures that include:

(A) Quality assurance performed at least quarterly including a requirement that a pharmacist visually verifies the accuracy of the electronic or bar code labeling using an audit procedure that includes random sampling;

(B) Procedures for training personnel in safe system operation, security, accuracy, patient confidentiality, access and downtime procedures.

(3) All distribution records must be recorded electronically and retained for 3 years or as approved by the Board. Records must include:

(a) Identity of robotic drug distribution system accessed;

(b) Type of transaction;

(c) Date and time of transaction;

(d) Name, strength, dosage form, and quantity of the drug accessed;

(e) Identity of the patient for whom the drug was ordered;

(f) Any other information the PIC may deem necessary.

(4) Only a pharmacy technician, certified pharmacy technician, intern, pharmacist or a person designated by the PIC may have access to the system.

(5) Only a pharmacy technician, certified pharmacy technician, intern or pharmacist may stock drugs in the system.

(6) All drugs in the system must be packaged and labeled in accordance with state and federal laws and regulations.

(7) Controlled Substances:

(a) Controlled substances must be handled in accordance with all applicable state and federal laws and regulations;

(b) Schedule III, IV and V drugs may be stocked in a robotic drug distribution system provided there is adequate security to limit access to those personnel designated by the PIC;

(c) Schedule II drugs may not be stocked in any robotic drug distribution system.

(8) Drugs prepared by a robotic system must be packaged and separated by patient or as approved by hospital protocol, prior to distribution for administration.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155 & 689.508

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6540

Automated Distribution Cabinets

(1) Each ADC must be under the control of the pharmacy. The PIC must establish policies and procedures to meet the requirements of all applicable state and federal laws and regulations.

(2) Policies and procedures addressing the operation of the ADC must be maintained in the pharmacy. They must include:

(a) Training of personnel granted access to the ADC;

(b) System operation, safety, security, access, accuracy and patient confidentiality;

(c) Cabinet replenishment procedures;

(d) Downtime procedures;

(e) A procedure for securing and accounting for any wasted, discarded or unused drug in accordance with existing state and federal laws and regulations.

(3) All events involving the contents of the ADC must be recorded and must include:

(a) Identity of ADC accessed;

(b) Identification of the individual accessing the ADC;

(c) Type of transaction;

(d) Date and time of transaction;

(e) Name, strength, dosage form and quantity of the drug accessed;

(f) Name of the patient or patient identifier for whom the drug was ordered;

(g) Such additional information as the PIC may deem necessary.

(4) Only a pharmacist, pharmacy technician, certified pharmacy technician, intern or other person designated by the PIC may have access to the ADC.

(5) Stocking drugs in an ADC:

(a) Only a pharmacy technician, certified pharmacy technician, intern, pharmacist or other licensed healthcare personnel designated by the PIC may stock drugs in the ADC;

(b) A pharmacist must visually or electronically verify the name, strength and accuracy of the drug to be released from the central pharmacy for restocking;

(c) When a barcode or other electronic system is used to confirm the accuracy of the replenishment of the stock in an ADC, the system must receive an initial quality assurance validation;

(d) When all drug doses for an individual storage unit or bin have been packaged in one container, a single barcode verification may be used;

(e) The PIC must monitor the accuracy of the replenishment of drugs with a quality assurance process that includes:

(A) Reconciling the ADC fill list with established unit specific drugs using the drug profile, ADC discrepancy and inventory reports; and

(B) Monitoring the accuracy of the restocking and withdrawal procedures used by all hospital staff approved for drug administration.

(f) The PIC may permit medical supplies and devices to be included in the ADC.

(6) All drugs stored in the ADC must be packaged and labeled in accordance with state and federal laws and regulations.

(7) A drug that has been removed from the ADC for any purpose may not be returned to the system unless:

(a) A pharmacist has examined the drug, the packaging, and the labeling and determined that reuse of the drug is appropriate; or

(b) It is a drug, such as a multi-dose vial, which has been exempted by the appropriate hospital committee.

(8) At the time of loading, unloading, inventorying, removing or accessing any controlled substance from the ADC, a blind count or confirmation of the correct count must be conducted. Any discrepancy must be reported immediately to the PIC or pharmacist on duty who is responsible for reconciliation of the unresolved discrepancy or proper reporting of the loss.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

ADMINISTRATIVE RULES

855-041-6550

Secondary and Remote Storage

(1) All drugs must be stored in designated areas to ensure proper sanitation, temperature, light, ventilation, moisture control, and security.

(2) Drugs may only be stored in nursing units when space is available for the storage, security, and preparation of drug doses. Such space must include:

(a) A locked drug cabinet or room that is equipped so that each patient's drugs are separated physically or electronically. Drugs may be stored in secured individual patient storage areas or individually labeled for each patient;

(b) A container or compartment that is permanently attached to a storage cart or the drug room in which controlled substances can be secured;

(c) Alcohol and other flammables must be stored in areas that meet local building code requirements for the storage of volatiles, and such other laws and regulations that apply.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6560

Floor-stock

(1) A minimal quantity of drugs may be stocked in patient care areas to meet the immediate therapeutic needs of a patient where delay would interrupt the continuity of, or compromise the care of the patient.

(2) A hospital pharmacy must not use a floor-stock drug distribution system as its primary system of drug distribution except in departments staffed with a LIP such as the Emergency Room, Operating Rooms and Radiology.

(3) The CPO, in consultation with nursing staff, must prepare a list of drugs by identity and quantity for each area where such supplies are stocked. This list must be kept in the pharmacy.

(4) Floor-stock drug supplies must be stored in a secure area only accessible to pharmacy-authorized personnel.

(5) All drugs in floor-stock must be labeled in accordance with other rules in this Division.

(6) Drugs may only be removed from floor-stock by personnel authorized by the appropriate hospital committee. A drug may only be removed pursuant to a valid prescriber's order. Removal from stock must be recorded in accordance with policy and in the patient's medical record.

(7) The CPO may permit medical supplies and devices to be included in the floor-stock.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6570

Trays and Kits

(1) All drug trays and kits must be prepared by the pharmacy prior to release from the central pharmacy except that trays and kits may be prepared from floor-stock by an LIP who administers the drug or by authorized hospital staff in the case of emergency use if:

(a) The pharmacy and appropriate hospital departments jointly develop guidelines for the proper use, preparation, and security for the trays or kits; and

(b) The pharmacy has a quality assurance program for monitoring the proper use, preparation and security of the kits.

(2) A pharmacist must verify the accuracy and secure the contents of each tray or kit prepared in the pharmacy prior to release from the central pharmacy.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6600

Controlled Drug Accountability

(1) The hospital must establish procedures and maintain records to account for all controlled substances and any other drugs designated by the appropriate hospital committee. Records must include:

(a) Name of drug;

(b) Dose ordered, dose dispensed, and dose administered;

(c) Identity of patient;

(d) Date and time of administration;

(e) Person administering the drug;

(f) Verification and documentation of any wasted drug including partial doses.

(2) The pharmacy must provide separately locked, securely affixed compartments for storage of controlled drugs and other drugs subject to

abuse, except when the facility uses single-unit packaged drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.

(3) The pharmacy must obtain a delivery receipt for all controlled drugs supplied as floor-stock. This record must include the date, drug name and strength, quantity, hospital unit receiving drug and the signatures of the distributing pharmacist and the receiving nurse.

(4) A record must be kept of each administration of a controlled drug from floor-stock. The record must be returned to the pharmacy monthly and the PIC or designee must:

(a) Match returned records with delivery receipts to verify that all records are returned;

(b) Periodically audit administration records for completeness;

(c) Reconcile administration records with inventory and verify that sums carried from one record to the next are correctly recorded;

(d) Periodically verify that doses documented on administration records are reflected in the medical record; and

(e) Initial the returned record and file by date of issue.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 475.165 & 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6610

Schedule II Drugs

(1) In addition to the requirements above, Schedule II record keeping must include:

(a) A perpetual inventory system for all Schedule II drugs received, stored and distributed by the pharmacy. The perpetual inventory must be reconciled with an actual inventory at least monthly and the results and any discrepancies must be noted;

(b) Schedule II drugs stored as floor-stock in patient-care areas must be controlled with a perpetual inventory system that includes an actual inventory count and reconciliation when the department or nursing unit is open. The CPO must develop policies and procedure to ensure a regular audit of the inventory;

(c) Quality assurance procedures for the random sample of perpetual inventory sheets including sign-out sheets or other dose-by-dose documentation, must be performed at least quarterly and must be used to determine the accuracy and effectiveness of Schedule II floor-stock drug control;

(d) All Schedule II drugs stored in the pharmacy must be kept in a locked area or secured storage system that tracks the identity of each person making entry into and out of the system whenever a pharmacist is not physically present in the department.

(2) Policies and Procedures must specify the conditions under which Schedule II controlled substances can be transferred into or removed from an ADC.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 475.165 & 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

855-041-6620

Electronic Safe Systems

(1) The pharmacy must maintain policies and procedures that address the operation of any electronic safe system. These policies must include:

(a) Training of personnel granted access to the electronic safe system;

(b) System operation, safety, security, access, accuracy and patient confidentiality;

(c) Downtime procedures.

(2) All events involving the contents of the electronic safe system must be recorded electronically. Such records must include:

(a) Identity of electronic safe system accessed;

(b) Identification of the individual accessing the electronic safe system;

(c) Type of transaction;

(d) Date and time of transaction;

(e) Name, strength, dosage form, and quantity of the drug accessed;

(f) Name of the patient for whom the drug was ordered when applicable;

(g) Any additional information that the CPO requires.

(3) Only a pharmacist, pharmacy technician, certified pharmacy technician or intern may have access to the electronic safe system.

(4) Only a pharmacist, pharmacy technician, certified pharmacy technician or intern may stock drugs in the electronic safe system.

(5) All activities involving the electronic safe system must comply with all applicable state and federal laws and regulations.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 475.165 & 689.155

Hist.: BP 3-2010, f. 4-29-10, cert. ef. 4-30-10

ADMINISTRATIVE RULES

Rule Caption: Permit waiver of rules for drug delivery and control in County Health Clinics.

Adm. Order No.: BP 4-2010(Temp)

Filed with Sec. of State: 5-3-2010

Certified to be Effective: 5-4-10 thru 10-30-10

Notice Publication Date:

Rules Amended: 855-043-0130

Subject: The amendment adds language to permit the Board to grant a waiver to any part of this rule when a waiver will further public health or safety.

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

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:

(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.

(7) Upon written request, the Board may waive any of the requirements of this rule if a waiver will further public health or safety or the health and safety of a patient. A waiver granted under this section shall only be effective when it is issued by the Board in writing. A waiver is not valid for more than five years.

Stat. Auth.: ORS 689.205 & 689.605

Stats. Implemented: ORS 689.155, 689.505 & 676.350

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; BP 4-2010(Temp), f. 5-3-10, cert. ef. 5-4-10 thru 10-30-10

Rule Caption: Change intern license from a four-year license to a biennial license.

Adm. Order No.: BP 5-2010(Temp)

Filed with Sec. of State: 5-3-2010

Certified to be Effective: 5-4-10 thru 10-30-10

Notice Publication Date:

Rules Amended: 855-110-0005

Subject: The Board has adopted amendments to rules for pharmacy interns which are effective May 1, 2010. These amendments change the intern license from a four-year license to a biennial license. This temporary rule is to bring the Fee rule in Division 110 in line with the new intern rules in Division 31. A permanent rule is scheduled to be adopted in June.

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

855-110-0005

Licensing Fees

(1) Pharmacist license examination (NAPLEX) and re-examination fee — \$50.

(2) Pharmacist jurisprudence (MPJE) re-examination fee — \$25.

(3) Pharmacist licensing by reciprocity fee — \$200.

(4) Pharmacist licensing by score transfer fee — \$200.

(5) Intern license fee. Expires November 30 every two years — \$30.

(6) Pharmacist:

(a) License fee. Expires June 30 annually — \$120. Delinquent renewal fee, (postmarked after May 31) — \$50.

(b) Electronic Prescription Monitoring Fund fee. Due by June 30 annually — \$25. (This is a mandatory fee, authorized by Chapter 799 Oregon Laws 2009, that must be paid with the pharmacist license renewal fee).

(7) Certification of approved providers of continuing education course fee, none at this time.

(8) Pharmacy Technician license fee. Expires September 30 annually — \$35. Delinquent renewal fee, (postmarked after August 31) — \$20.

(9) Certified Pharmacy Technician license fee. Expires September 30 annually — \$35. Delinquent renewal fee, (postmarked after August 31) — \$20.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.135 & 2009 OL Ch. 799

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; 1PB 3-1980, f. 5-3-80, ef. 5-3-80 & 7-1-80; 1PB 2-1982, f. 3-8-82, ef. 4-1-82; 1PB 1-1984, f. & ef. 2-16-84; 1PB 3-1985, f. & ef. 12-2-85; PB 3-1988, f. & cert. ef. 5-23-88; PB 7-1989, f. & cert. ef. 5-1-89; PB 15-1989, f. & cert. ef. 12-26-89; PB 10-1990, f. & cert. ef. 12-5-90; PB 3-1991, f. & cert. ef. 9-19-91; PB 1-1992, f. & cert. ef. 1-31-92 (and corrected 2-7-92); PB 4-1992, f. & cert. ef. 8-25-92; PB 1-1994, f. & cert. ef. 2-2-94; PB 1-1996, f. & cert. ef. 4-5-96; PB 2-1997(Temp), f. 10-2-97, cert. ef. 10-4-97; BP 2-1998, f. & cert. ef. 3-23-98; BP 1-2001, f. & cert. ef. 3-5-01; BP 2-2001(Temp), f. & cert. ef. 7-26-01 thru 1-22-02; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2003, f. & cert. ef. 1-14-03; BP 1-2006, f. & cert. ef. 6-9-06; BP 5-2006(Temp), f. & cert. ef. 8-25-06 thru 1-20-07; BP 9-2006, f. & cert. ef. 12-19-06; BP 5-2009, f. & cert. ef. 12-24-09; BP 5-2010(Temp), f. 5-3-10, cert. ef. 5-4-10 thru 10-30-10

Bureau of Labor and Industries

Chapter 839

Rule Caption: Amending subpoena rules to conform reference to statutory term "person" and to address corporations.

ADMINISTRATIVE RULES

Adm. Order No.: BLI 14-2010

Filed with Sec. of State: 5-4-2010

Certified to be Effective: 5-5-10

Notice Publication Date: 4-1-2010

Rules Amended: 839-002-0030, 839-002-0040, 839-002-0045, 839-002-0050

Rules Repealed: 839-002-0030(T), 839-002-0040(T), 839-002-0045(T), 839-002-0050(T)

Subject: The amendments change one word, "individual," to "person" in conformance with the authorizing statutes. The amendments conform rules to statutory requirements for service of subpoenas on corporations.

Temporary rule amendments were filed 2/10/10 and are in effect until 8/6/10 or until replaced by permanent rules.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-002-0030

Circumstances under Which a Subpoena May be Issued

(1) The commissioner may issue a subpoena ad testificandum to compel a person to testify under oath when:

(a) A Division determines that the person is a material witness in an investigation being conducted by the Division under ORS 279C.800 to 279C.870, 651.030, 651.050, 651.120 and 651.170, or chapters 652, 653, 658, and 659A;

(b) The information sought from the person is relevant to a lawful investigative purpose and is reasonable in scope; and

(c) The Division has been unable to interview the person after having made reasonable attempts to do so, or the person states that he or she will only consent to an interview if first served with a subpoena.

(2) The commissioner may also issue a subpoena ad testificandum to compel a person to testify under oath about the contents of documents or other things produced in response to a subpoena duces tecum served on the same person.

(3) The commissioner may issue a subpoena duces tecum to compel a person to produce documents or other things when:

(a) A Division determines that the documents or other things are relevant to the Division's investigation being conducted under ORS 279C.800 to 279C.870, 651.030, 651.050, 651.120 and 651.170, or Chapters 652, 653, 658, and 659A;

(b) The documents or other things sought are relevant to a lawful investigative purpose and are reasonable in scope; and

(c) The Division has made a written request for production of documents or things and the person to whom the request was made has failed to comply within the time specified by the Division, unless the commissioner finds a subpoena is necessary to protect the documents and things from 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; BLI 14-2010, f. 5-4-10, cert. ef. 5-5-10

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; BLI 14-2010, f. 5-4-10, cert. ef. 5-5-10

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; BLI 14-2010, f. 5-4-10, cert. ef. 5-5-10

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; BLI 14-2010, f. 5-4-10, cert. ef. 5-5-10

Columbia River Gorge Commission Chapter 350

Rule Caption: Repeals unused and outdated rules.

Adm. Order No.: CRGC 1-2010

Filed with Sec. of State: 4-20-2010

Certified to be Effective: 6-1-10

Notice Publication Date: 3-1-2010

Rules Repealed: 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-

ADMINISTRATIVE RULES

0600, 350-090-0610, 350-090-0620, 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, 350-110-0010, 350-110-0020, 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

Subject: The Commission repealed 350-090, 350-100, and 350-110. The Commission used these rules in the mid-1990s to regulate land use development in Hood River, Clark, and Wasco 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—(509) 493-3323, ext. 221

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Construction Contractors Board
Chapter 812

Rule Caption: Fee increase.

Adm. Order No.: CCB 6-2010

Filed with Sec. of State: 4-28-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 4-1-2010

Rules Amended: 812-003-0140

Subject: OAR 812-003-0140 is amended to establish a fee increase to the CCB licensing fee from \$260 to \$325 for a two-year license effective July 1, 2010 as authorized by the CCB Legislatively Approved Budget (LAB) (budget). At the January 26, 2010, Construction Contractors Board meeting, Board members determined that a license fee increase was needed to adequately fund the CCB for the 2010-12 biennium. This is an increase of \$32.50 per year or \$65/two year license period.

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-003-0140

License Application Fees

(1) The application fee for all new, renewal, or reissued licenses is \$325.

(2) Except as provided in section (3) of this rule, application fees will not be refunded or transferred.

(3) If a licensee submits an application to renew a license and the agency cannot renew the license because the applicant has formed a new business entity, the agency may refund the renewal application fee, less a \$40 processing fee.

(4)(a) Any licensee in the United States armed forces need not pay a license renewal fee if such fee would be due during the licensee's active duty service.

(b) A licensee in the United States armed forces shall pay the next license renewal fee that will become due after the licensee is discharged from active duty service.

(c) The agency may request that the licensee provide documentation of active duty status and of discharge.

(d) Section (4) of this rule applies to licensees that are sole proprietors or partners in a general partnership.

Stat. Auth.: ORS 670.310, 701.238 & 701.235

Stats. Implemented: ORS 701.056, 701.063, 701.238

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 4-2005, f. 8-24-05, cert. ef. 10-1-05; CCB 12-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 3-2008(Temp), f. & cert. ef. 1-10-08 thru 7-7-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 1-2009, f. 1-30-09, cert. ef. 2-1-09; CCB 6-2009, f. & cert. ef. 9-1-09, CCB 7-2009, f. 11-30-09, cert. ef. 1-1-10; CCB 6-2010, f. 4-28-10, cert. ef. 7-1-10

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Rule Caption: Employee complaints, lay representation and house-keeping.

Adm. Order No.: CCB 7-2010

Filed with Sec. of State: 4-28-2010

Certified to be Effective: 4-28-10

Notice Publication Date: 4-1-2010

Rules Amended: 812-004-0340, 812-009-0340, 812-012-0110

Subject: • 812-004-0340 is amended to set forth the evidence that is necessary to submit an employee complaint. If no time cards, pay-check stubs, or W-4 forms are available, the agency's current practice is to require a sworn affidavit from a non-related party. The rule, as amended, would permit a third-person (including a related person) to prepare and submit a written declaration under perjury. The Oregon Rules of Civil Procedure allow such declarations in lieu of affidavits. ORCP Rule 1.E.

• 812-009-0340 is amended. 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 of the matters covered by the rule, the Attorney General authorized the agency, by letter of June 12, 2008, to represent the agency.

• 812-012-0110 is amended to remove date in subsection (1)(c) because date has passed; revise subsection (1)(d) to correspond with language in ORS 701.305(2)(d), and delete subsection (1)(e) because it was removed by Oregon Laws 2009, chapter 409 (SB 205), Section 1. See ORS 701.305(2).

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-004-0340

Form of Complaints, Pre-Complaint Notice

(1) A complaint must be submitted on a complaint form provided by the agency. The complaint form shall be entitled "Breach of Contract Complaint." The agency may require the use of the most recent revision of the complaint form.

(2) The complainant must submit the following information on or with the complaint form required under section (1) of this rule if applicable:

(a) The name, address and telephone number of the complainant;

(b) The name, address, telephone number and license number of the licensee;

(c) The amount, if known at the time the complaint is filed, that the complainant alleges is due from the licensee after crediting payments, offsets and counterclaims in favor of the licensee to which the complainant agrees;

(d) Identification of the type of complaint;

(e) The date on which the contract was entered into;

(f) If the contract was in writing, a copy of the contract, including all relevant attachments, if any;

(g) The location of the work at issue in the complaint, described by a postal address or other description sufficient to locate the work site on a map and on the ground;

(h) The beginning and ending date of the work or invoices;

(i) Payments, offsets and counterclaims of the contractor, if known;

(j) Whether the project involves work on a residential, small commercial or large commercial structure;

ADMINISTRATIVE RULES

(k) A certification by the complainant that the information provided on the complaint form is true;

(l) If a court judgment or arbitration award is the basis for the complaint, a copy of the judgment or award, the original complaint and any answers or counter-suits related to the parties to the complaint filed in the court action or arbitration;

(m) Documents described in section (9) of this rule that are related to the pre-complaint notice requirement in ORS 701.133.

(n) Additional information required under sections (3) through (8) of this rule.

(3) A subcontractor complaint must include copies of each original invoice relating to the complaint.

(4) An employee complaint must include evidence that an employee worked for a contractor and evidence of the amount of unpaid wages or benefits. Evidence may include:

- (a) Time cards;
- (b) Paycheck stubs;
- (c) W-4 forms; or

(d) A sworn affidavit or written declaration under perjury of a third-person stating facts that indicate the employee worked for the contractor. A written declaration under perjury must contain the following statement, "I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."

(5) An employee trust complaint must include the name of each employee that is the subject of the complaint, the dates that employee worked without payment of employee benefits and the following information for each date and employee:

- (a) The hours worked without payment of employee benefits;
- (b) The amount of the unpaid benefits;
- (c) The address of the job site where the employee worked; and
- (d) Whether the structure at the job site is a residential structure, small commercial structure or large commercial structure.

(6) A construction lien complaint must include evidence that the complainant paid the primary contractor, a copy of the notice of right to lien, a copy of the lien bearing the county recorder's stamp and signature, a copy of each invoice or billing constituting the basis of the lien, a copy of the ledger sheet or other accounting of invoices from the lienor, if applicable, and any foreclosure documents.

(7) A material complaint must include recapitulation of the indebtedness showing the job site address, the date of each invoice, each invoice number, each invoice amount and a copy of each original invoice relating to the complaint.

(8) A complaint involving negligent or improper work must include a list of the alleged negligent or improper work. A complaint involving a breach of contract must describe the nature of the breach of contract.

(9) A complaint must include one of the following:

(a) A copy of the pre-complaint notice required under ORS 701.133 and of the certified or registered mail receipt for the pre-complaint notice; or

(b) Written evidence that the respondent had actual notice of the dispute that is the subject of the complaint at least 30 days before the complainant filed the complaint. The agency will only accept evidence under this subsection (9)(b) if it is in one of the following forms:

(A) A return receipt signed by the respondent indicating receipt of a notice of intent to file a complaint sent to the respondent by the complainant; or

(B) A letter signed by the respondent acknowledging receipt of a notice of intent to file a complaint.

(c) Written evidence that the complainant and the respondent are parties to mediation, arbitration or a court action arising from the same contract or issues that are the subject of the complaint. The agency will only accept evidence under this subsection (9)(c) if it is in one of the following forms:

- (A) Copies of a complaint or answer in the court action; or
- (B) Copies of a document that initiated the mediation or arbitration.
- (d) Evidence that the complainant and the respondent are parties to another complaint filed with the agency arising from the same contract or issues that are the subject of the complaint.

(10) Except as provided in subsections (9)(c) and (9)(d), the agency may not accept a statement by the complainant alleging that the respondent had actual knowledge of the dispute as written evidence required under section (9) of this rule.

(11) The completed complaint form must be signed by the complainant or an agent of the complainant.

(12) A complaint form submitted to the agency that does not comply with the requirements of this rule is subject to OAR 812-004-0350.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.139, 701.140, 701.143, 701.145 & 701.146

Hist.: 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 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 7-2010, f. & cert. ef. 4-28-10

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:

- (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; CCB 7-2010, f. & cert. ef. 4-28-10

812-012-0110

Terms of Written Contract

(1) If a contractor is required to have a written contract under ORS 701.305, the written contract or attached addendum to the written contract must contain the following:

(a) A statement that the contractor is licensed by the Construction Contractors Board.

(b) The contractor's name, address, phone number and license number issued by the board as shown on board records.

ADMINISTRATIVE RULES

(c) An acknowledgment of a written offer of a warranty, if an offer is required by ORS 701.320, and indication of the acceptance or rejection of the offered warranty;

(d) A list of the notices required under ORS 87.093 or under rules adopted under ORS 701.330 and 701.335(2);

(e) An explanation of the property owner's rights under the contract, including, but not limited to, the ability to file a complaint with the board and the existence of any mediation or arbitration provision in the contract, set forth in a conspicuous manner as defined by the board by rule;

(f) Customer's name and address;

(g) Address where the work is to be performed;

(h) A description of the work to be performed; and

(i) Price and payment terms.

(2) The information described in section (1) of this rule must be legible and in dark ink.

Stat. Auth.: ORS 670.310, 701.235, 701.305, 701.315, 701.320, 701.330 & 701.335

Stats. Implemented: ORS 701.305, 701.330 & 701.335

Hist.: CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 8-2009, f. 12-28-09, cert. ef. 1-1-10; CCB 7-2010, f. & cert. ef. 4-28-10

Rule Caption: Amendments to Division 5 – Civil Penalties and Division 7 – Lead-Based Paint Rules.

Adm. Order No.: CCB 8-2010

Filed with Sec. of State: 4-28-2010

Certified to be Effective: 4-28-10

Notice Publication Date: 4-1-2010

Rules Adopted: 812-007-0340

Rules Amended: 812-005-0800, 812-007-0310, 812-007-0330, 812-007-0350

Subject: • 812-005-0800 is amended to add a sanction that extends to certified lead-based paint renovation contractors. This section references recordkeeping and reporting requirements, which are based on Department of Human Services, Public Health Division rule OAR 333-070-0110.

• 812-007-0310 and 812-007-0330 are amended to add reference the Department of Human Services, Public Health Division rules.

• 812-007-0340 is adopted to require contractors to follow work practice standards for lead-based paint renovation as set forth by the Department of Human Services, Public Health Division, rule 333-070-0090.

• 812-007-0350 is amended to make violation of Department of Human Services, Public Health Division rule OAR 333-070-0090, 333-070-0100(4), and 333-070-0110, a basis for license sanction by the Construction Contractors Board.

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

(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)(a) \$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.

(b) 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 a 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

ADMINISTRATIVE RULES

(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 work practice standards for LBP renovation pursuant to OAR 812-007-0340 or violation of recordkeeping and reporting requirements pursuant to OAR 333-070-0110: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 and suspension of the certified LBP renovation contractor 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.

(32) 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.

(33) 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 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.

(34) 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.

(35) 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.

(36) 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.

(37) 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.

(38) 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.

(39) 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.

(40) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.

(41) 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.

(42) 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.

(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 no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.

(44) 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, 701.515, 701.992 & 701.995

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, 701.510, 701.515, 701.992 & 701.995

Hist.: IBB 4-1982, f. & ef. 10-7-82; IBB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0080(13); IBB 3-1983, f. 10-5-83, ef. 10-15-83; IBB 3-1984, f. & ef. 5-11-84; IBB 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; CCB 8-2010, f. & cert. ef. 4-28-10

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 as provided in OAR 333-070-0100(3)(a), (b) or (d).

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; CCB 8-2010, f. & cert. ef. 4-28-10

ADMINISTRATIVE RULES

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 as provided in OAR 333-070-0100(3)(a), (b) or (d).

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10

812-007-0340

Work Practice Standards for Certified Lead-Based Paint Renovation Contractors

A certified LBP renovation contractor must comply with work practice standards in OAR 333-070-0090.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 8-2010, f. & cert. ef. 4-28-10

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;
- (c) Violating a rule of the board; or
- (d) Violating OAR 333-070-0090 (work practice standards), 333-070-0100(4) (renovator responsibilities), or 333-070-0110 (recordkeeping and reporting requirements.) For purposes of recordkeeping and reporting requirements, as used in OAR 333-070-0110, the term "Department" refers to 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 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10

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Department of Administrative Services, Oregon Educators Benefit Board Chapter 111

Rule Caption: Amending the Oregon Educators Benefit Board's rules on appeals.

Adm. Order No.: OEGB 5-2010(Temp)

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10 thru 10-22-10

Notice Publication Date:

Rules Amended: 111-080-0030

Subject: OAR 111-080-0030 is being amended to provide clarification and include descriptions of each level of the OEGB appeals process.

Rules Coordinator: April Kelly—(503) 378-6588

111-080-0030

Appeals and Administrative Reviews

(1) Eligibility and enrollment issues. OEGB has an Appeal process consisting of three levels that a member can use if they disagree with an eligibility determination or enrollment record. These three levels are:

(a) Appeal. An Appeal is the first level and must be received by OEGB in writing. OEGB staff gathers all information and set up the Appeal file. OEGB Staff reviews the Appeal and makes a decision. The member is then notified in writing of the OEGB staff's decision.

(b) Request for Reconsideration. A Request for Reconsideration is the second level and can be requested by the member if the member is not satisfied with the decision on their Appeal. OEGB staff gathers all the information and include in the Appeal file. The OEGB Management Team reviews all the information contained in the file (from the Appeal and the

Request for Reconsideration) and makes a decision. The member is then notified in writing of the OEGB Management Team's decision.

(c) Administrative Review Request. An Administrative Review Request is the third level and can be requested by the member if the member is not satisfied with the decision on their Request for Reconsideration. OEGB staff gathers any additional information and add to the Appeal file. OEGB staff will schedule an Administrative Review Committee meeting. OEGB staff will notify the member and all applicable parties of the date, time and location. At the meeting, the Administrative Review Request will be presented to the Administrative Review Committee members and after considering all documentation and possible public comment, a decision is made. The member will be notified in writing of the Administrative Review Committee's decision.

(2)(a) Benefit and claim issues. Following the Insurance Carrier's appeals process, a member can request a review by OEGB.

(b) Administrative Review Request. An Administrative Review Request can be made to OEGB if the member is not satisfied with the outcome after completing the carrier's appeal process. OEGB staff gathers all information and sets up the file. The OEGB Contracts Officer will complete an initial review of the file to ensure it meets the criteria outlined in our contracts that limits these reviews to a "determination of whether or not a service or benefit was intended to be covered under the current contract." The initial review will assess whether there is documentation contained within the contract or its attachment or exhibits relating to the benefit that was denied. If the Administrative Review request does not meet the specified criteria the Contracts Officer will refer it to the OEGB Management Team and the member will be notified in writing of the OEGB Management Team's decision. If the request does meet the specified criteria, OEGB staff will schedule an Administrative Review Committee meeting. OEGB staff will notify the member and all applicable parties of the date, time and location. At the meeting, the Administrative Review Request will be presented to the Administrative Review Committee. They will consider all documentation and public comment and make a decision in accordance with the information presented. The member will be notified in writing of the Administrative Review Committee's decision.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(a)

Hist.: OEGB 17-2008(Temp), f. & cert. ef. 10-16-08 thru 4-13-09; OEGB 7-2009, f. 3-24-09, cert. ef. 4-1-09; OEGB 18-2009(Temp), f. & cert. ef. 10-26-09 thru 4-23-10; OEGB 5-2010(Temp), f. & cert. ef. 4-26-10 thru 10-22-10

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Department of Agriculture Chapter 603

Rule Caption: Updates the Fee Schedule for Field Inspections of Seed Crops.

Adm. Order No.: DOA 10-2010

Filed with Sec. of State: 4-21-2010

Certified to be Effective: 4-21-10

Notice Publication Date: 2-1-2010

Rules Amended: 603-056-0315

Subject: The proposed amendments would update the fee schedule for performing seed field inspections and add an application fee. The revenue generated by the existing fee schedule no longer provides sufficient funds to cover the costs of the official inspection program. We propose to increase the fee schedule to \$6.50 per acre, with a minimum fee of \$50 for each field inspected and a maximum fee of \$450 per field. We will also add a \$3 application fee for all field inspections, including bean fields in Malheur County. This will be the first fee increase for this program in over 9-years.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-056-0315

Field Inspection Fees and Charges Relating To Seed

The fees and charges for seed field inspections required for the issuance of certificates by the Department are established at \$6.50 per acre for each field with a minimum fee of \$50 for each field inspected and a maximum fee of \$450 per field. The fee for processing all applications for field inspection shall be \$3 for each application; this includes applications for inspecting bean seed fields for certification for replanting in Malheur County. Bean seed fields inspected for certification for replanting in Malheur County shall have inspection fees of \$3.50 per acre per inspection with a minimum per field charge of \$30. Applications must be postmarked by April 1 for fall planted or perennial crops and May 1 for spring planted

ADMINISTRATIVE RULES

crops. Late applications may be charged the established rate for time and mileage, which is higher than the fees listed above.

Stat. Auth.: ORS 561, 632 & 633
Stats. Implemented: ORS 561, 632 & 633.680
Hist.: AD 865(1-68), f. 1-22-68, ef. 2-1-68; AD 1100(21-76), f. & ef. 7-20-76; AD 11-1981, f. & ef. 7-6-81; AD 8-1983, f. & ef. 7-19-83; AD 18-1994, f. & cert. ef. 11-10-94; DOA 3-2000, f. & cert. ef. 1-11-00; DOA 10-2010, f. & cert. ef. 4-21-10

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**Department of Agriculture,
Oregon Processed Vegetable Commission
Chapter 647**

Rule Caption: Amend Commission assessment rates.
Adm. Order No.: OPVC 1-2010
Filed with Sec. of State: 4-26-2010
Certified to be Effective: 7-1-10
Notice Publication Date: 4-1-2010
Rules Amended: 647-010-0010
Subject: These rules establish the assessment rates necessary to fund Commission research projects.
Rules Coordinator: John McCulley—(503) 370-7019

**647-010-0010
Assessments**

(1) Any first purchaser shall deduct and withhold an assessment of the following amounts from each of the above named vegetable crops:

- (a) Beans — 1.029 per ton based on the net weight of the beans delivered.
- (b) Sweet Corn — \$.488 per ton based on the gross weight of the sweet corn delivered.
- (c) Table Beets — \$.000 per ton based on the net weight of the table beets delivered.
- (d) Carrots — \$.351 per ton based on the net weight of the carrots delivered.
- (e) Broccoli — \$.299 per ton based on the net weight of the broccoli delivered.
- (f) Cauliflower — \$1.661 per ton based on the net weight of the cauliflower delivered.

(2) From the price paid to the producer thereof, after July 1, 2010, for all of the above named vegetables for processing and grown in Oregon.

Stat. Auth.: ORS 576.051 - 576.595
Stats. Implemented: ORS 576.051 - 576.595
Hist.: PVC 2-1985, f. 7-17-85, ef. 7-22-85; PVC 1-1986, f. 5-30-86, ef. 6-1-86; PVC 2-1987, f. & ef. 6-16-87; PVC 1-1988, f. 4-22-88, cert. ef. 6-1-88; PVC 1-1989, f. 5-4-89, cert. ef. 6-1-89; PVC 1-1990, f. 4-24-90, cert. ef. 6-1-90; PVC 1-1991, f. 5-7-91, cert. ef. 6-1-91; PVC 1-1992, f. 4-15-92, cert. ef. 6-1-92; PVC 1-1993, f. 4-28-93, cert. ef. 6-21-93; PVC 1-1994, f. 4-22-94, cert. ef. 6-21-94; PVC 2-1995, f. 5-24-95, cert. ef. 6-1-95; PVC 1-1996, f. 5-14-96, cert. ef. 1-1-96; PVC 1-1997, f. 5-6-97, cert. ef. 6-1-97; OPVC 1-1998, f. 5-28-98, cert. ef. 6-1-98; OPVC 2-1999, f. 4-26-99, cert. ef. 6-1-99; OPVC 1-2000, f. 5-2-00, cert. ef. 6-1-00; OPVC 2-2001, f. 5-15-01, cert. ef. 6-1-01; OPVC 1-2002, f. 4-26-02, cert. ef. 6-1-02; OPVC 1-2003, f. 5-8-03, cert. ef. 6-1-03; OPVC 2-2004, f. 5-11-04, cert. ef. 6-1-04; OPVC 1-2005, f. 5-13-05, cert. ef. 6-1-05; OPVC 1-2006, f. 5-9-06, cert. ef. 6-1-06; OPVC 1-2007, f. 5-14-07, cert. ef. 6-1-07; OPVC 2-2008, f. 5-2-08, cert. ef. 6-1-08; OPVC 1-2009, f. 5-14-09, cert. ef. 7-1-09; OPVC 1-2010, f. 4-26-10, cert. ef. 7-1-10

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

Rule Caption: Public Records Requests.
Adm. Order No.: BCD 2-2010
Filed with Sec. of State: 4-27-2010
Certified to be Effective: 5-1-10
Notice Publication Date: 4-1-2010
Rules Repealed: 918-001-0200
Subject: The Department of Consumer and Business services is amending its rule regarding public records requests, found in chapter 440, division 005. The goal of the rule making is to reflect recent changes in the law and to make the process of requesting public records from DCBS more clear for the public. As part of the rule making, DCBS is repealing public records provisions found in its various division rules. This will avoid duplication with the agency-wide rules and give the public a central source for agency rules on public records requests.

In addition to amending the rules, the department and each of its divisions will post the agency's written procedure for making

public records requests on their websites – so that citizens have clear access to clear information about how to make requests.

Rules Coordinator: Kristen Miller—(503) 947-7866

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Rule Caption: Adopts the 2010 Oregon Mechanical Specialty Code; includes housekeeping changes to division rules.

Adm. Order No.: BCD 3-2010
Filed with Sec. of State: 5-14-2010
Certified to be Effective: 7-1-10
Notice Publication Date: 10-1-2009
Rules Amended: 918-440-0000, 918-440-0010, 918-440-0015, 918-440-0030, 918-440-0050, 918-440-0500, 918-440-0510
Rules Ren. & Amend: 918-440-0040 to 918-440-0012
Subject: The proposed rules adopt the 2009 Editions of the International Mechanical Code and the International Fuel Gas Code with Oregon amendments and shall be known as the 2010 Oregon Mechanical Specialty Code. The proposed rules also include housekeeping changes that improve readability and provide clarity and consistency among the division's rules.
Rules Coordinator: Dolores Wagner—(503) 373-1258

**918-440-0000
Reasonable Notice to Interested Parties: Mechanical Specialty Code**

Prior to the adoption, amendment, or repeal of any rule relating to the **Oregon Mechanical Specialty Code**, the Building Codes Division shall give notice of the proposed action:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date; and
- (2) By mailing a copy of the notice to persons on the mailing list established pursuant to ORS 183.335 and OAR 918-001-0210.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.335
Stats. Implemented: ORS 183.335
Hist.: DC 63, f. & ef. 12-5-75; Renumbered from 814-027-0000; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 3-2010, f. 5-14-10, cert. ef. 7-1-10

**918-440-0010
Adopted Oregon Mechanical Specialty Code**

(1) Effective July 1, 2010 the **2010 Oregon Mechanical Specialty Code** is the 2009 Editions of the International Mechanical Code and International Fuel Gas Code as published by the International Code Council and amended by the Building Codes Division.

(2) For the purposes of implementing a phase-in period for the **2010 Oregon Mechanical Specialty Code**, the **2007 Oregon Mechanical Specialty Code** is adopted for the period beginning July 1, 2010 and ending September 30, 2010.

(3) During the phase-in period established in subsection (2), all building departments in the state are required to accept plans designed to either the **2010 Oregon Mechanical Specialty Code** or to the **2007 Oregon Mechanical Specialty Code**.

NOTE: Publications referenced are available for review at the division. See division website for information on where to purchase publications.

Stat. Auth.: ORS 455.020, 455.030 & 455.110
Stats. Implemented: ORS 455.110
Hist.: DC 35, f. 6-5-74, ef. 6-25-74; DC 52(Temp), f. & ef. 7-3-75 thru 10-31-73; DC 62, f. 11-20-75, ef. 1-1-76; DC 68, f. 3-3-76, ef. 4-1-76; DC 75, f. 5-21-76, ef. 8-1-76; DC 85, f. 8-19-76, ef. 10-1-76; DC 22-1978, f. 9-1-78, ef. 10-1-78; DC 8-1979, f. 4-30-79, ef. 5-1-79/8-1-79/1-1-80; DC 14-1979, f. 12-27-79, ef. 1-1-80; DC 6-1980, f. 6-5-80, ef. 7-1-80; DC 11-1981, f. & ef. 7-20-81; DC 13-1981, f. 10-30-81, ef. 11-1-81; DC 14-1983, f. 6-23-83, ef. 8-1-83; DC 26-1984, f. 8-31-84, ef. 9-15-84; DC 10-1986, f. 6-30-86, ef. 7-1-86; DC 5-1987(Temp), f. & ef. 3-26-87; BCA 3-1987, f. & ef. 8-4-87; BCA 7-1987, f. & ef. 9-3-87; Renumbered from 814-027-0005; BCA 34-1989, f. 12-21-89, ef. 1-1-90; BCA 32-1991(Temp), f. & cert. ef. 9-30-91; BCA 6-1992, f. 3-24-92, cert. ef. 3-27-92; BCA 27-1992, f. 12-29-92, cert. ef. 1-1-93; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 18-2002, f. 7-26-02, cert. ef. 10-1-02; BCD 10-2004, f. 8-6-04, cert. ef. 10-1-04; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 3-2010, f. 5-14-10, cert. ef. 7-1-10

**918-440-0012
Amendments to the Oregon Mechanical Specialty Code**

The **2010 Oregon Mechanical Specialty Code** is adopted and amended pursuant to chapter 918, division 8. Amendments adopted for inclusion into the **2010 Oregon Mechanical Specialty Code** are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 455.030
Stats. Implemented: ORS 455.110
Hist.: BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 5-1997, f. 3-21-97, cert. ef. 4-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 15-1999,

ADMINISTRATIVE RULES

f. & cert. ef. 10-6-99 thru 4-2-00; BCD 5-2000, f. 3-9-00, cert. ef. 4-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 19-2003, f. 12-15-03, cert. ef. 1-1-04; BCD 10-2004, f. 8-6-04 cert. ef. 10-1-04; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06; Renumbered from 918-440-0040 by BCD 3-2010, f. 5-14-10, cert. ef. 7-1-10

918-440-0015

Refrigeration Installer Certification

All persons engaged in brazing or welding related to the installation, alteration or repair of refrigeration piping systems not regulated by the Oregon Boiler and Pressure Vessel Program under OAR chapter 918, division 225, shall be certified in accordance with the requirements of this rule.

(1) The minimum requirement for persons engaged in brazing or welding of refrigeration piping systems is a current and valid certification issued upon completion of a class by a division-approved certifying organization in brazing or welding in accordance with either:

(a) Section IX, Welding and Brazing Qualifications of the American Society of Mechanical Engineers publication, 2001 ASME Boiler and Pressure Vessel Code; or

(b) American Welding Society publication AWS B2.2-91, Standard for Brazing Procedure and Performance Qualification.

(2) Refrigeration systems installed in dwelling units regulated under the **Oregon Residential Specialty Code** are exempt from this rule.

(3) All refrigeration piping system requirements not regulated by OAR 918-225-0310, are subject to the **Oregon Mechanical Specialty Code**.

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

Stat. Auth.: ORS 455.020 & 455.720

Stats. Implemented: ORS 455.020 & 455.720

Hist.: BCD 34-2000, f. 12-27-00, cert. ef. 7-1-01; BCD 19-2003, f. 12-15-03, cert. ef. 1-1-04; BCD 3-2010, f. 5-14-10, cert. ef. 7-1-10

918-440-0030

Energy Efficiency Rating (E.E.R.) System Single Family Residences

(1) Scope: These rules provide a voluntary energy efficiency rating system for single family residences to encourage voluntary energy conservation and the voluntary use in real estate transactions.

(2) Definitions:

(a) "E.E.R." means Energy Efficiency Rating;

(b) "Single Family Residence" means a structure designed as a residence for one family and sharing no common wall with another residence of any type.

(3) Energy Efficiency Rating: The Energy Efficiency Rating (E.E.R.) is to be determined by the following steps:

(a) Determine the total energy used in the residence over the last 12 months' period in thousands of BTUs:

(A) Determine electrical energy (KWH) used (source: Electrical bills or utility company). Multiply the total KWH by 3413 BTUs equals the total electric BTUs used. (Electric KWH) x 3413 = BTUs;

(B) Determine natural gas therms used (source: Gas bills or the gas company). Multiply the therms used by 100,000 then by 0.75 (Efficiency Factor). This equals the total gas BTUs used. (Gas therm) x 100,000 x 0.75 = BTUs;

(C) Determine heating oil BTU'S by multiplying total gallons by 140,000 then by 0.75 (Efficiency Factor). This equals the total oil BTUs used. (Oil Gallons) x 140,000 x 0.75 = BTUs;

(D) Total the types of energy BTUs used in the residence to determine total BTUs used in the 12 months. (Electrical BTUs + Gas BTUs = Oil BTUs = TOTAL BTUs.);

(E) Divide total BTU'S by one thousand equals total thousand's BTUs used:

$$\frac{\text{TOTAL BTUs}}{1,000} = \text{TOTAL THOUSAND BTUs USED}$$

(b) Determine the square footage of living (heated) space of the residence. (Source: House plans, measurement, or county assessor.);

(c) Divide total thousand BTUs used by the square footage of living space. The results are the E.E.R. of the residence that year:

$$\frac{\text{TOTAL THOUSAND BTUs USED}}{\text{TOTAL SQUARE FEET LIVING SPACE}} = \text{E.E.R.}$$

Stat. Auth.: ORS 469.700

Stats. Implemented: ORS 469.700

Hist.: DC 16-1978, f. 4-28-78, ef. 7-1-78; Renumbered from 814-027-0105; BCD 3-2010, f. 5-14-10, cert. ef. 7-1-10

918-440-0050

Mechanical Permit Fees

(1) Effective July 1, 1999, the Building Codes Division fees for administration of the **Oregon Mechanical Specialty Code** are found in **Table 1-A**. These fees are based on 130 percent of Table 3-A of the 1979

edition of the Uniform Mechanical Code as published by the International Conference of Building Officials, as authorized in ORS 455.210.

(2)(a) Amend **Table 1-A** Mechanical Permit fees as follows:

(b) Plan review fees shall be those fees specified in Section 106.5.4 of the **Oregon Mechanical Specialty Code** as adopted in OAR 918-440-0010.

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

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

Stat. Auth.: ORS 455.020 & 455.210

Stats. Implemented: ORS 455.210

Hist.: BCD 8-1999(Temp), f. & cert. ef. 7-1-99 thru 12-27-99; BCD 11-1999, f. 9-7-99, cert. ef. 10-1-99; BCD 15-1999, f. & cert. ef. 10-6-99 thru 4-2-00; BCD 5-2000, f. 3-9-00, cert. ef. 4-1-00; BCD 19-2003, f. 12-15-03, cert. ef. 1-1-04; BCD 3-2010, f. 5-14-10, cert. ef. 7-1-10

918-440-0500

Purpose and Scope

(1) Scope.

(a) This rule establishes a uniform notification process for the lawful disposal of mercury thermostats by persons installing heating, ventilation or air conditioning systems.

(b) For the purposes of this rule, a "thermostat" is a device commonly used to sense and, through electrical communication with heating, cooling or ventilation equipment, control room temperature.

(2) The authority having jurisdiction shall notify heating, ventilation or air conditioning system installers at time of permit issuance of proper disposal for mercury thermostats.

(3) The written notification shall include the following language: "In accordance with ORS 455.355, the disposal of thermostats that contain mercury shall be in accordance with programs established by thermostat manufacturers, their representative or distributor, or by delivery to sites that will ensure that the mercury does not become part of the solid waste stream or wastewater."

Stat. Auth.: ORS 455.355

Stats. Implemented: ORS 455.355

Hist.: BCD 24-2002, f. 9-13-02 cert. ef. 1-1-03; BCD 3-2010, f. 5-14-10, cert. ef. 7-1-10

918-440-0510

Prohibits Installation of Mercury Thermostats

Effective January 1, 2006 installing a thermostat containing mercury in commercial or residential buildings is not allowed. The installation of thermostats containing mercury on industrial equipment used for safety controls is allowed. For the purpose of this rule, a thermostat is defined in OAR 918-440-0500(1)(b).

Stat. Auth.: ORS 455.355

Stats. Implemented: ORS 455.355

Hist.: BCD 21-2005, f. 9-29-05, cert. ef. 1-1-06; BCD 3-2010, f. 5-14-10, cert. ef. 7-1-10

Rule Caption: Adopts the 2010 Oregon Structural Specialty Code.

Adm. Order No.: BCD 4-2010

Filed with Sec. of State: 5-14-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 11-1-2009

Rules Amended: 918-460-0010, 918-460-0015, 918-460-0050

Rules Repealed: 918-460-0016

Subject: These rules adopt the 2009 edition of the International Building Code with Oregon amendments to be known as the 2010 Oregon Structural Specialty Code. The rules also include some non-substantive housekeeping changes to administrative rule that provide clarity and consistency among the division's rules. The rules allow for a phase-in period of approximately 90 days.

Rules Coordinator: Dolores Wagner—(503) 373-1258

918-460-0010

Adopted Oregon Structural Specialty Code

(1) Effective July 1, 2010 the **2010 Oregon Structural Specialty Code** is the 2009 Edition of the **International Building Code**, as published by the International Code Council, and amended by the Building Codes Division.

(2)(a) For the purposes of implementing a phase-in period for the **2010 Oregon Structural Specialty Code**, the **2007 Oregon Structural Specialty Code** is adopted for the period beginning July 1, 2010 and ending September 30, 2010.

(b) During the phase-in period established in subsection (2)(a), all building departments in the state are required to accept plans for commercial structures designed to either the **2010 Oregon Structural Specialty Code** or to the **2007 Oregon Structural Specialty Code**.

ADMINISTRATIVE RULES

(c) Code requirements in effect at the time a plan review or permit application is filed controls the construction under the application unless the applicant agrees to be controlled by subsequent changes.

NOTE: Publications referenced are available for review at the division. See division web site for information on where to purchase publications.

Stat. Auth.: ORS 455.020, 455.447 & 455.610

Stats. Implemented: ORS 455.110

Hist.: DC 34, f. 6-5-74, ef. 6-25-74; DC 36(Temp), f. & ef. 7-1-74; DC 37, f. 8-30-74, ef. 9-25-74; DC 45, f. 4-7-75, ef. 4-25-75; DC 51(Temp), f. & ef. 7-3-75 - 10-31-75; DC 61, f. 11-20-75, ef. 1-1-76; DC 67, f. & ef. 2-19-76; DC 68, f. 3-3-76, ef. 4-1-76; DC 76, f. 5-21-76, ef. 8-1-76; DC 77, f. 5-26-76, ef. 6-3-76; DC 84, f. 8-19-76, ef. 10-1-76; DC 102, f. & ef. 11-1-77; DC 104, f. 12-1-77, ef. 12-10-77; DC 2-1978, f. 1-20-78, ef. 3-1-78; DC 18-1978, f. 5-4-78, ef. 5-15-78; DC 5-1978(Temp), f. 2-22-78, ef. 3-1-78 thru 4-29-78; DC 29-1978, f. 10-27-78, ef. 1-1-79; DC 31-1978(Temp), f. 12-8-78, ef. 1-1-79; DC 33-1978(Temp), f. 12-27-78, ef. 1-1-79; DC 6-1979(Temp), f. 3-13-79, ef. 4-1-79; DC 8-1979, f. 4-30-79, ef. 5-1-79/8-1-79/1-1-80; DC 12-1979(Temp), f. 7-2-79, ef. 8-1-79; DC 13-1979, f. 11-1-79, ef. 12-1-79; DC 7-1980, f. 6-5-80, ef. 7-1-80; DC 15-1980(Temp), f. & ef. 10-13-80; DC 11-1981, f. & ef. 7-20-81; DC 13-1981, f. 10-30-81, ef. 11-1-81; DC 15-1981, f. 10-30-81, ef. 1-1-82; DC 9-1982, f. & ef. 3-1-82; DC 14-1983, f. 6-23-83, ef. 8-1-83; DC 26-1984, f. 8-31-84, ef. 9-15-84; DC 35-1984, f. & ef. 11-28-84; DC 14-1985(Temp), f. & ef. 6-21-85; DC 21-1985, f. 12-18-85, ef. 1-1-86; DC 10-1986, f. 6-30-86, ef. 7-1-86; DC 19-1986, f. 10-31-86, ef. 11-1-86; DC 5-1987(Temp), f. & ef. 3-26-87; DC 12-1987(Temp), f. 4-21-87, ef. 4-24-87; BCA 7-1987, f. & ef. 9-3-1987; BCA 11-1987, f. & ef. 10-21-87; BCA 12-1987, f. & ef. 11-5-87; Renumbered from 814-026-0005; BCA 34-1989, f. 12-21-89, cert. ef. 1-1-90; BCA 30-1990, f. 12-21-90, cert. ef. 1-1-92; BCA 43-1991(Temp), f. 12-24-91, cert. ef. 1-1-92; BCA 3-1992(Temp), f. 3-4-92, cert. ef. 3-5-92; BCA 12-1992, f. 6-29-92, cert. ef. 7-1-92; BCA 27-1992, f. 12-29-92, cert. ef. 1-1-93; BCA 3-1993(Temp), f. & cert. ef. 3-3-93; BCA 19-1993(Temp), f. 8-26-93, cert. ef. 9-1-93; BCA 26-1993, f. 10-22-93, cert. ef. 11-1-93; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 16-2004, f. 9-24-04, cert. ef. 10-1-04; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 4-2010, f. 5-14-10, cert. ef. 7-1-10

918-460-0015

Amendments to the Oregon Structural Specialty Code

The **2010 Oregon Structural Specialty Code** is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **2010 Oregon Structural Specialty Code** are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

NOTE: Publications referenced are available for review at the division. See division web site for information on where to purchase publications.

Stat. Auth.: ORS 447.231, 447.247, 455.030, 455.110, 455.112 & 455.610

Stats. Implemented: ORS 447.247, 455.110 & 455.112

Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 22-1994, f. 9-28-94, cert. ef. 1-1-95; BCD 31-1994(Temp), f. & cert. ef. 12-23-94; BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 5-1995, f. & cert. ef. 3-15-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 6-1996, f. 3-29-96, cert. ef. 4-1-96; BCD 12-1997, f. 9-10-97, cert. ef. 10-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 24-1998(Temp), f. & cert. ef. 12-1-98 thru 5-29-99; Temporary Rule repealed by BCD 3-1999, f. 3-12-99, cert. ef. 4-1-99; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 12-1999(Temp), f. 9-23-99, cert. ef. 11-1-99 thru 4-28-00; BCD 2-2000 f. 1-14-00, cert. ef. 4-1-00; BCD 20-2000, f. 9-15-00, cert. ef. 10-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 18-2001, f. 12-21-01, cert. ef. 1-1-02; BCD 14-2003, f. 8-13-03, cert. ef. 10-1-03; BCD 18-2003(Temp) f. & cert. ef. 11-14-03 thru 5-11-04; BCD 5-2004, f. & cert. ef. 4-1-04; BCD 16-2004, f. 9-24-04, cert. ef. 10-1-04; BCD 21-2004, f. & cert. ef. 10-1-04; BCD 9-2005(Temp), f. & cert. ef. 4-7-05 thru 9-30-05; BCD 14-2005, f. & cert. ef. 7-5-05; BCD 18-2005(Temp), f. & cert. ef. 7-12-05 thru 9-30-05; BCD 22-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 23-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 1-2006, f. & cert. ef. 2-1-06; BCD 9-2006, f. 6-30-2006, cert. ef. 7-1-06; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 9-2008(Temp), f. & cert. ef. 6-25-08 thru 12-22-08; BCD 20-2008, f. 9-30-08, cert. ef. 10-1-08; BCD 4-2010, f. 5-14-10, cert. ef. 7-1-10

918-460-0050

Structural Permit Fees

Effective July 1, 1999, the Building Codes Division fees for administration of the **Oregon Structural Specialty Code** are found in Table 1-A. These fees are based on 130 percent of Table 3-A of the 1979 edition of the Uniform Building Code as published by the International Conference of Building Officials, as authorized in ORS 455.210.

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

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 455.020 & 455.210

Stats. Implemented: ORS 455.210

Hist.: BCD 8-1999(Temp), f. & cert. ef. 7-1-99 thru 12-27-99; BCD 11-1999, f. 9-7-99, cert. ef. 10-1-99; BCD 4-2010, f. 5-14-10, cert. ef. 7-1-10

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

Adm. Order No.: BCD 5-2010

Filed with Sec. of State: 5-14-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 3-1-2010

Rules Adopted: 918-460-0500, 918-460-0510

Rules Amended: 918-251-0090, 918-305-0030, 918-460-0000, 918-480-0010, 918-674-0033

Subject: These 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 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 housekeeping 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: Dolores Wagner—(503) 373-1258

918-251-0090

Definitions

For purposes of OAR chapter 918, divisions 251 through 311, unless otherwise specified, the following apply:

(1) "Appliance" as applied to the limited maintenance specialty contractor license established by ORS 479.630, means any built-in or permanently-connected electrical utilization equipment, not including lighting fixtures, other than industrial, that is installed or connected as a unit to perform one or more functions such as clothes washing, air conditioning, food mixing, deep frying, etc.

(2) "Approved" when referring to electrical product certification means approved in Oregon or for Oregon by the Electrical and Elevator Board.

(3) "Balance of system" as it relates to renewable electrical energy systems are those products, equipment, and systems for the conversion, control and storage of electrical energy.

(4) "Board" means Electrical and Elevator Board.

(5) "Building" means a structure that stands alone or that is isolated from adjoining structures by area separation walls as identified in Chapter 7 of the **Oregon Structural Specialty Code** adopted in OAR chapter 918, division 460, with all openings therein protected by approved fire doors as required.

(6) "Certification Mark" is identification on an electrical product indicating that the product has been certified under ORS 479.760.

(7) "Certified Electrical Product" is an electrical product certified under ORS 479.760 to which a label or other identifying mark.

(8) "Continuously Employ" means a person, including a person leased from a worker leasing company licensed under ORS 656.850, during time periods when electrical work for which they are responsible is performed, devotes their entire time of employment to tasks of supervising, designing, laying out, planning, controlling, and making electrical installations for the electrical contractor for which the supervisor is registered as signing supervisor.

(9) "Custom Made" means electrical products that are designed for a specific purpose and location.

(10) "Document" means prepare records itemizing what was checked, why it was checked, when it was done, how it was checked, what was determined, and who did the work.

(11) "Electrical Specialty Code" means the National Electrical Code with Oregon amendments.

(12) "Electrical Specialty Code Inspector," formerly referred to as "A-Level Electrical Inspector," is a person certified to inspect under the **Oregon Electrical Specialty Code**.

(13) "Energy generation," as it relates to renewable electrical energy generation equipment, are those products, equipment, and systems in renewable electrical energy systems that produce or convert electrical energy.

(14) "Engineer" is an individual who has completed a minimum four-year degree program in electrical engineering or electrical technology with power specialty, from an accredited college or university and has received a Bachelor of Science degree.

(15) "Field Evaluation" means the evaluation of electrical products by an approved field evaluation firm.

(16) "Indorsement" is a designation within the restricted energy electrical area showing qualifications and training regarding a product area. It determines the scope of restricted energy electrical activity authorized under a restricted energy electrical license.

(17) "Industrial Electronic Equipment" means a device, appliance, motor, or machine regulated, operated, or controlled through fiber optics or by a combination of electron tubes, capacitors, resistors, impedance transformer, and relays; the control circuit, and/or the power circuits having electrons flowing through a vacuum, metallic vapor, gas tubes, or transistors as used in an industrial plant.

(18) "Industrial Plant", for purposes of licensing and electrical master permit inspection program, means an establishment engaged in industrial

ADMINISTRATIVE RULES

production, or service, or a school, hospital, sewer plant, water plant, commercial office building, building occupied by the state or a local government entity, or an institution. For purposes of the elevator program, "industrial plant" does not include a school, hospital, commercial office building, building occupied by the state or a local government entity, or an institution where the elevators are accessible to and used by persons other than the employees of that building.

(19) "Installation" includes external and field wiring, service contracts or warranties by the seller or manufacturer concerning the longevity of the equipment or parts after the original installation. It does not include "start-up" activities where new equipment is placed in service, and that type of work related to delivering and setting in place a piece of machinery.

(20) "Inverter", as it relates to renewable electrical energy generation equipment, is a product, equipment or system that converts direct current into alternating current.

(21) "Jurisdictional Inspector" is a state or municipal inspector having inspection responsibility within their jurisdiction over electrical products or their installation, or both.

(22) "Labeled" means a label, symbol or other identifying mark of a Nationally Recognized Testing Laboratory (NRTL), field evaluation firm or the division that is attached to an electrical product indicating the product is manufactured according to approved standards and tested or evaluated for specific end uses or both.

(23) "Lighting Fixture" is a complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamp to the power supply.

(24) "Limited Energy System" means those systems that include Class 1, Class 2 or Class 3 systems as defined by Section 725.2 of NFPA 70 (National Electrical Code) and audio systems, communication systems and power-limited fire alarm systems, covered in the **Oregon Electrical Specialty Code**.

(25) "Listed Product" means a product was examined and accepted by a Nationally Recognized Testing Laboratory (NRTL) to meet a particular product standard and is maintained on a list of the listing laboratory.

(26) "Maintain" means to preserve electrical equipment in a good sound condition.

(27) "Maintenance" Compare with repair, replacement, and maintain for definition.

(28) "Minimum Electrical Installation Safety Code" means the adopted **Oregon Electrical Specialty Code**.

(29) "Nationally Recognized Testing Laboratory (NRTL)" means a laboratory recognized by the Federal Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.7.

(30) "NEMA" means the National Electrical Manufacturers Association.

(31) "Off grid system" is a stand-alone system, connected to a structure, whose electrical systems are not connected to a utility-supplied electrical production and distribution network.

(32) "On grid system" is an electrical power system connected to a structure whose electrical systems are also connected to a utility-supplied electrical production and distribution network.

(33) "Plug-in Replacement" is a part, component or assembly designed to be inserted directly into a mating receptacle or socket such as printed circuit boards, control relays, control harnesses or other equipment connected by a cord or cable and plug assembly. A plug-in replacement does not have any field wiring that is connected to the plug-in part or assembly.

(34) "Power Circuitry" means that portion of the system, other than control, that provides electrical power to utilization equipment.

(35) "Registered Professional Electrical Engineer" is an individual licensed by the State of Oregon Board of Engineering Examiners as a professional electrical engineer under OAR chapter 820, division 10.

(36) "Renewable Electrical Energy System" as it relates to electrical energy generation, is the total components and subsystems that, in combination, convert wind energy, solar energy, micro-hydroelectricity, photovoltaic energy or fuel cell energy into electrical energy suitable for connection to a utilization load.

(37) "Repair" means to restore worn or damaged parts to a good, sound condition by means other than replacement.

(38) "Replacement" means substitution of complete units of damaged or worn equipment with similar new or used equipment of a size and rating that does not exceed the design capacity of the existing product.

(39) "Signing Supervising Electrician" or "Signing Supervisor" is a licensed supervising electrician who has been authorized by the electrical contractor to sign permits.

(40) "Similar Equipment," as applied to the limited maintenance specialty contractor license established by ORS 479.630(12), means components of light fixtures other than ballasts.

(41) "Special Deputy" means a person certified by the board or Chief Electrical Inspector to perform special deputy inspections allowed under ORS 479.760.

(42) "Stand-alone system" is a renewable electrical energy system that supplies power independently of an electrical production and distribution network.

(43) "Up to the load side of the inverter", as it relates to electrical energy generation equipment, is the renewable electrical energy system equipment up to the alternating current connection terminals of the inverter.

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

Stat. Auth.: ORS 479.630

Stats. Implemented: ORS 479.730

Hist.: DC 10, f. 4-13-72, ef. 5-1-72; DC 12-1981, f. 9-29-81, ef. 10-1-81; DC 10-1982, f. & ef. 3-1-82; Renumbered from 814-022-0105; BCA 44-1991, f. & cert. ef. 12-26-91; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-260-0005; BCD 4-1999, f. & cert. ef. 4-1-99; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-2000; BCD 5-2001, f. 6-7-01, cert. ef. 7-1-01; BCD 23-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 6-29-02; BCD 9-2002, f. 3-29-02, cert. ef. 4-1-02; BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 23-2002, f. 9-13-02, cert. ef. 10-1-02; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2003(Temp), f. & cert. ef. 6-24-03 thru 10-31-03; BCD 15-2003, f. & cert. ef. 10-1-03; BCD 4-2004, f. 3-31-04, cert. ef. 4-1-04; BCD 3-2007, f. 3-30-07, cert. ef. 4-1-07; BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10

918-305-0030

Other Codes or Publications that Impact Electrical Installations

Other codes and publications that impact electrical installations include, but are not limited to those listed below:

(1) Chapter 9 of the **Oregon Structural Specialty Code (OSSC)** relating to fire protection systems and Chapter 3 of the **Oregon Residential Specialty Code** relating to smoke alarm installations.

(2) ORS 455.420 requiring individual electric meters for dwelling units.

(3) The **Oregon Energy Efficiency Specialty Code** which addresses the energy efficiency issues of motors, electric lighting and other electric equipment; and

(4) Chapter 16 and 17 of the **Oregon Structural Specialty Code** which addresses the seismic requirements of nonstructural components and special inspection requirements.

(5) Publications and requirements of the serving utility.

(6) Public Law 101-336, the Americans with Disabilities Act, Part III; Department of Justice Regulations of Friday, July 26, 1991; 28 CFR Part 36, as amended January 1, 1995, including Americans with Disabilities Act Accessibility Guidelines (ADAAG) and Public Law 100-430, the Fair Housing Act and the regulations adopted thereunder.

(7) Chapter 11 of the **Oregon Structural Specialty Code** which relates to the Americans with Disabilities Act for mounting height requirements for electrical and communication receptacles located in affected buildings and structures.

(8) The interconnection of all net-metering facilities and solar photovoltaic systems operated as interconnected power production sources shall comply with the Oregon Electrical Specialty Code. In addition, the interconnection of all net-metering facilities utilizing solid-state inverters shall comply with OAR 860-039 Net Metering.

(9) **Oregon Manufactured Dwelling Installation Specialty Code**. The electrical installations shall be in accordance with the requirements of the **Oregon Electrical Specialty Code**.

(10) The electrical portions of the installation or product standards identified in OAR 918-306-0005. These standards are informational only and are to be used to clarify code intent. They may be used as installation guides when not specifically referenced or covered in the **Oregon Electrical Specialty Code**. Examples include, but are not limited to, the electrical sections of NFPA 20, NFPA 54, NFPA 99, NFPA 101, NFPA 110, NFPA 780 and NFPA 820.

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

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730 & 757.262

Hist.: DC 13-1987, f. & ef. 5-1-87; Renumbered from 814-022-0610; BCA 17-1990, f. 6-27-90, cert. ef. 7-1-90; BCA 12-1993, f. 6-23-93, cert. ef. 7-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-290-0020; BCD 1-2000, f. 1-6-00, cert. ef. 4-1-00; BCD 12-2000, f. 6-3-00, cert. ef. 7-1-00; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 19-2002, f. 8-1-02, cert. ef. 10-1-02; BCD 23-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 29-2005, f. 12-30-05, cert. ef. 1-1-06; BCD 6-2008, f. 3-7-08, cert. ef. 4-1-08; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10

ADMINISTRATIVE RULES

918-460-0000

Reasonable Notice to Interested Parties

Prior to the adoption, amendment, or repeal of any rule relating to the **Oregon Structural Specialty Code** or the **Oregon Energy Efficiency Specialty Code**, the Building Codes Division must give notice of the proposed action:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;
- (2) By notifying persons and organizations on the interested parties mailing list established under ORS 183.335(8) and OAR 918-001-0210.

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

Stat. Auth.: ORS 183.335

Stats. Implemented: ORS 183.335

Hist.: DC 63, f. & ef. 12-5-75; DC 9-1983, f. & ef. 3-15-83; Renumbered from 814-026-0000 & 814-026-0001; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10

918-460-0500

Adopted Oregon Energy Efficiency Specialty Code

(1) Effective July 1, 2010, the **2010 Oregon Energy Efficiency Specialty Code** is the 2009 edition of the International Energy Conservation Code, as published by the International Code Council, and amended by the Building Codes Division.

(2)(a) For the purposes of implementing a phase-in period for the **2010 Oregon Energy Efficiency Specialty Code**, Chapter 13 of the **2007 Oregon Structural Specialty Code** is adopted for the period beginning July 1, 2010 and ending September 30, 2010.

(b) During the phase-in period established in subsection (2)(a), all building departments in the state are required to accept plans for commercial structures designed to either the **2010 Oregon Energy Efficiency Specialty Code** or to Chapter 13 of the **2007 Oregon Structural Specialty Code**.

(c) Code requirements in effect at the time a plan review or permit application is filed controls the construction under the application unless the applicant agrees to be controlled by subsequent changes.

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

Stats. Implemented: ORS 455.110 & 455.511

Hist.: BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10

918-460-0510

Amendments to the Oregon Energy Efficiency Specialty Code

The **2010 Oregon Energy Efficiency Specialty Code** is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **2010 Oregon Energy Efficiency Specialty Code** are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

Stat. Auth.: ORS 455.030, 455.110 & 455.511

Stats. Implemented: ORS 455.030, 455.110 & 455.511

Hist.: BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10

918-480-0010

Amendments to the Oregon Residential Specialty Code

(1) The **Oregon Residential Specialty Code** is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Residential Specialty Code** are placed in this rule, showing the section reference and a descriptive caption.

(2) Effective April 1, 2008:

(a) The 2006 Edition of the Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials and amended by the division, is adopted to provide the plumbing provisions of the **Oregon Residential Specialty Code**; and

(b) The 2008 Edition of the NFPA 70, National Electrical Code as amended by the division is adopted to provide the electrical provisions of the **Oregon Residential Specialty Code**. See OAR chapter 918, division 305 for Oregon amendments to NFPA 70, National Electrical Code.

(3) During the phase-in period established in OAR 918-480-0005(3), plans designed to the **2005 Oregon Residential Specialty Code** must use the plumbing and electrical provisions included in that 2005 code. Plans that are designed to the **2008 Oregon Residential Specialty Code** must use the plumbing and electrical provisions adopted in this rule.

(4) Effective October 1, 2008, the following sections of the **2008 Oregon Residential Specialty Code** are amended:

(a) Section R 109.1.4.1 Moisture content.

(b) Section R318.2 Moisture content.

(5) Effective February 1, 2009, following sections of the **2008 Oregon Residential Specialty Code** are amended:

(a) Section R602.10.9 Interior braced wall support.

(b) Section R613.2 Window sills is added

(c) Section R.613.2.1 Operation for emergency escape is added

(d) Chapter 43 Referenced Standards.

(6) Effective October 1, 2009, the following sections of the **2008 Oregon Residential Specialty Code** are amended:

(a) Section AG106 Entrapment Protection For Swimming Pool And Spa Suction Outlets is added.

(b) Section AG107 Abbreviations.

(c) Section AG108 Standards.

(7)(a) Effective January 1, 2010, the following sections of the **2008 Oregon Residential Specialty Code** are amended:

(A) Section R703.1 General

(B) Section R703.1.1 Exterior Wall Envelope

(b) Changes to the **2008 Oregon Residential Specialty Code** made by subsection (a) of this section are subject to a grace period ending March 31, 2010. During the grace period, the building official must approve installations that meet either the standard adopted under Section R703.1 prior to this amendment or the standard established by this amendment.

NOTE: The amendments are published in their entirety in Table 2-R.

NOTE: Publications referenced are available for review at the division. See division website for information on where to purchase publications.

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

Stat. Auth.: ORS 455.020, 455.110, 455.525 & 455.610

Stats. Implemented: ORS 455.610

Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCA 29-1993, f. 11-24-93, cert. ef. 12-1-93; BCD 6-1995, f. 3-31-95, cert. ef. 4-1-95; BCD 3-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 22-1996(Temp), f. 10-1-96, cert. ef. 10-4-96; BCD 5-1997, f. 3-21-97, cert. ef. 4-1-97; Administrative Reformatting 1-19-98; BCD 3-1998, f. 1-29-98, cert. ef. 4-1-98; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 3-2000, f. 1-14-00 cert. ef. 4-1-00; BCD 19-2000(Temp), f. & cert. ef. 8-15-00 thru 2-10-01; BCD 32-2000, f. 12-27-00, cert. ef. 1-1-01; BCD 3-2001, f. 2-9-01, cert. ef. 3-1-01; BCD 2-2002, f. 3-5-02, cert. ef. 4-1-02; BCD 22-2002(Temp), f. 9-13-02 cert. ef. 10-1-02 thru 3-29-03; BCD 30-2002, f. 12-6-02, cert. ef. 1-1-03; BCD 1-2003(Temp), f. & cert. ef. 1-10-03 thru 3-31-03; BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04; BCD 5-2005, f. & cert. ef. 3-28-05; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 5-2008, f. 2-22-08, cert. ef. 4-1-08; BCD 13-2008(Temp), f. & cert. ef. 7-3-08 thru 12-30-08; BCD 21-2008, f. 9-30-08, cert. ef. 10-1-08; BCD 24-2008(Temp), f. & cert. ef. 10-6-08 thru 4-1-09; BCD 1-2009, f. 1-30-09, cert. ef. 2-1-09; BCD 8-2009, f. 9-30-09, cert. ef. 10-1-09; BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10

918-674-0033

Specific Use Structures

(1) When it can be demonstrated that compliance with strict requirements of the **Oregon Structural Specialty Code** or the **Oregon Residential Specialty Code** are impractical and the intent and purpose of the code can still be met without causing structural failure or risk of fire in employee protection only structures, equipment protection only structures, recreational use structures, and food service structures, the requirements of the code may be modified by the building official charged with administration of the prefabricated structures program.

(2) All new or converted food service structures shall provide required fire-resistant construction and suppression equipment including the structural elements necessary for any mechanical installations.

(3) The division may waive the formal plan review process required in the **Oregon Structural Specialty Code** or the **Oregon Residential Specialty Code** for specific use structures if the plans are prepared by an Oregon registered architect or engineer and it is found that the nature of the work applied for is such that plan review is not necessary to obtain minimum compliance with the code.

(4) If the division determines the work in a specific use structure is not of a highly technical nature and there is no unreasonable risk to life and safety, plans required by the **Oregon Structural Specialty Code** or the **Oregon Residential Specialty Code** may be prepared by a person who is not an Oregon registered architect or engineer.

(5) Specific use structures are exempt from the exterior envelope requirements of the **Oregon Energy Efficiency Specialty Code** provided the roof/ceiling assembly meets the prescriptive requirements of the code and the center of non-bullet-resistant window glass has a minimum U-factor of .35.

(6) Equipment protection only structures are exempt from all of the envelope requirements of the **Oregon Energy Efficiency Specialty Code**.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 455.010, 455.100 & 455.110

Stats. Implemented: ORS 455.110

Hist.: BCD 20-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 19-2003, f. 12-15-03, cert. ef. 1-1-04; BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10

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Rule Caption: Establishes a certification renewal process as required by House Bill 3462 (2009).

Adm. Order No.: BCD 6-2010

Filed with Sec. of State: 5-14-2010

Certified to be Effective: 7-1-10

ADMINISTRATIVE RULES

Notice Publication Date: 12-1-2009

Rules Adopted: 918-098-1028

Rules Amended: 918-098-1000, 918-098-1010, 918-098-1015, 918-098-1020, 918-098-1025, 918-098-1210, 918-098-1215, 918-098-1300, 918-098-1305, 918-098-1310, 918-098-1315, 918-098-1320, 918-098-1325, 918-098-1330, 918-098-1450

Subject: These rules implement the portions of House Bill 3462 (2009) that direct the division to establish a certification renewal procedure for Oregon-issued certifications. These rules require an Oregon Inspector Certification (OIC) for all building officials, inspectors, and plan reviewers and renewal of that certification every three years. The rules lay out the application requirements and fees for obtaining or renewing an OIC. The division will issue an OIC, at no charge, to those certification holders who were not required to have the OIC when that certification was developed in 2005 because of a "grandfather" clause. The rules also change the fee for obtaining Oregon Code Certifications (OCC), but do not require them to be renewed. However, if an OIC is not renewed, all OCC associated with it become invalid. The rules provide for a five year reinstatement period and require a legislative update class as part of the continuing education requirements for an OIC.

Rules Coordinator: Dolores Wagner—(503) 373-1258

918-098-1000

Purpose and Scope

(1) These rules establish minimum training, experience, certification, and certification renewal requirements for building officials and persons who perform specialty code plan review and inspections in this state. The certification requirements for commercial plumbing and electrical inspectors are located in OAR 918-695-0400 through 918-695-0410 and 918-281-0000 through 918-281-0020.

(2) Nothing in these rules is intended to allow a person to violate statute or rule or change certification and licensing requirements set forth in statute.

(3) Nothing in these rules prevents the director from waiving procedural requirements in the rare circumstance where substantial compliance is impracticable.

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 446.250, 455.622 & 455.720

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 18-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1010

Certification Requirements

(1) Unless otherwise stated in this rule, every person who performs building official duties, building code inspections, or plan reviews must possess a valid Oregon Inspector Certification and either:

(a) A valid appropriate Oregon Code Certification for the work being performed, or

(b) A valid appropriate International Code Council certification for the work being performed and the minimum level of experience as follows:

(A) Two years of construction or inspection-related experience or its equivalent;

(B) An approved one year inspection-related education program and one year of construction or inspection-related experience;

(C) A degree from an approved two year inspection-related education program or its equivalent; or

(D) Be a registered Oregon architect, a certified Oregon professional engineer, or have a Bachelor's or Master's degree in architecture or civil or structural engineering.

(2) Notwithstanding section (1)(b) of this rule, a person may perform the duties of a building official with only the Oregon Inspector Certification providing it is valid and the person passes the International Code Council Certified Building Official Legal Management examination within six months of hire.

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

Stat. Auth.: ORS 455.720 & 455.730

Stats. Implemented: ORS 455.720 & 455.730

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 18-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1015

Scope of Work Allowed for Persons With An Oregon Inspector Certification and Oregon Code Certifications

Persons who possess a valid Oregon Inspector Certification and a valid Oregon Code Certification may perform inspections and plan reviews based on the class designated on their certificate. The classes, other than electrical and plumbing inspector classifications found in OAR 918-281-0020 and 918-695-0400, are:

(1) Building Official. Persons certified as an Oregon Building Official may oversee jurisdictions' administration and enforcement of the state building code for those specialty codes assumed by the jurisdiction pursuant to ORS 455.148 or 455.150. Building officials may not perform plan reviews or inspections unless they possess the appropriate certification for the plan review or inspection being performed.

(2) Fire and Life Safety. Persons certified as fire and life safety plans examiners may review construction plans for compliance with the fire and life safety plan review provisions of the **Oregon Structural Specialty Code** and the **Oregon Fire Code** for any structure regulated by the **Oregon Structural Specialty Code**.

(3) A-Level.

(a) Persons certified as A-level structural plans examiners may:

(A) Review construction plans for compliance with the provisions of the **Oregon Structural Specialty Code** and **Oregon Fire Code** for all work regulated by the **Oregon Structural Specialty Code**, except the fire and life safety plan review provisions for structures required to receive a state fire and life safety plan review; and

(B) Review construction plans for work that falls within the B-level structural plans examiner classification.

(b) Persons certified as A-level structural inspectors:

(A) Conduct construction inspections of all work regulated by the **Oregon Structural Specialty Code**; and

(B) Conduct inspections of work that falls within the B-level structural inspector classification.

(c) Persons certified as A-level mechanical inspectors may:

(A) Conduct construction inspections and may review construction plans for all work regulated by the **Oregon Mechanical Specialty Code**; and

(B) Conduct inspections and review construction plans for work that falls within the B-level mechanical inspector classification.

(4) B-Level.

(a) Persons certified as B-level structural plans examiners may review construction plans for compliance with the provisions of the **Oregon Structural Specialty Code** and **Oregon Fire Code** for work regulated by the **Oregon Structural Specialty Code**, except:

(A) Work in structures required to receive a state fire and life safety plan review; and

(B) Work in structures required to be designed by an Oregon registered architect or certified professional engineer pursuant to ORS Chapter 671.

(b) Persons certified as B-level structural inspectors may conduct construction inspections of work regulated by the **Oregon Structural Specialty Code**, except:

(A) Work in structures required to receive a state fire and life safety plan review; and

(B) Work in structures required to be designed by an Oregon registered architect or certified professional engineer pursuant to ORS Chapter 671.

(c) Persons certified as B-level mechanical inspectors may conduct construction inspections of work regulated by the **Oregon Mechanical Specialty Code**, except:

(A) Work in structures required to receive a state fire and life safety plan review; and

(B) Work in structures required to be designed by an Oregon registered architect or certified professional engineer pursuant to ORS chapter 671.

(d) Persons certified as B-level structural plans examiners, B-level structural inspectors, or B-level mechanical inspectors:

(A) May qualify to be certified to review construction plans or conduct inspections of structures regulated by the **Oregon Residential Specialty Code**; and

(B) May not be authorized to review construction plans or conduct inspections of structures that are outside the B-level classification without first obtaining the appropriate certification.

(5) One and two family dwelling or residential.

(a) Persons certified as one and two family dwelling or residential:

ADMINISTRATIVE RULES

(A) Structural inspectors may conduct construction inspections of structural work regulated by the **Oregon Residential Specialty Code**, excluding apartment buildings, and manufactured structures and manufactured structure accessory buildings and structures under the **Oregon Manufactured Dwelling Installation Specialty Code**, the provisions of OAR chapter 918, division 500, or the Manufactured Home Construction and Safety Standards located in 24 CFR 3280 and 3282 but not the scope of work described in OAR 918-098-1305;

(B) Mechanical inspectors may conduct inspections of mechanical work regulated by the **Oregon Residential Specialty Code**, excluding apartment buildings, and manufactured dwelling alterations under the **Oregon Manufactured Dwelling Installation Specialty Code** and the provisions of OAR chapter 918, division 500;

(C) Plumbing inspectors may conduct inspections of plumbing work regulated by the **Oregon Residential Specialty Code**, excluding apartment buildings; and

(D) Electrical inspectors may conduct inspections of electrical work regulated by the **Oregon Residential Specialty Code**, excluding apartment buildings.

(b) Persons certified as a one-and-two family dwelling plans examiners may review construction plans for compliance with provisions of the **Oregon Residential Specialty Code**, excluding apartment buildings, and structures under the **Oregon Manufactured Dwelling Installation Specialty Code**. The provisions of OAR chapter 918, division 500, or the Manufactured Home Construction and Safety Standards located in 24 CFR 3280 and 3282.

(c) Persons certified as a one and two family dwelling or residential inspectors and plans examiners may not be authorized to review construction plans or conduct inspections of either A-level or B-level structures without the required commercial A-level or B-level certification.

(d) See OAR 918-098-1325 for additional requirements of one and two family dwelling residential inspectors and plans examiners performing manufactured dwelling alteration inspections or plan reviews.

(e) See OAR 918-098-1330 for additional requirements of one and two family dwelling residential inspectors performing manufactured structure accessory structure or accessory building inspections.

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

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.720

Hist.: DC 24-1978, f. & ef. 9-1-78; DC 10-1980, f. & ef. 9-10-80; DC 4-1983, f. & ef. 1-12-83; Renumbered from 814-003-0065; BCA 16-1992, f. & cert. ef. 8-11-92; BCD 8-1997, f. & cert. ef. 4-1-97; Renumbered from 918-099-0065; BCD 15-1997, f. 9-30-97, cert. ef. 10-1-97; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0060; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0060; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 13-2007, f. 12-28-07 cert. ef. 1-1-08; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1020

Expanded Scope of Work for Oregon A- or B-Level or Commercial Mechanical Inspectors

(1) Persons may conduct inspections of brazing or welding work related to the installation, alteration, or repair of refrigeration piping systems, except as regulated by the Oregon Boiler and Pressure Vessel Program under OAR chapter 918, division 225.

(2) To perform work under section (1) of this rule, these persons must successfully complete a training program in accordance with either Section IX, "Welding and Brazing Qualification" of the ASME Boiler and Pressure Vessel Code, or AWS B2.2, "Standard for Brazing Procedure and Performance Qualification" administered by a division-approved organization.

(3) Inspector certification for refrigeration piping in residential structures is not required.

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

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.720

Hist.: BCD 2-2001, f. 2-2-01, cert. ef. 7-1-01; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0900; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0900; Renumbered from 918-098-1080, BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1025

Oregon Inspector Certification and Oregon Code Certification Application Process; Testing Procedures

(1)(a) All persons who seek certification to perform the duties of a building official, inspector, or plans examiner must apply for the Oregon Inspector Certification as follows:

- (A) Submit a division-approved application with the \$125 fee; and
- (B) Successfully pass the Oregon Inspector Certification examination.

(b) Applicants for an Oregon Inspector Certification who fail the examination may reapply under this section to retest for a fee of \$80.

(2) Persons applying for an Oregon Code Certification under these rules, or under OAR 918-281-0020 and 918-695-0400 must:

(a) Submit a division-approved application demonstrating appropriate experience, as defined in OAR chapter 918, division 281, 695, or these rules;

(b) Pay the \$80.00 fee; and

(c) Successfully pass the appropriate Oregon Code Certification exam.

(3) Applicants for an Oregon Code Certification who fail the examination may reapply under section (2) of this rule to retest. Applicants may not retake the test for 30 days after each failed attempt.

(4) If an applicant fails to take the Oregon Inspector Certification exam or the Oregon Code Certification exam within 60 days of being approved to do so, the applicant must re-apply under section (1) or (2) of this rule.

Stat. Auth.: ORS 455.720, 455.730 & 455.735

Stats. Implemented: ORS 455.720, 455.730 & 455.735

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1028

Oregon Inspector Certification Renewal Process

Effective July 1, 2010:

(1) All Oregon Inspector Certifications expire on November 1, 2010 and every three years thereafter.

(2)(a) Oregon Inspector Certification renewals must be completed on or prior to the certification expiration date by:

(A) Completing the renewal form;

(B) Completing all continuing education requirements; and

(C) Paying the certification renewal fee of \$125 for a three year term.

(b) A certification not renewed on or prior to the certification expiration date is expired.

(3) The division mails one renewal notification to the last known address of the licensee at least 45 days prior to certification expiration. It is the responsibility of the certification holder to notify the division of a change of address.

(4)(a) An expired certification may be reinstated up to 5 years from the certification expiration date by:

(A) Completing the reinstatement form;

(B) Completing all continuing education requirements; and

(C) Paying the certification renewal fee of \$125.

(b) A certification expired for more than 5 years from the certification expiration may not be reinstated and requires application as provided in OAR 918-098-1025(1).

(5) Anyone with an Oregon Code Certification issued prior to October 1, 2005, who does not already possess an Oregon Inspector Certification, will be issued an Oregon Inspector Certification without fee or testing requirements. This certification will expire on November 1, 2010 and must be renewed according to section (2) of this rule.

Stat. Auth.: ORS 455.720, 455.730 & 455.735

Stats. Implemented: ORS 455.720, 455.730 & 455.735

Hist.: BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1210

Residential Plumbing Inspectors

(1) A person possessing a "One and Two Family Dwelling Plumbing Inspector" certification prior to July 1, 2005, is considered a "Residential Plumbing Inspector" for the purpose of these rules.

(2) A person issued a residential plumbing inspector certification must also possess a valid Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing residential plumbing inspections.

(3) A residential plumbing inspector may conduct inspections for:

(a) Plumbing work regulated by the **Oregon Residential Specialty Code**, except for apartment buildings and where connection to the building is not a separate plumbing system.

(b) Plumbing work on manufactured dwelling alterations and manufactured structure accessory buildings and structures under the **Oregon Manufactured Dwelling Installation Specialty Code** and the provisions of OAR chapter 918, division 500.

(4) To qualify to perform work as a residential plumbing inspector, individuals must demonstrate compliance with at least one of the following minimum experience, education, or training requirements:

(a) A valid division certification as an **Oregon Plumbing Specialty Code** inspector; or

ADMINISTRATIVE RULES

(b) Two years of experience designing or installing plumbing systems as a journeyman plumber or its equivalent; or

(c) 2 years of experience as a plumbing inspector in another jurisdiction inspecting plumbing systems in commercial or residential structures for compliance with a recognized code for plumbing installations; or

(d) 90 quarter hours or 60 semester hours education and training in mechanical engineering, which includes designing and installing plumbing systems, through a college or community college; or

(e) Valid division certification as a one and two family dwelling or residential inspector under one or more provisions of the **Oregon Residential Specialty Code** and:

(A) 1 year of experience administering and enforcing another provision of the **Oregon Residential Specialty Code**; and

(B) Confirmation by the building official of the jurisdiction that employs the applicant that the applicant has completed a one and two family dwelling or residential plumbing inspector cross-training program that meets the minimum requirements established by the division.

(f) Any combination of experience designing, installing, or inspecting plumbing systems totaling 3 years.

(5) Persons certified by a nationally recognized certification body to inspect plumbing systems in commercial or residential structures according to a recognized code in plumbing installations may be granted 1 year of credit toward the experience requirements listed in subsections (4)(b) and (c) of this rule.

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

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.622

Hist.: BCD 8-1997, f. & cert. ef. 4-1-97; BCD 38-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0220; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0220; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1215

Residential Electrical Inspectors

(1) A person possessing a "One and Two Family Dwelling Electrical Inspector" certification prior to July 1, 2005, is considered a "Residential Electrical Inspector" for the purpose of these rules.

(2) A person issued a residential electrical inspector certification must also possess a valid Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing residential electrical inspections.

(3) Residential electrical inspectors may conduct inspections for:

(a) Electrical work regulated by the **Oregon Residential Specialty Code**, excluding apartment buildings; and

(b) Electrical work on manufactured dwelling alterations and manufactured structure accessory buildings and structures under the **Oregon Manufactured Dwelling Installation Specialty Code** and the provisions of OAR chapter 918, division 500.

(4) To qualify to perform work as a residential electrical inspector, individuals must demonstrate compliance with at least one of the following minimum experience, education, or training requirements:

(a) A valid division certification as an **Oregon Electrical Specialty Code** inspector; or

(b) 2 years of Experience installing electrical systems as a limited residential journeyman electrician or a general journeyman electricians license or their respective equivalents; or

(c) 2 years of experience as an electrical inspector in another jurisdiction inspecting electrical installations in commercial or residential structures for compliance with a recognized code for electrical installations; or

(d) 90 quarter hours or 60 semester hours education and training in electrical engineering, which includes designing and installing electrical systems, through a college or community college; or

(e) Valid division certification as a one and two family dwelling or residential inspector under one or more provisions of the **Oregon Residential Specialty Code**, and:

(A) 1 year of experience administering and enforcing another provision of the **Oregon Residential Specialty Code**; and

(B) Confirmation by the division that an applicant has completed a one and two family dwelling or residential electrical inspector cross-training program that meets the minimum requirements established by the division.

(f) Any combination of experience or education listed in subsections (a) through (d) of this section designing, installing, or inspecting electrical systems totaling 3 years.

(5) Persons certified by a nationally recognized certification body to inspect electrical installations in commercial or residential structures according to a recognized code in electrical installations may be granted 1

year of credit toward the experience requirements and may be considered as meeting some requirements of a division approved cross-training program, except the experience listed in subsections (4)(b) and (c) of this rule.

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

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.622

Hist.: BCD 8-1997, f. & cert. ef. 4-1-97; BCD 38-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0230; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0230; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1300

Certifications Related to Manufactured Structures and Parks

Scope. The rules in OAR 918-098-1300 to 918-098-1330 relate to certifications for inspectors and plans examiners dealing with manufactured dwellings, recreational vehicles, manufactured dwelling parks, organizational camps, recreation parks, and picnic parks.

(1) A person issued a manufactured structure installation inspector, recreational vehicle inspector certification, manufactured structure construction inspector, or park and camp inspector certification must also possess a valid Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing inspections.

(2) Hiring Non-Certified Persons. The division or a jurisdiction may employ a person not meeting the minimum requirements of OAR 918-098-1305 through 918-098-1320 while the person is being trained or waiting to qualify to take the division examination. During this period, the person may only perform inspections or plan reviews under the direct supervision of appropriately certified trainers. Training must be provided by an inspector or plans examiner having a minimum of three years experience in the same certification or a person approved by the board. This rule does not waive the requirements of ORS 455.730 or permit the division or jurisdiction to hire or use persons whose certifications have lapsed or been revoked.

(3) Inspectors and plans examiners of prefabricated structures do not require special certifications but must have the appropriate certifications required for performing inspections or plan reviews under the specific specialty code being used.

(4) Applicable definitions in OAR 918-098-1005 apply in addition to the following definitions that only apply to OAR 918-098-1300 through 918-098-1330:

(a) "Board" means the Residential and Manufactured Structures Board.

(b) "Building Construction," relating to experience qualifications, means site-built construction, prefabricated construction, or manufactured structure construction.

(c) "One Year," relating to experience qualifications, means 2,000 hours of work experience, 45 or more credit hours of schooling in the quarter system, or 30 or more credit hours of schooling in the semester system.

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 446.250 & 455.720

Hist.: BCA 25-1990, f. & cert. ef. 10-17-90; BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; Renumbered from 918-099-0130; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0300; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0300; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1305

Manufactured Structure Installation Inspector Certification

(1) Scope of Activities and Authority.

(a) A manufactured structure installation inspector conducts onsite field inspections of manufactured dwelling or park trailer installations including site preparation, setbacks, drainage, stand, foundation support, earthquake bracing systems, tie-downs, under-floor enclosures, access, egress, plumbing utility connections (within 30 lineal feet of the manufactured dwelling), mechanical connections and electrical feeder assembly connections (as defined by **Article 550 of the National Electrical Code**), electrical fixture connections, and plumbing, mechanical, and electrical crossover connections for manufactured structures under ORS 446.230 and 446.240;

(b) This certification does not include inspections or plan reviews of manufactured dwelling alterations or manufactured structure accessory structures and accessory buildings. See OAR 918-098-1325 and 918-098-1330 for certification requirements.

(c) This certification can be used only in a jurisdiction that:

(A) Meets all of the requirements of this rule and OAR 918-500-0055;

(B) Complies with ORS 446.250 and 446.253(2) relating to the delegation of full responsibility for permit issuance and inspections;

(C) Issues permits according to ORS 446.253; and

ADMINISTRATIVE RULES

(D) Enforces the current edition of the **Oregon Manufactured Dwelling Installation Specialty Code**, the provisions of OAR chapter 918, division 500, and all referenced standards contained therein.

(2) Procedure for Qualification. An applicant for certification under this rule must meet the general qualifications in section (3) of this rule, make application, pay the required fees, attend a division-approved training program, and pass a division-approved examination.

(3) Experience, Education, and Training Requirements. An applicant must have at least one of the following:

(a) 2 years of supervisory experience in the building construction industry; or

(b) 2 years of experience in design work related to building construction; or

(c) Hold a valid division certification as a building inspector or plans examiner; or

(d) 2 years of experience as a quality assurance inspector in a manufactured structure manufacturing plant; or

(e) 2 years of experience as an Oregon licensed manufactured dwelling installer; or

(f) An associate degree or equal from a division-approved education program in a construction-related field; or

(g) Any combination of the experience and education listed in subsections (a) through (f) of this section equaling at least 2 years; or

(h) A one year certificate of completion in building inspection technology from a division-approved education program and completion of 180 hours working under the supervision of a person with a minimum of three years experience as a certified manufactured structure installation inspector or a person approved by the board.

(4) Inspector Training and Examination. An applicant must successfully complete a division-approved manufactured structure installation inspector training program and pass a division-approved examination covering:

(a) The **Oregon Manufactured Dwelling Installation Specialty Code**, the provisions of OAR chapter 918, division 500, and those standards referenced therein;

(b) ORS 446.003, 446.155 to 446.253, and 446.395 to 446.420; and

(c) OAR chapter 918, divisions 500, 515, and 530.

(5) A Manufactured Structure Installation Inspector must also possess an Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing inspections.

(6) Revocation. The division is authorized to revoke this certification under ORS 446.255. Persons certified under this rule who fail to meet the minimum continuing education requirements are subject to revocation. If the minimum continuing education is met within 60 days from the date it was originally due, the division may discontinue any pending revocation action based on a failure to meet minimum continuing education requirements.

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

Stat. Auth.: ORS 446.250, 446.255 & 455.720

Stats. Implemented: ORS 446.250, 446.255 & 455.720

Hist.: BCA 25-1990, f. & cert. ef. 10-17-90; BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; Renumbered from 918-099-0135; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0310; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0310; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1310

Recreational Vehicle Inspector Certification

(1) Scope of Activities and Authority. A recreational vehicle inspector conducts field, dealer lot, repair operation, alteration, visual and manufacturing plant inspections, reviews plans, and provides other technical services for recreational vehicle manufacturers, dealers, and owners in accordance with ORS 446.185 and 446.160(1).

(2) Procedure for Qualification. An applicant for certification under this rule must meet the general qualifications in section (3) of this rule, make application, pay the required fees, and pass a division-approved examination.

(3) Experience, Education, and Training Requirements. An applicant for certification as a recreational vehicle inspector must have at least one of the following:

(a) 2 years of experience as a supervisor in the building construction industry;

(b) 2 years of experience in design work related to building construction;

(c) 2 years of experience as a certified building inspector or plans examiner;

(d) 2 years of experience as a quality assurance inspector in a manufactured structure plant;

(e) 2 years of experience as a division-certified recreational vehicle quality assurance technician;

(f) 2 years of code-related experience as a recreational vehicle technician;

(g) An associate degree or equal from a division-approved education program in a construction-related field;

(h) Any combination of the experience and education listed in subsections (a) through (g) of this section equaling at least 2 years; or

(i) A one year certificate of completion in building inspection technology from a division-approved education program and completion of 800 hours working under the supervision of a person with a minimum of three years experience as a certified recreational vehicle inspector or a person approved by the board.

(4) Inspector Examination. An applicant for certification as a recreational vehicle inspector must pass a division-approved examination covering the following:

(a) **American National Standards Institute (ANSI) A119.2 (1999 Edition);**

(b) **American National Standards Institute (ANSI) A119.5 (1998 Edition);**

(c) **National Electrical Code (NEC) NFPA 70 (2008 Edition);**

(d) ORS 446.003 and 446.155 to 446.253; and

(e) OAR chapter 918, divisions 525 and 530.

(5) A Recreational Vehicle Inspector must also possess an Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing inspections.

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

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.720

Hist.: BCA 25-1990, f. & cert. ef. 10-17-90; BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; Renumbered from 918-099-0140; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0320; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0320; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1315

Manufactured Structure Construction Inspector Certification

(1) Scope of Activities and Authority. A manufactured structure construction inspector conducts field, dealer lot, consumer assistance, alteration, visual and manufacturing plant inspections, reviews plans, and provides technical services for manufactured dwelling manufacturers, dealers, and owners.

(2) Procedure for Qualification. An applicant for this certification must meet the general qualifications in section (3) of this rule, make application, pay the required fees, and pass a division-approved examination.

(3) Experience, Education, and Training Requirements. An applicant for certification as a manufactured structure construction inspector must have at least one of the following:

(a) 2 years of experience as a supervisor in the building construction industry;

(b) 2 years of experience in design work related to building construction;

(c) 2 years of experience as a certified building inspector or plans examiner;

(d) 2 years of experience as a quality control inspector in a manufactured structures plant;

(e) An associate degree or equal from a division-approved education program in a construction-related field; or

(f) Any combination of the experience and education listed in subsections (a) through (e) of this section equaling at least two years; or

(g) A one year certificate of completion in building inspection technology from a division-approved education program and completion of 800 hours working under the supervision of a person with a minimum of three years experience as a certified manufactured structure construction inspector or a person approved by the board.

(4) Inspector Examination. An applicant for certification as a manufactured structure construction inspector must pass a division-approved examination covering:

(a) **Oregon Manufactured Dwelling Installation Specialty Code;**

(b) **National Electrical Code (NEC) NFPA 70 (2008 Edition);**

(c) **Manufactured Home Construction and Safety Standards Act;**

(d) **Public Law 93-383, Title VI;**

(e) **ORS 446.003 and 446.155 to 446.253; and**

(f) **OAR chapter 918, division 500.**

ADMINISTRATIVE RULES

(5) A Manufactured Structure Construction Inspector must also possess an Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing inspections.

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

Stat. Auth.: ORS 446.250 & 455.720

Stats. Implemented: ORS 446.250 & 455.720

Hist.: BCA 25-1990, f. & cert. ef. 10-17-90; BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; Renumbered from 918-099-0145; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0330; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0330; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1320

Park and Camp Inspector Certification

(1) Scope of Activities and Authority.

(a) A park and camp inspector conducts field inspections, reviews plans, and provides other technical services for manufactured dwelling parks, recreational parks, organizational camps, and picnic parks under ORS 446.066 and 446.335.

(b) This certification can only be used in a jurisdiction that:

(A) Meets all of the requirements of this rule;

(B) Complies with ORS 446.430, 455.170, and 455.680 relating to the delegation of full responsibility for permit issuance and inspections; and

(C) Issues permits, enforces the current edition of ORS chapter 446, OAR chapter 918, divisions 600 and 650, and all referenced standards contained therein.

(2) Procedure for Qualification. An applicant for certification under this rule must meet the general qualifications in section (3) of this rule, make application, pay the required fees, and pass a division-approved examination.

(3) Experience, Education, and Training Requirements. An applicant for certification as a park and camp inspector must have at least one of the following:

(a) 2 years of experience as a supervisor in the building or road construction industry;

(b) 2 years of experience in design work related to building or road construction;

(c) 2 years of experience as a road construction inspector;

(d) 2 years of experience as a surveyor or landscape architect;

(e) 2 years of experience as a registered sanitarian;

(f) 2 years of experience as an Oregon licensed manufactured dwelling installer;

(g) A division certification as a building inspector or plans examiner;

(h) An associate degree or equal from a division-approved education program in a construction-related field; or

(i) Any combination of the experience and education listed in subsection (a) through (h) of this section equaling 2 years;

(j) A one year certificate of completion in building inspection technology from a division-approved education program and completion of 180 hours working under the supervision of a person with a minimum of three years experience as a certified park and camp inspector or a person approved by the board.

(4) Inspector Examination. An applicant for certification under this rule must pass a division-approved park and camp inspector certification examination covering:

(a) ORS 446.003 to 446.140, 446.310 to 446.350, 446.430, 455.170, and 455.680;

(b) OAR chapter 918, divisions 600 and 650; and

(c) **2002 Oregon Manufactured Dwelling and Park Specialty Code**, Chapters 1, 2, 9, and 10.

(5) A Park and Camp Inspector must also possess an Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing inspections.

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

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.720

Hist.: BCA 25-1990, f. & cert. ef. 10-17-90; BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; Renumbered from 918-099-0150; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0340; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0340; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1325

Requirements for Alteration Inspection and Plan Review of Manufactured Dwellings

(1) Scope of Work. Manufactured dwelling alteration inspections and plan reviews include on-site field inspections of alterations including structural, fire and life safety, electrical, plumbing, and mechanical alterations made to manufactured dwellings after the initial sale of the home to the first

consumer after all the terms of the sales contract have been met. Most alteration inspections made prior to this time are the responsibility of the division and must be performed by a certified manufactured structure construction inspector. All alteration inspections made to recreational vehicles and park trailers are the responsibility of the division and must be performed by a certified recreational vehicle inspector.

(2) Certifications. Inspectors of manufactured dwelling alterations are required to be certified by ORS 446.250. The division requires that persons performing inspections or plan reviews on manufactured dwelling alterations have:

(a) An Oregon Inspector Certification and the appropriate Oregon Code Certification under OAR 918-098-1015 for the **Oregon Residential Specialty Code** for the specific discipline being used; or

(b) An Oregon Inspector Certification and the appropriate ICC Residential Certification as described in OAR 918-098-1010.

(3) The requirement in section (2) is not applicable to alteration inspections performed on manufactured homes still under the jurisdiction of the U.S. Department of Housing and Urban Development (HUD), recreational vehicles, or park trailers.

(4) Authority. Inspectors and plans examiners of manufactured dwelling alterations may only inspect or review plans in a jurisdiction that has been delegated the manufactured dwelling alteration program and that:

(a) Complies with ORS 446.250 and 446.253(2) relating to the delegation of full responsibility for permit issuance and inspections;

(b) Issues permits and enforces the current edition of ORS chapter 446 and OAR chapter 918, divisions 500 and 520;

(c) Meets the requirements of OAR 918-500-0055 for delegation; and

(d) Enforces the current edition of the **Oregon Manufactured Dwelling Installation Specialty Code** and all referenced standards contained therein.

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

Stat. Auth.: ORS 446.250 & 455.720

Stats. Implemented: ORS 446.250 & 455.720

Hist.: BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0350; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0350; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

918-098-1330

Manufactured Structure Accessory Structure or Accessory Building Inspection

(1) Scope of Work. Manufactured structure accessory structure or accessory building inspections and plan reviews include on-site field inspections of installations of manufactured structure accessory structures and accessory buildings (i.e., carports, ramadas, cabanas, garages, storage sheds, awnings, decks, steps, and ramps).

(2) Certifications. Inspectors of manufactured structure accessory structures and accessory buildings are required to be certified by ORS 446.250. To satisfy this mandate, the division requires that persons performing inspections or plan reviews on manufactured structure accessory structures or accessory buildings have a valid Oregon Inspector Certification and the appropriate Oregon Code Certification under OAR 918-098-1015 or a valid Oregon Inspector Certification and the appropriate ICC Residential Certification as described in OAR 918-098-1010 for the **Oregon Residential Specialty Code** for the specific discipline being used.

(3) Authority. Inspectors of manufactured structure accessory structures and accessory buildings may only inspect or review plans in a jurisdiction that has been delegated the manufactured dwelling accessory structure and accessory building program and that:

(a) Complies with ORS 446.250 and 446.253(2) relating to the delegation of full responsibility for permit issuance and inspections;

(b) Complies with the **Oregon Manufactured Dwelling Installation Specialty Code** and all referenced standards contained therein;

(c) Issues permits and enforces the current edition of ORS Chapter 446 and OAR chapter 918, division 500;

(d) Meets the requirements of OAR 918-500-0055 for delegation; and

(e) Enforces the current edition of the **Oregon Manufactured Dwelling Installation Specialty Code** and all referenced standards contained therein.

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

Stat. Auth.: ORS 446.250 & 455.720

Stats. Implemented: ORS 446.250 & 455.720

Hist.: BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0360; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0360; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

ADMINISTRATIVE RULES

918-098-1450

Continuing Education Requirements

(1) Persons performing inspections and plan review in Oregon are required to obtain at least 16 hours of continuing education every three years, beginning January 1, 2006.

(a) At least one course during each three-year cycle must be a division-approved code-change course related to the scope of work allowed under each certification, if the code related to that specific certification changed during the cycle.

(b) At least one course must be a division approved course covering new legislation relating to the administration and enforcement of building inspection programs. This course is required to be taken every other year within one year after adjournment of the regular legislative session.

(2) In addition to the minimum hours in section (1), if a person has more than one Oregon Code Certification or ICC certification, the person must take at least one division-approved code change course for each certification.

(3) Building officials are required to obtain six hours continuing education credits every other year in classes related to the duties of a building official. The classes must also include at least one division approved class covering new legislation relating to the administration and enforcement of building inspection programs within one year after adjournment of the regular legislative session.

(4) The division may periodically verify that a person is maintaining and recording their continuing education.

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.720

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10

Department of Consumer and Business Services, Division of Finance and Corporate Securities Chapter 441

Rule Caption: Public Records Requests.

Adm. Order No.: FCS 4-2010

Filed with Sec. of State: 4-27-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 4-1-2010

Rules Repealed: 441-002-0005, 441-002-0010, 441-002-0020, 441-002-0030, 441-002-0040

Subject: The Department of Consumer and Business services is amending its rule regarding public records requests, found in chapter 440, division 005. The goal of the rule making is to reflect recent changes in the law and to make the process of requesting public records from DCBS more clear for the public. As part of the rule making, DCBS is repealing public records provisions found in its various division rules. This will avoid duplication with the agency-wide rules and give the public a central source for agency rules on public records requests.

In addition to amending the rules, the department and each of its divisions will post the agency's written procedure for making public records requests on their websites – so that citizens have access to clear information about how to make requests.

Rules Coordinator: Kristen Miller—(503) 947-7866

Rule Caption: Technical revisions to pawnbroker statutes.

Adm. Order No.: FCS 5-2010

Filed with Sec. of State: 5-6-2010

Certified to be Effective: 5-6-10

Notice Publication Date: 4-1-2010

Rules Amended: 441-740-0000, 441-740-0010, 441-740-0015

Rules Repealed: 441-740-0050

Subject: The 2009 legislature adopted House Bill 2753 to update the pawnbroker statutes. The bill authorized a new fee for lost, destroyed, or stolen pawn tickets and limited the fee that may be charged when a registered firearm is pawned to the time of the initial pawn. It also allowed an increase in the maximum storage fee to three percent of the value of the pledge loan, but capped this fee at \$100. HB 2753 also clarified when a loan is a renewal versus a new loan and allowed

a pawnbroker to pass on any fees some are being charged by local governments.

These rules update the firearms fee and forfeiture notice rules, and delete rules that are now superseded by statute.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-740-0000

Definitions

“Advertising” includes signs, inside or outside of a business premise, advertising in newspapers and print media, on radio, television, and electronic media by the licensee or on the licensee's behalf.

Stat. Auth.: ORS 726.260

Stats. Implemented: ORS 726.010 & 726.040

Hist.: FID 2-1985, f. & ef. 7-22-85; Renumbered from 805-076-0050; FCS 11-2008, f. & cert. ef. 11-13-08; FCS 5-2010, f. & cert. ef. 5-6-10

441-740-0010

Fees Payable by Pawnbrokers to the Director

(1) The annual fees paid pursuant to ORS 726.125 (2) shall be \$350.

(2) Whenever the Director provides extra services to a pawnbroker under ORS 726.125(3) or conducts an examination of a licensed pawnbroker under 726.250, the Director will collect the cost to the Division for the Director and the examiners and other Division employees used in providing the extra services or conducting the examination. The rate of charge is \$75 an hour per person.

(3) In addition to the charges fixed by section (2) of this rule, the Director will collect any additional costs directly attributable to extra services provided under ORS 726.125(3) or an examination made under 726.250.

(4) The director may, by order, reduce the fees assessed for any specific year.

Stat. Auth.: ORS 726.125 & 726.250

Stats. Implemented: ORS 726.125 & 726.250

Hist.: FID 7-1985, f. & ef. 12-31-85; Renumbered from 805-076-0100; FCS 5-1994, f. & cert. ef. 4-25-94; FCS 11-2000, f. 10-5-00, cert. ef. 9-1-01; FCS 8-2001, f. & cert. ef. 8-1-01; FCS 4-2002, f. & cert. ef. 10-25-02; FCS 3-2005, f. & cert. ef. 9-6-05; FCS 8-2008, f. & cert. ef. 8-28-08; FCS 5-2010, f. & cert. ef. 5-6-10

441-740-0015

Fees Charged by Pawnbrokers to Pledgors

A pawnbroker may pass through to the pledgor “a reasonable fee” for preparing a notice for delivery by certified mail, return receipt requested. A fee not to exceed \$5 will be deemed reasonable. Postal costs may also be recovered. Mileage costs and employee time to travel to and from the post office are not considered “preparing the notice” and are not recoverable. A pawnbroker may not charge a fee for preparing and mailing a notice sent by regular mail.

Stat. Auth.: ORS 726.260

Stats. Implemented: ORS 726.340, 726.390, 726.395 & 726.400

Hist.: FCS 11-2008, f. & cert. ef. 11-13-08; FCS 5-2010, f. & cert. ef. 5-6-10

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Creates process for waiver of 95 percent retention rate requirement for association health plans.

Adm. Order No.: ID 9-2010(Temp)

Filed with Sec. of State: 4-22-2010

Certified to be Effective: 4-22-10 thru 10-15-10

Notice Publication Date:

Rules Amended: 836-053-0081

Subject: This rule creates the process the Director of the Department of Consumer and Business Services will use to consider a request to waive the 95 percent retention rate requirements of ORS 743.734. Under Oregon law (ORS 743.734), an association health plan must retain 95 percent of its enrollees in order to be exempt from small employer group rating laws. An association health plan that fails to meet this requirement has 12 months within which to correct the deficiency in retention. If the association fails to correct the deficiency the association health plan must be rated under small group rating laws, which may result in significant rate increases.

The rule requires association health plans seeking a waiver to submit a written request to the director between the 3rd and 6th month of the 12-month correction period. With the request for waiver, the association health plans must submit information about the small

ADMINISTRATIVE RULES

employer groups covered by the association plan and why some groups left the association plan. The information required that will allow the director to understand why the association failed to meet the retention rate and to determine whether the association engaged in any practice that caused, or was designed to cause, any small employer group to terminate coverage under the plan.

The rules require the director to consider the waiver request and within 90 days after the director receives the request, to deny the request of allow a waiver of the 95 percent retention requirement of ORS 743.734(7). The director must find that the association health plan did not engage in any practice that caused, or was designed to cause, any small employer group to terminate coverage under the plan. The director may establish the period of time that the waiver will be in effect and may withdraw a waiver at any time if an association health plan fails to comply with any requirement of the rule or if the director finds that that an association health plan engaged in any practice that caused, or was designed to cause, any small employer group to terminate coverage under the plan.

At the expiration of a waiver, an association health plan is exempt from ORS 743.734(1) if the association satisfies the requirements of ORS 743.734(7) and (8). An association health plan that is denied a request for waiver may not qualify for the exemption from ORS 743.734(1) or submit an additional request for waiver until at least one year after the end of the correction period.

Rules Coordinator: Sue Munson—(503) 947-7272

836-053-0081

Association Health Plans; Requirements Regarding Small Employer Group Members

(1) As used in this rule:

(a) “Correction period” means the 12-months immediately following the date an association fails to maintain the 95 percent retention rate required under ORS 743.734(7) during which an association health plan may correct the retention level before losing the exemption from the requirements of ORS 743.734(1).

(b) “Waiver” means the exemption granted by the Director of the Department of Consumer and Business Services to an association health plan from the 95 percent retention rate required by ORS 743.734(7).

(2) The carrier of an association health plan shall determine whether the plan maintains the 95 percent retention rate required by ORS 743.734(7) not less than once in any 12-month rating period or plan year. The carrier shall report to the Director of the Department of Consumer and Business Services any association health plan for which the retention rate is less than 95 percent not later than the end of the first quarter following the 12-month rating period or plan year. The carrier of an association health plan shall also provide additional information regarding the association health plan pursuant to ORS 731.296, when requested by the director.

(3) The carrier of an association health plan shall determine whether the plan maintains the 95 percent rate of retention of member employers of an association health plan required by ORS 743.734(7) according to the following formula, in the following sequence:

(a) By determining the total number of member employers covered by the association health plan on the date one year prior to the plan year anniversary date;

(b) By determining the number of member employers covered by an association health plan on the date one year prior to the determination date that terminated coverage during the year preceding the determination date for a reason stated in ORS 743.734(8);

(c) By subtracting the number determined in subsection (b) of this section from the number determined in subsection (a) of this section;

(d) By determining the number of member employers covered by an association health plan on the date one year prior to the determination date that terminated coverage during the year preceding the determination date for any reason other than those stated in ORS 743.734(8);

(e) By subtracting the number determined in subsection (d) of this section from the number determined in subsection (c) of this section; and

(f) Determining the retention rate by dividing the number determined in subsection (e) of this section by the number determined in subsection (c) of this section.

(4) When an association offers coverage to member employers through two or more association health plans issues by two or more carriers, the association may maintain the 95 percent retention rate required by ORS 743.734(7) either with respect to the association health plan provided

by each carrier or with respect to all association health plans offered through the association.

(5) Before the director may consider waiving the 95 percent retention rate requirement of ORS 743.734(7), an association health plan must request in writing a waiver of the retention requirement required by ORS 743.734(7). The association health plan may submit a request for waiver after the first day of the third month of the correction period, but must submit the request no later than six months after the beginning of the correction period. The request for waiver must include:

(a) The year-to-date retention rate of the association health plan calculated as of the date of the request for waiver;

(b) As of the date of the submission of the request for waiver, for each small employer group for which coverage terminated with the association health plan during the 12-month correction period and the 12 months immediately prior to the start of the 12-month correction period:

(A) The small employer group’s name;

(B) The date on which the small employer group’s coverage under the association health plan began with the carrier submitting the request for waiver;

(C) The reason the small employer group’s coverage under the association health plan terminated with the carrier submitting the request for waiver;

(D) The small employer group’s loss ratio with the carrier submitting the request for waiver;

(E) Every rate charged by the carrier submitting the request for waiver to the small employer group during the correction period and the 12-months immediately prior to the start of the correction period;

(F) The effective date of each rate described in section (5)(a)(E); and

(G) A statement explaining the factors and reasons for any proposed or actual change to a rate charged by the carrier submitting the request for waiver to the small employer group;

(c) The loss ratio for the entire association health plan as of the date of the request for waiver and as of the final day of the 12 months immediately prior to the start of the correction period;

(d) The average per member per month premium for each small employer group described in section (5)(b)(A) and for each small employer group with coverage under the association health plan as of the date of the submission of the request for waiver;

(e) A statement explaining the factors and reasons why the association health plan failed to meet the retention requirement of ORS 743.734(7); and

(f) Any other information requested by the director.

(6) After consideration of the request for waiver submitted by an association health plan under section (5) of this rule and within 90 days after receiving the request, the director may waive the 95 percent retention requirement of ORS 743.734(7) for the association health plan if the director finds that the association health plan did not engage in any practice that caused, or was designed to cause, any small employer group to terminate coverage under the plan. The director shall establish the period of time that the waiver will be in effect and may withdraw a waiver at any time if an association health plan fails to comply with any requirement of this rule or the director finds that an association health plan engaged in any practice that caused, or was designed to cause, any small employer group to terminate coverage under the plan.

(7) When a waiver granted under section (6) of this rule expires, an association health plan is exempt from ORS 743.734(1) only if the health plan then satisfies the requirements of ORS 743.734(7) and (8).

(8) If the director denies a waiver under section (6) of this rule, the association health plan is not exempt from ORS 743.734(1) and may not submit an additional request for waiver under section (5) of this rule until at least one year after the end of the correction period.

(9) For the purpose of ORS 743.734(7)(b)(A), the initial premium rate requirement is the rate that applies to each small employer member group upon its initial enrollment in the association health plan.

Stat. Auth.: ORS 731.244, 743.734

Stats. Implemented: ORS 731.296, 743.734, 743.748

Hist.: ID 8-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 4-18-08; ID 6-2008, f. & cert. ef. 4-18-08; ID 9-2010(Temp), f. & cert. ef. 4-22-10 thru 10-15-10

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Rule Caption: Extending Continuation of Health Benefit Plans and Eligibility for Federal Subsidy through May 31, 2010.

Adm. Order No.: ID 10-2010(Temp)

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10 thru 6-18-10

Notice Publication Date:

Rules Amended: 836-053-0855, 836-053-0860, 836-053-0865

ADMINISTRATIVE RULES

Rules Suspended: 836-053-0855(T), 836-053-0860(T), 836-053-0865(T)

Subject: This rulemaking amends rules adopted March 10, 2010 to reflect changes to and an extension of the federal subsidy program until May 31, 2010. These amendments to the rules are necessary to correctly align the state continuation program with the federal provisions, which provide a subsidy for Oregonians who continue their health insurance coverage in the state continuation program.

Oregonians who lose their jobs have two options to continue coverage under their group health plan. If their former employer has twenty or more workers, they are eligible under the Consolidated Omnibus Budget Reconciliation Act (COBRA). If their former employer has fewer than twenty workers, they are eligible under Oregon's state continuation law. In February 2009, the federal economic stimulus package extended a 65 percent subsidy for up to nine months of coverage. Recognizing the need for changes to state law to allow Oregonians to obtain the full advantage of the federal subsidy, the 2009 Oregon Legislative Assembly enacted House Bill 2433, which extended the period of eligibility for state continuation coverage from six to nine months and allows the Director of the Department of Consumer and Business Services to adopt rules as necessary to allow Oregonians to take full advantage of the benefits provided by the federal law including additional extensions of the period of eligibility to match future extensions or changes in the federal subsidy or COBRA program. On December 19, 2009, President Obama signed HR 3326, the Fiscal Year 2010 Department of Defense Appropriation Act, which extended eligibility for COBRA benefits to February 28, 2010 and the duration of the subsidy to 15 months. Another federal act, the Temporary Extension Act, HR 4691, signed by President Obama on March 2, 2010, extended the eligibility period for the American Recovery and Reinvestment Act premium subsidy for an additional 31 days (through March 31, 2010) and clarified eligibility for the subsidy resulting from an involuntary termination of employment that follows a period of reduction in hours of work that caused an individual to lose health benefits under a group health benefit plan. On April 15, 2010, the President signed another act, the Continuing Extension Act of 2010, extending the benefits through May 31, 2010. As it did in response to the previous federal Acts, the Division is now adopting temporary rules to match the extension of the federal benefits included in the Continuing Extension Act of 2010. These temporary rules make the same changes to the state continuation program allowing Oregonians enrolled in the state continuation plans to receive the maximum subsidy provided by the federal law. Failure to adopt these rules immediately would result in Oregonians being unable to receive the federal subsidy, causing some Oregonians to lose their health insurance benefits.

Rules Coordinator: Sue Munson—(503) 947-7272

836-053-0855

Definitions

As used in OAR 836-053-0850 to 836-053-0885:

(1) "American Recovery and Reinvestment Act of 2009" means the Public Law 111-5 as amended by Public Law 111-118, the Fiscal Year 2010 Department of Defense Appropriations Act (HR 3326), and as further amended by Public Law 111-144, the Temporary Extension Act of 2010 (HR 4691) and Public Law 111-157, the Continuing Extension Act of 2010 (HR 4851).

(2) "Certificate holder" means any covered employee or qualified beneficiary who:

(a) Is eligible for continuation coverage because the employee is no longer eligible for coverage under group health plan due to reduction of hours of employment or termination of employment;

(b) Elects continuation coverage;

(c) Is subject to a qualifying event; and

(d) Is considered an assistance eligible individual under the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(3) "Involuntary termination" means a qualifying event in which the employer determines, based on a reasonable interpretation of the description of an assistance eligible individual under the American Recovery and

Reinvestment Act of 2009 and administrative guidance provided under the American Recovery and Reinvestment Act of 2009, that the qualifying event with respect to state continuation coverage for an individual was involuntary termination of a covered employee's employment, and the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination with respect to the covered employee.

(4) "Covered employee" means a certificate holder who has been insured continuously under a policy or similar predecessor policy during the three-month period ending on the date of the termination of employment or membership.

(5)(a) "Qualified beneficiary" means a covered employee under a group health plan or any other individual who, on the day before the qualifying event for that employee, is a beneficiary under that plan as the spouse of the covered employee or as the dependent child of the employee, including a child born or placed for adoption after the qualifying event or during the period the covered employee is eligible for continuation coverage.

(b) An individual is not a qualified beneficiary if:

(A) The individual is eligible for Federal Medicare coverage.

(B) The individual is eligible for any other group health plan. This limitation does not apply to coverage consisting only of:

(i) Dental, vision, counseling, or referral services;

(ii) Coverage under a health flexible spending arrangement as defined in section 106(c)(2) of the Internal Revenue Code of 1986; or

(iii) Treatment that is furnished in an on-site medical facility maintained by an employer.

(C) An individual is not a qualified beneficiary only for purposes of receiving a premium subsidy if the individual is a domestic partner.

(6) "Qualifying event" means:

(a) An involuntary termination of employment during the period beginning September 1, 2008 and ending May 31, 2010; or

(b) On or after March 2, 2010 and before June 1, 2010, a reduction of hours that results in a loss of coverage under a group health insurance policy.

(7)(a) "Transition period" means, with respect to any assistance eligible individual, any period of coverage if:

(A) The involuntary termination that was the qualifying event occurred before December 19, 2009; and

(B) The subsidy allowed under the American Recovery and Reinvestment Act of 2009 applies to such period due to the extension of the state continuation period to 15 months.

(b) Any period of time during the transition period for which the assistance eligible individual pays the applicable premium under OAR 836-053-0865(9) shall be treated as a period of coverage for which timely payment of premium was paid, irrespective of any failure to timely pay the applicable premium for such period.

Stat. Auth.: ORS 731.244, 743.610 & 2009 OL Ch. 73 (HB 2433)

Stats. Implemented: ORS 743.610 & 2009 OL Ch. 73 (HB 2433)

Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09; ID 8-2009, f. & cert. ef. 10-23-09; ID 13-2009(Temp), f. & cert. ef. 12-23-09 thru 6-18-10; ID 3-2010(Temp), f. & cert. ef. 1-8-10 thru 6-18-10; ID 6-2010(Temp), f. & cert. ef. 3-10-10 thru 6-18-10; ID 10-2010(Temp), f. & cert. ef. 4-26-10 thru 6-18-10

836-053-0860

Notification

(1) An insurer subject to the requirements of ORS 743.610 and Chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433) shall provide a notice explaining continuation of benefits directly to individuals losing group coverage, for any reason other than group replacement of coverage, within 10 days following the date of any administrative action taken by an insurer to initiate or document the loss of coverage.

(2) The insurer providing the notice required under section (1) of this rule shall include in the notice at least the following information:

(a) Contact information for the employee to reach the insurer;

(b) Forms and instructions about how to complete and return the forms and to whom (i.e., going through employer or direct to insurer);

(c) A clear statement explaining availability of premium subsidy;

(d) Premium information or directions for determining the premium amount for each qualified beneficiary and instructions for submitting the premium;

(e) A clear statement about who is eligible to continue coverage;

(f) Information about how to enroll in different coverage if allowed by the employer;

(g) Instructions about the employee's responsibility to notify the insurer if the employee becomes ineligible for the subsidy; and

(h) Instructions about how to appeal denials for treatment as a certificate holder.

ADMINISTRATIVE RULES

(3)(a) In the case of an individual who was an assistance eligible individual at any time on or after October 31, 2009, or experiences a qualifying event (consisting of termination of employment) relating to state continuation coverage on or after October 31, 2009, the insurer shall provide, no later than February 17, 2010, an additional notification consisting of the following:

(A) A qualifying event means involuntary termination of employment during the period of September 1, 2008 and ending February 28, 2010;

(B) Assistance eligible individuals are eligible to continue coverage for a period of fifteen months beginning with the coverage month first following the qualifying event;

(C) A transition period exists for assistance eligible individuals who became eligible for a premium subsidy under the American Recovery and Reinvestment Act of 2009 before December 19, 2009 and whose state continuation coverage has now been extended to fifteen months due to availability of the subsidy for that period of time;

(D) Assistance eligible individuals who did not timely pay the premium for any period of coverage during their transition period may now pay premiums retroactively in accordance with OAR 836-053-0865(9).

(b) In the case of a qualifying event occurring after December 19, 2009, the insurer shall provide notification consistent with this rule.

(4) In the case of an assistance eligible individual who did not timely pay the premium for any period of coverage during the individual's transition period the insurer shall provide to the individual, within the first 60 days of the start of the individual's transition period, an additional notification. The additional notification shall include the information required in section (3) of this rule and information on the ability to make retroactive premium payments in accordance with OAR 836-053-0865(9) with respect to the transition period of the individual in order to maintain state continuation coverage.

(5) In the case of an individual described in OAR 836-053-0865(11), the insurer involved shall provide, within 10 days following the date of an individual's involuntary termination of employment, an additional notification described in OAR 836-053-0860(2), including information on the provisions of 836-053-0865(11).

(6) In the case of an individual for whom the qualifying event occurred on or after March 1, 2010 and before March 10, 2010, or on or after April 1, 2010 and before April 26, 2010, the insurer involved shall provide the notice required under section (1) and (2) of this rule no later than March 21, 2010, or May 17, 2010, respectively.

Stat. Auth.: ORS 731.244, 743.610 & 2009 OL Ch. 73 (HB 2433)

Stats. Implemented: ORS 743.610 & 2009 OL Ch. 73 (HB 2433)

Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09; ID 8-2009, f. & cert. ef. 10-23-09; ID 13-2009(Temp), f. & cert. ef. 12-23-09 thru 6-18-10; ID 3-2010(Temp), f. & cert. ef. 1-8-10 thru 6-18-10; ID 6-2010(Temp), f. & cert. ef. 3-10-10 thru 6-18-10; ID 10-2010(Temp), f. & cert. ef. 4-26-10 thru 6-18-10

836-053-0865

Provisions Relating to Premium Subsidy for State Continuation Coverage

(1) In order to maximize the benefit to Oregonians under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), certain qualified beneficiaries are eligible for:

(a) Premium subsidy for continuation of coverage;

(b) An opportunity to elect continuation of coverage that is in addition to the period allowed under ORS 743.610(5);

(c) Continuation of coverage for a period of time that exceeds the period allowed under ORS 743.610(7)(a); and

(d) An option to enroll in different coverage if the employer permits certificate holders to elect enrollment in different coverage.

(2) After receiving the attestation from an employer stating that the employee meets the requirements of a certificate holder and the date of the qualifying event, an insurer is required to accept timely payment of the certificate holder's 35 percent share of the total premium as full payment of the premium and process claims as though 100 percent of the total premium due has been paid.

(3)(a) The following certificate holders qualify for a second opportunity to elect continuation of coverage if the group health plan remains in effect:

(A) Certificate holders who did not elect to continue coverage during the period allowed under ORS 743.610(5) prior to April 28, 2009; and

(B) Certificate holders who elected continuation coverage during the period allowed under ORS 743.610(5) but whose continuation coverage ended for any reason prior to April 28, 2009;

(b) Within 31 calendar days after the insurer provides the notice required under OAR 836-053-0860(1), certificate holders who received the

notice under paragraph (a) of this section must return the following items according to instructions provided by the insurer:

(A) Completed forms for electing state continuation coverage and requesting treatment as a certificate holder;

(B) The individual's tax identification number;

(C) Form for Switching State Continuation Coverage Benefit Options, if offered; and

(D) The initial premium if required.

(c) Certificate holders who became eligible on or after September 1, 2008 and prior to April 28, 2009 are eligible to continue coverage while the group health plan remains in effect, and upon timely payment of their portion of the premium, for 15 months of continuation coverage beginning with the coverage month first following the qualifying event.

(d) The effective date for continuation coverage issued in response to a second election of coverage will be the later of the first day of the coverage month on or after February 17, 2009 or the first day of the coverage month first following the qualifying event.

(4)(a) Within 31 calendar days after the insurer provides the notice required under OAR 836-053-0860(1), certificate holders who become eligible on or after April 28, 2009 must return the following items according to any instructions provided by the insurer:

(A) Forms for electing state continuation coverage and requesting treatment as a certificate holder;

(B) The individual's tax identification number;

(C) The form for switching state continuation coverage benefit options, if offered; and

(D) The initial premium, if required.

(b) A certificate holder who becomes eligible on or after April 28, 2009 is eligible to continue coverage for a period of 15 months beginning with the coverage month first following the qualifying event. However, the premium subsidy available to the individual shall not exceed any period of limitation specified in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5)

(5) A certificate holder may elect to enroll in different coverage as described in section (1)(d) of this rule if:

(a) The employer permits certificate holders to enroll in different coverage;

(b) The premium for the different coverage does not exceed the premium for coverage in which the certificate holder was enrolled at the time of the qualifying event;

(c) The different coverage in which the individual elects to enroll is coverage that is also offered to the active employees of the employer at the time the individual makes the election; and

(d) The different coverage is not:

(A) Coverage that provides only dental, vision, counseling or referral services, or a combination of such services;

(B) A flexible spending arrangement as defined in section 106(c)(2) of the Internal Revenue Code of 1986; or

(C) Coverage that provides coverage for services or treatments furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care or similar care, or a combination of such care.

(6) The period of time beginning on the date of the qualifying event and ending with the effective date of continuation coverage shall be disregarded for purposes of determining periods of creditable coverage under ORS 743.754, 743.737, and 743.766.

(7) A premium subsidy is not available to a certificate holder who becomes eligible for coverage under any other group health plan or Medicare. An individual paying a reduced premium for continuation coverage as described in this section must promptly notify the insurer if they become eligible for other group health plan coverage or Medicare.

(8) Certificate holders who elected continuation on or after September 1, 2008 and prior to April 28, 2009, are eligible to continue coverage while the group health plan remains in effect, and upon timely payment of their portion of the premium, for a period of 15 months beginning with the coverage month first following the qualifying event.

(9) In the case of any premium for a period of coverage during an assistance eligible individual's transition period, the individual shall be treated for purposes of any state continuation provision as having timely paid the amount of such premium if:

(a) The individual was covered under the state continuation coverage to which the premium relates for the period of coverage immediately preceding the transition period; and

(b) The individual pays the individual's 35 percent share of the total premium:

ADMINISTRATIVE RULES

(A) Not later than February 17, 2010; or

(B) If the transition period extends beyond February 17, 2010, not later than 30 days after the date notification required under OAR 836-053-0860(4) is provided to the individual

(10) In the case of an assistance eligible individual who pays, with respect to any period of state continuation coverage during the individual's transition period, the full premium amount for such coverage, the insurer shall:

(a) Make a reimbursement payment to the individual for the amount of premium paid in excess of the 35 percent share of the total premium; or

(b) Provide credit to the individual for the amount in a manner that reduces one or more subsequent premium payments that the individual is required to pay for the coverage involved.

(11)(a) For the purposes of the state continuation provisions under ORS 743.610, in the case of an individual who did not make, or who made and discontinued, an election of state continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of the individual on or after March 2, 2010 shall be treated as a qualifying event.

(b) In any case of an individual referred to in subsection (a) of this section, the period of the individual's continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

(c) Nothing in this section shall be construed as requiring an individual referred to in subsection (a) of this section to make a payment for state continuation coverage between the reduction of hours and the involuntary termination of employment.

(d) The period of time beginning on the date of the qualifying event described in this section and ending with the effective date of continuation coverage shall be disregarded for purposes of determining periods of creditable coverage under ORS 743.754, 743.737, and 743.766.

(e) The provisions of this section apply to individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period that begins with September 1, 2008, and ends with May 31, 2010, followed by an involuntary termination of employment that occurred on or after March 2, 2010 and before June 1, 2010.

Stat. Auth.: ORS 731.244, 743.610 & 2009 OL Ch. 73 (HB 2433)
Stats. Implemented: ORS 743.610 & 2009 OL Ch. 73 (HB 2433)
Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09; ID 8-2009, f. & cert. ef. 10-23-09; ID 13-2009(Temp), f. & cert. ef. 12-23-09 thru 6-18-10; ID 3-2010(Temp), f. & cert. ef. 1-8-10 thru 6-18-10; ID 6-2010(Temp), f. & cert. ef. 3-10-10 thru 6-18-10; ID 10-2010(Temp), f. & cert. ef. 4-26-10 thru 6-18-10

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Rule Caption: Workers' Compensation Large Risk Alternative Rating Plans and Workers' Compensation Large Deductible Provisions.

Adm. Order No.: ID 11-2010

Filed with Sec. of State: 5-4-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 4-1-2010

Rules Adopted: 836-042-0100, 836-042-0105, 836-042-0110, 836-042-0115

Rules Amended: 836-042-0080, 836-054-0210

Subject: These adopted and amended rules:

- Modify filing requirements to allow Oregon Large Risk Alternative Rating Plans to include workers' compensation insurance, provided the insured has countrywide workers' compensation standard premium in excess of \$500,000.

- Allow large deductible rating plans to reduce the minimum employer eligibility from \$750,000 to \$500,000 in countrywide workers' compensation standard premium. Because large deductible rating plans can be written as Large Risk Alternative Rating Plans, the rule amendments will avert inconsistencies within the rules governing workers' compensation rating plans.

Rules Coordinator: Sue Munson—(503) 947-7272

836-042-0080

Rate Filing Requirements and Standards

An insurer that issues a policy for worker's compensation insurance including a large deductible provision must use a provision which satisfies requirements of OAR 836-054-0210 and has been approved by the Director and must file rating plans for determining premium credits or rating modi-

fications with the Director according to ORS 737.320 and OAR 836-042-0001 to 836-042-0045 and which satisfy these additional requirements:

(1) Such rating plans must be based on actuarial assumptions and methods similar to and not circumventing the design of retrospective rating plans approved by the Director.

(2) A deductible credit or rating modification must be the final rating step so that the insurer may distinguish the amount of credit or modification premium and the policy premium prior to the credit or modification. An insurer may compute premium discounts based on premium amounts after deductible credits if the insurer can demonstrate that greater premium equity is achieved and that data distinguishing the various premium elements will be maintained.

(3) Such rating plans may not contain provisions which cannot be approved under the unfair discrimination provisions of OAR 836-042-0025.

(4) A deductible credit or rating modification must recognize expenses which vary with net earned premium after such credits or modifications

(5) Prospective experience rating plans based on prior claims experience must use losses valued on a gross basis prior to deductible provisions.

(6) Large deductible rating plans may not be applied to rating groups approved under OAR 836-042-0201 to 836-042-0225.

(7) Minimum eligibility for a large deductible provision must be not less than \$500,000 estimated country-wide annual premium prior to large deductible credits or premium credits based on premium size. The minimum deductible limit per claim for each injury or illness may not be less than \$75,000. An aggregate limit for deductible amounts for all claims may be specified but may not be less than the deductible limit per claim.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 737, 737.310 & 742.001 - 742.007

Hist.: ID 4-1995, f. 7-21-95, cert. ef. 10-1-95; ID 11-2010, f. 5-4-10, cert. ef. 7-1-10

836-042-0100

Statutory Authority and Purpose

OAR 836-042-0100 to 836-042-0115 are adopted under the Director's authority in ORS 737.325(1) to modify filing requirements for insurers offering to classes of risks Large Risk Alternative Rating Plans which include workers' compensation.

Stat. Auth.: ORS 731.244 & 737.325(1)

Stats. Implemented: ORS 737, 737.310, 737.320 & 737.325(1)

836-042-0105

Definitions

As used in OAR 836-042-0100 to 836-042-0115:

(1) "Affiliate Insurer" means an insurer that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the insurer specified where control is defined by ORS 732.548(2).

(2) "Director" means the Director of the Department of Consumer and Business Services.

(3) "Eligible Employer" means:

(a) An employer defined by ORS 656.005(13) with:

(A) An insurer estimated annual countrywide Workers' Compensation standard premium in excess of \$500,000; or

(B) An insurer estimated annual countrywide premium in excess of \$750,000 in combination with General Liability, Automobile Liability, Hospital Professional Liability, Crime and Glass, and Workers' Compensation provided Workers' Compensation countrywide standard premium is in excess of \$500,000.

(b) Eligible Employer does not include:

(A) Rating groups approved under OAR 836-042-0201 to 836-042-0225; and

(B) Employers obtaining Workers' Compensation insurance from the Oregon Workers' Compensation Insurance Plan under OAR 836-043-0001 to 836-043-0091.

(4) "Insurer" means the State Accident Insurance Fund Corporation or an insurer authorized under ORS Chapter 731 to transact workers' compensation insurance in this state. "Insurer" includes affiliate insurers for General Liability, Automobile Liability, Hospital Professional Liability, Crime and Glass.

(5) "Large Risk Alternative Rating Plan" means optional retrospective or large deductible rating as mutually agreed upon by insurer and eligible employer.

(6) "Rating Plan" means a rule or set of rules used by an insurer to calculate premium for an eligible employer.

(7) "Workers' Compensation Standard Premium" means premium determined by authorized rates including any experience rating modification, any applicable schedule rating, employer's liability increased limits, waiver premium, claim and merit rating, supplemental disease, atomic

ADMINISTRATIVE RULES

energy exposure, nonratable catastrophe loadings, aircraft seat surcharge, loss constants and minimum premiums, but does not include premium discounts, coal mine disease charge, employee leasing client processing fees, expense constant, USL&H expense constant, terrorism premiums, catastrophe premiums, and large deductible credits.

Stat. Auth.: ORS 731.244 & 737.325(1)
Stats. Implemented: ORS 737, 737.310, 737.320 & 737.325(1)
Hist.: ID 11-2010, f. 5-4-10, cert. ef. 7-1-10

836-042-0110

Rate Filing Requirements

The Director may approve retrospective rating plans and large deductible rating plans as mutually agreed upon between insurer and eligible employer under the following conditions:

(1) The rating plan is filed with director according to ORS 737.205, 737.310, and 737.320 containing rules indicating the manner in which the rate is promulgated and how the resultant premium is derived;

(2) The rating plans which include large deductible options must comply with OAR 836-042-0070 to 836-042-0090 and 836-054-0201 to 836-054-0210;

(3) The insurer demonstrates rating plan compliance with all workers' compensation financial and statistical reporting as required by OAR 836-042-0040 to 836-042-0045;

(4) The use of the Large Risk Alternative Rating Plans is an independent option and is not a substitute for, nor incompatible with, Manual Rating, Experience Rating, Loss Rating, rating under Loss Reimbursement or Deductible Plans, or any individual-risk rating rule permitted by Oregon law; and

(5) The insurer maintains documentation supporting the eligible employer's Large Risk Alternative Rating Plan sufficient for examination under ORS 737.235.

Stat. Auth.: ORS 731.244 & 737.325(1)
Stats. Implemented: ORS 737, 737.205, 737.310, 737.320 & 737.325(1)
Hist.: ID 11-2010, f. 5-4-10, cert. ef. 7-1-10

836-042-0115

Trade Practices Found Injurious to the Insurance Buying Public

Failure of an insurer to comply with OAR 836-042-0110 constitutes an unfair claims practice under ORS 746.240.

Stat. Auth.: ORS 731.244 & 737.325(1)
Stats. Implemented: ORS 746.240
Hist.: ID 11-2010, f. 5-4-10, cert. ef. 7-1-10

836-054-0210

Required Content of Large Deductible Provisions

An insurer which issues a workers' compensation insurance policy with a large deductible provision must file such provision with the Director for approval as required by ORS 742.003. The provision must satisfy the following requirements:

(1) A large deductible provision must clearly and prominently state that the insured employer must report all workers' compensation insurance claims to the insurer and the insurer retains responsibility to administer claims and to pay all costs and expenses.

(2) A large deductible provision must state that the insurer will delete the provision effective not more than ten (10) days following discovery that an insured employer has on three occasions within the policy period known of but not reported a workers' compensation insurance claim to the insurer or has on any occasion within the policy period made direct payment of claim costs. The provision may further state that the insurer will cancel the policy with notice pursuant to ORS 656.427 or that the insurer will delete the provision retroactively to the date of the offense with penalties stated in the provision. When a large deductible provision is deleted, the premium for any remaining portion of a policy term will be computed using the rating plans applied by the insurer to the policy prior to deductible credits except that any system of expense gradation applied by the insurer to similar policies must be used.

(3) A large deductible provision must specify that the basis for the Workers' Compensation Premium Assessment will be premium earned prior to any premium credits or modifications for the large deductible provision.

(4) A large deductible provision must specify that the basis for any assessments by the Plan Administrator for the Workers' Compensation Insurance Plan specified by OAR 836-043-0001 to 836-043-0090 will be premium earned prior to any premium credits or modifications for the large deductible provision.

(5) A large deductible provision must define explicitly which expenses, if any, will be billed to the employer in addition to direct claim costs and

specify whether such expenses are subject to the deductible limits together with direct claim costs or will be billed in addition to deductible amounts.

(6) A large deductible provision must state that the premium credit percentage and amount for the large deductible will be recalculated after final premium audit based on actual premium or exposures and after any retrospective premium adjustments for retrospectively rated policies.

(7) A large deductible provision shall contain an offer for the insurer to provide occupational safety and health loss control consultative services as required by ORS 654.097.

(8) A large deductible provision shall contain minimum eligibility requirements of not less than \$500,000 estimated country-wide annual premium prior to large deductible credits or premium credits based on premium size. The minimum deductible limit per claim for each injury or illness may not be less than \$75,000. An aggregate limit for deductible amounts for all claims may be specified but may not be less than the deductible limit per claim.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 742.001 - 742.007
Hist.: ID 4-1995, f. 7-21-95, cert. ef. 10-1-95; ID 11-2010, f. 5-4-10, cert. ef. 7-1-10

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

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

Adm. Order No.: WCD 2-2010

Filed with Sec. of State: 5-5-2010

Certified to be Effective: 6-1-10

Notice Publication Date: 3-1-2010

Rules Amended: 436-035-0002, 436-035-0003, 436-035-0005, 436-035-0007, 436-035-0011, 436-035-0012, 436-035-0013, 436-035-0014, 436-035-0015, 436-035-0019, 436-035-0050, 436-035-0060, 436-035-0110, 436-035-0190, 436-035-0230, 436-035-0340, 436-035-0370, 436-035-0375, 436-035-0390, 436-035-0400, 436-035-0410, 436-035-0420, 436-035-0450

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

These amended 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 cooperate in or 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 must be rated, even when in the same body part.

- 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.

- Clarify that if a worker cannot remain on his or her feet for more than two hours in an eight-hour period, the worker will receive the same impairment rating whether the cause is injury to the knee/leg or ankle/foot, and provide that this rating is not reduced by degen-

ADMINISTRATIVE RULES

erative joint disease, arthritis or chondromalacia, or precluded by dermatological or vascular impairment.

- Provide a standard for rating hemipelvectomy.
- Clarify that a total hip replacement value is rated when femoral and acetabular resurfacing is involved.
- 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.
- Define an allergy as an immunologic state.

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7514; or e-mail fred.h.bruyns@state.or.us. Rules are available on the Internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-035-0002

Purpose of Rules

These rules establish standards for rating permanent disability under the Workers' Compensation Act. These standards are written to reflect the criteria for rating outlined in ORS Chapter 656 and assign values for disabilities that are applied consistently at all levels of the Workers' Compensation award and appeal process.

Stat. Auth.: ORS 656.726

Stats. Implemented.: ORS 656.005, 656.012, 656.210, 656.214, 656.222, 656.225, 656.245, 656.262, 656.267, 656.268, 656.273, 656.726, 656.790

Hist.: WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 18-1990 (Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0003

Applicability of Rules

(1) These rules apply to the rating of permanent disability under Chapter 656 and to all claims closed on or after the effective date of these rules for workers medically stationary on or after June 7, 1995.

(2) Administrative Order 93-056 applies to the rating of permanent disability for workers medically stationary on or after July 1, 1990 but before June 7, 1995, except as otherwise provided in 1995 Or. Law, chapter 332.

(3) Administrative Order 6-1988 applies to the rating of permanent disability for workers medically stationary before July 1, 1990, except as otherwise provided in 1995 Or. Law, chapter 332.

(4) For the purpose of reconsideration of claim closure under ORS 656.268, the administrative order in effect on the date of issuance of the appealed Notice of Closure applies to the rating of permanent disability for workers medically stationary after July 1, 1990, except as otherwise provided in 1995 Or. Law, chapter 332.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268, 656.273 & 656.726

Hist.: WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; WCD 1-1989(Temp), f. & cert. ef. 1-24-89; WCD 18-1990(Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 20-1990(Temp), f. & cert. ef. 11-20-90; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1991(Temp), f. 9-13-91, cert. ef. 10-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 10-1992(Temp), f. & cert. ef. 6-1-92; WCD 15-1992, f. 11-20-92, cert. ef. 11-27-92; WCD 3-1993(Temp), f. & cert. ef. 6-17-93; WCD 13-1995(Temp), f. & cert. ef. 9-21-95; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 19-1996(Temp), f. & cert. ef. 8-19-1996; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0005

Definitions

As used in OAR 436-035-0001 through 436-035-0500, unless the context requires otherwise:

(1) "Activities of Daily Living (ADL)" include, but are not limited to, the following personal activities required by an individual for continued well-being: eating/nutrition; self-care and personal hygiene; communication and cognitive functions; and physical activity, e.g., standing, walking, kneeling, hand functions, etc.

(2) "Ankylosis" means a bony fusion, fibrous union or arthrodesis of a joint. Ankylosis does not include pseudarthrosis or articular arthropathies.

(3) "Combined condition" means a pre-existing condition and a compensable condition contribute to the worker's overall disability or need for treatment.

(4) "Date of Issuance", for purposes of these rules, means the mailing date of a Notice of Closure, Determination Order or Order on Reconsideration under ORS 656.268 and 656.283(6).

(5) "Dictionary of Occupational Titles" or (DOT) means the publication of the same name by the U.S. Department of Labor, Fourth Edition Revised 1991.

(6) "Direct medical sequela" means a condition which originates or stems from an accepted condition that is clearly established medically. Disability from direct medical sequelae is rated under these rules and ORS 656.268(14). For example: The accepted condition is low back strain with herniated disc at L4-5. The worker develops permanent weakness in the leg and foot due to the accepted conditions. The weakness is considered a "direct medical sequela" of the herniated disc.

(7) "Earning Capacity" means impairment as modified by age, education and adaptability.

(8) "Impairment" means a compensable, permanent loss of use or function of a body part or system related to the compensable condition, determined under these rules, OAR 436-010-0280 and ORS 656.726(4)(f).

(9) "Irreversible findings" for the purposes of these rules are:

ARM
Arm angulation
Radial head resection
Shortening
EYE
Enucleation
Lens implant
Lensectomy
GONADAL
Loss of gonads resulting in absence of, or an abnormally high, hormone level
HAND
Carpal bone fusion
Carpal bone removal
KIDNEY
Nephrectomy
LEG
Knee angulation
Length discrepancy
Meniscectomy
Patellectomy
LUNG
Lobectomy
SHOULDER
Acromioclavicular joint resection
Clavicle resection
SPINE
Compression fractures
Discectomy
Laminectomy
SPLEEN
Splenectomy
URINARY TRACT DIVERSION
Cutaneous ureterostomy without intubation
Nephrostomy or intubated ureterostomy
Uretero-Intestinal
OTHER
Amputations/resections
Ankylosed/fused joints
Displaced pelvic fracture ("healed" with displacement)
Loss of opposition
Organ transplants (heart, lung, liver, kidney)
Prosthetic joint replacements

(10) "Medical arbiter" means a physician(s) under ORS 656.005(12)(b)(A) appointed by the Director under OAR 436-010-0330.

(11) "Offset" means to reduce a current permanent partial disability award, or portions thereof, by a prior Oregon workers' compensation permanent partial disability award from a different claim.

(12) "Physician's release" means written notification, provided by the attending physician to the worker and the worker's employer or insurer, releasing the worker to work and describing any limitations the worker has.

(13) "Preponderance of medical evidence" or "opinion" does not necessarily mean the opinion supported by the greater number of documents or greater number of concurrences; rather it means the more probative and more reliable medical opinion based upon factors including, but not limited to, one or more of the following:

- (a) The most accurate history,
- (b) The most objective findings,
- (c) Sound medical principles or
- (d) Clear and concise reasoning.

(14) "Redetermination" means a re-evaluation of disability under ORS 656.267, 656.268(9), 656.273 and 656.325.

(15) "Regular work" means the job the worker held at the time of injury.

ADMINISTRATIVE RULES

(16) "Scheduled disability" means a compensable permanent loss of use or function which results from injuries to those body parts listed in ORS 656.214(3)(a) through (5).

(17) "Social-vocational factors" means age, education and adaptability factors under ORS 656.726(4)(f).

(18) "Superimposed condition" means a condition that arises after the compensable injury or disease which contributes to the worker's overall disability or need for treatment but is not the result of the original injury or disease. Disability from a superimposed condition is not rated. For example: The accepted condition is a low back strain. Two months after the injury, the worker becomes pregnant (non-work related). The pregnancy is considered a "superimposed condition."

(19) "Unscheduled disability" means a compensable condition that results in a permanent loss of earning capacity as described in these rules and arising from those losses under OAR 436-035-0330 through 436-035-0450.

(20) "Work Disability", for the purposes of determining permanent disability, means the separate factoring of impairment as modified by age, education, and adaptability to perform the job at which the worker was injured.

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; WCD 18-1990(Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 20-1990(Temp), f. & cert. ef. 11-20-90; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0007

General Principles

(1) Except for OAR 436-035-0014, a worker is entitled to a value under these rules only for those findings of impairment that are permanent and were caused by the accepted compensable condition and direct medical sequela. Unrelated or noncompensable impairment findings are excluded and are not valued under these rules. Permanent total disability is determined under OAR 436-030-0055.

(2) Permanent disability is rated on the permanent loss of use or function of a body part, area, or system due to a compensable, consequential or combined condition and any direct medical sequela, and may be modified by the factors of age, education, and adaptability. Except impairment determined under ORS 656.726(4)(f), the losses, as defined and used in these standards, are the sole criteria for the rating of permanent disability under these rules.

(3) When a new or omitted medical condition has been added to the accepted conditions since the last arrangement of compensation, the extent of permanent disability must be redetermined.

(a) Redetermination includes the rating of the new impairment attributed to the new or omitted medical condition and the re-evaluation of the worker's social-vocational factors. The following applies to claims with a date of injury on or after Jan. 1, 2005:

(A) When there is a previous work disability award and there is no change in the worker's restrictions but impairment values increase, work disability must be awarded based on the additional impairment.

(B) When there is not a previous work disability award but the new or omitted medical condition creates restrictions that do not allow the worker to return to regular work, then the work disability must be awarded based on any previous and current impairment values.

(b) Impairment values for conditions which are not actually worsened, unchanged, or improved are not redetermined and retain the same impairment values established at the last arrangement of compensation.

(4) Where a worker has a prior award of permanent disability under Oregon workers' compensation law, disability is determined under OAR 436-035-0015 (offset), rather than OAR 436-035-0013, for purposes of determining disability only as it pertains to multiple Oregon workers' compensation claims.

(5) Impairment is established based on objective findings of the attending physician under ORS 656.245(2)(b)(C) and OAR 436-010-0280. On reconsideration, where a medical arbiter is used, impairment is established based on objective findings of the medical arbiter, except where a preponderance of the medical evidence demonstrates that different findings by the attending physician are more accurate and should be used.

(6) Objective findings made by a consulting physician or other medical providers (e.g. occupational or physical therapists) at the time of closure may be used to determine impairment if the worker's attending physician concurs with the findings as prescribed in OAR 436-010-0280.

(7) If there is no measurable impairment under these rules, no award of permanent partial disability is allowed.

(8) Pain is considered in the impairment values in these rules to the extent that it results in valid measurable impairment. For example: The medical provider determines that giveaway weakness is due to pain attributable to the accepted condition or direct medical sequelae. If there is no measurable impairment, no award of permanent disability is allowed for pain. To the extent that pain results in disability greater than that evidenced by the measurable impairment, including the disability due to expected waxing and waning of the worker's condition, this loss of earning capacity is considered and valued under OAR 436-035-0012 and is included in the adaptability factor.

(9) Methods used by the examiner for making findings of impairment are the methods described in these rules and further outlined in Bulletin 239, and are reported by the physician in the form and format required by these rules.

(10) Range of motion is measured using the goniometer, except when measuring spinal range of motion; then an inclinometer must be used. Reproducibility of abnormal motion is used to validate optimum effort.

(a) For obtaining goniometer measurements, center the goniometer on the joint with the base in the neutral position. Have the worker actively move the joint as far as possible in each motion with the arm of the goniometer following the motion. Measure the angle that subtends the arc of motion. To determine ankylosis measure the deviation from the neutral position.

(b) There are three acceptable methods for measuring spinal range of motion: the simultaneous application of two inclinometers, the single fluid-filled inclinometer, and an electronic device capable of calculating compound joint motion. The examiner must take at least three consecutive measurements of mobility, which must fall within 10% or 5 degrees (whichever is greater) of each other to be considered consistent. The measurements may be repeated up to six times to obtain consecutive measurements that meet these criteria. Inconsistent measurements may be considered invalid and that portion of the examination disqualified. If acute spasm is noted, the worker should be re-examined after the spasm resolves.

(11) Validity is established for findings of impairment according to the criteria noted in these rules and further outlined in Bulletin 239, unless the validity criteria for a particular finding is not addressed, or is determined by physician opinion to be medically inappropriate for a particular worker. Upon examination, findings of impairment which are determined to be ratable under these rules are rated unless the physician determines the findings are invalid and provides a written opinion, based on sound medical principles, explaining why the findings are invalid. When findings are determined invalid, the findings receive a value of zero. If the validity criteria are not met but the physician determines the findings are valid, the physician must provide a written rationale, based on sound medical principles, explaining why the findings are valid. For purposes of this rule, the straight leg raising validity test (SLR) is not the sole criterion used to invalidate lumbar range of motion findings.

(12) Except for contralateral comparison determinations under OAR 436-035-0011(3), loss of opposition determination under OAR 436-035-0040, averaging muscle values under OAR 436-035-0011(8), and impairment determined under ORS 656.726(4)(f), only impairment values listed in these rules are to be used in determining impairment. Prorating or interpolating between the listed values is not allowed. For findings that fall between the listed impairment values, the next higher appropriate value is used for rating.

(13) Values found in these rules consider the loss of use, function, or earning capacity directly associated with the compensable condition. When a worker's impairment findings do not meet the threshold (minimum) findings established in these rules, no value is granted.

(a) Not all surgical procedures result in loss of use, function, or earning capacity. Some surgical procedures improve the use and function of body parts, areas or systems or ultimately may contribute to an increase in earning capacity. Accordingly, not all surgical procedures receive a value under these rules.

(b) Not all medical conditions or diagnoses result in loss of use, function, or earning capacity. Accordingly, not all medical conditions or diagnoses receive a value under these rules.

(14) Waxing and waning of signs or symptoms related to a worker's compensable medical condition are already contemplated in the values provided in these rules. There is no additional value granted for the varying extent of waxing and waning of the condition. Waxing and waning means there is not an actual worsening of the condition under ORS 656.273.

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

Stat. Auth.: ORS 656.726

ADMINISTRATIVE RULES

Stats. Implemented.: ORS 656.005, 656.214, 656.268, 656.273 & 656.726
Hist.: WCD 5-1975, f. 2-6-75, ef. 2-25-75; WCD 8-1978(Admin), f. 6-30-78, ef. 7-10-78;
WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82;
Renumbered from 436-065-0005, 5-1-85; WCD 13-1987, f. 12-18-87, ef. 1-1-88; WCD 2-
1988, f. 6-3-88, cert. ef. 7-1-88; Renumbered from 436-030-0120; WCD 5-1988, f. 9-2-88,
cert. ef. 8-19-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; WCD 18-1990(Temp), f. 9-14-
90, cert. ef. 10-1-90; WCD 20-1990(Temp), f. & cert. ef. 11-20-90; WCD 2-1991, f. 3-26-91,
cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 3-1996, f. 1-29-96, cert. ef.
2-17-96; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 6-1999, f. & cert. ef. 4-26-99;
WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD
8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0011

Determining Percent of Impairment

(1) The total impairment rating for a body part cannot be more than 100% of the body part.

(2) When rating disability the movement in a joint is measured in actual degrees of motion. Impairment findings describing lost ranges of motion are converted to retained ranges of motion by subtracting the measured loss from the normal of full ranges established in these rules.

(a) Range of motion values for each direction in a single joint are first added, then combined with other impairment findings. [Example not included. See ED. NOTE.]

(b) Range of motion values for multiple joints in a single body part (e.g. of a finger) are determined by finding the range of motion values for each joint (e.g. MCP, PIP, DIP) and combining those values for an overall loss of range of motion value for that body part. This value is then combined with other impairment values.

(3) The range of motion or laxity (instability) of an injured joint is compared to and valued proportionately to the contralateral joint except when the contralateral joint has a history of injury or disease or when either joint's range of motion is zero degrees or is ankylosed. The strength of an injured extremity, shoulder, or hip is compared to and valued proportionately to the contralateral body part except when the contralateral body part has a history of injury or disease. Instability Example: [Example not included. See ED. NOTE.]

(a) If the motion of the injured or contralateral joint exceeds the values for ranges of motion established under these rules, the values established under these rules are maximums used to establish impairment.

(b) When the contralateral joint has a history of injury or disease, the findings of the injured joint are valued based upon the values established under these rules.

(4) Specific impairment findings (e.g., weakness, reduced range of motion, etc.) are awarded in whole number increments. This may require rounding non-whole number percentages and contralateral comparison degrees of motion for given impairment findings before combining with any other applicable impairment value.

(a) Except for subsection (b) of this section, before combining, the sum of the impairment values is rounded to the nearest whole number. For the decimal portion of the number, point 5 and above is rounded up, below point 5 is rounded down. [Example not included. See ED. NOTE.]

(b) When the sum of impairment values is greater than zero and less than 0.5, a value of 1% will be granted. [Example not included. See ED. NOTE.]

(5) If there are impairment findings in two or more body parts in an extremity, the total impairment findings in the distal body part are converted to a value in the most proximal body part under the applicable conversion chart in these rules. This conversion is done prior to combining impairment values for the most proximal body part. [Example not included. See ED. NOTE.]

(6) Except as otherwise noted in these rules, impairment values to a given body part, area, or system are combined as follows:

(a) The combined value is obtained by inserting the values for A and B into the formula $A + B(1.0 - A)$. The larger of the two numbers is A and the smaller is B. The whole number percentages of impairment are converted to their decimal equivalents (e.g. 12% converts to .12; 3% converts to .03). The resulting percentage is rounded to a whole number as determined in section (1) of this rule. Upon combining the largest two percentages, the resulting percentage is combined with any lesser percentage(s) in descending order using the same formula until all percentages have been combined prior to performing further computations. After the calculations are completed, the decimal result is then converted back to a percentage equivalent. [Example not included. See ED. NOTE.]

(b) Impairment values for a given body part, area, or system must be combined before combining with other impairment values. If the given body part is an upper or lower extremity, ear(s), or eye(s) then the impairment value is to be converted to a whole person value before combining

with other impairment values, except when the date of injury for the claim is prior to Jan. 1, 2005. [Example not included. See ED. NOTE.]

(7) Loss of strength is determined using the modified 0 to 5 international grading system described below. The grade of strength is reported by the physician and assigned a percentage value from the table in subsection (a) of this section. The impairment value of the involved nerve is multiplied by this value. Grades identified as “++” or “-” are considered either a “+” or “-”, respectively.

(a) The grading is valued as follows: [Example not included. See ED. NOTE.]

(b) When a physician reports a loss of strength with muscle action (e.g. flexion, extension, etc.) or when only the affected muscle(s) is identified, anatomy texts or the AMA Guides to the Evaluation of Permanent Impairment may be referenced to identify the specific muscle(s), peripheral nerve(s) or spinal nerve root(s) involved.

(8) For muscles supplied (innervated) by the same nerve, the loss of strength is determined by averaging the percentages of impairment for each involved muscle to arrive at a single percentage of impairment for the involved nerve. [Example not included. See ED. NOTE.]

(9) When multiple nerves have impairment findings found under these rules, these impairment values are first combined for an overall loss of strength value for the body part before combining with other impairment values.

(10) When a joint is ankylosed in more than one direction or plane, the largest ankylosis value is used for rating the loss or only one of the values is used if they are identical. This value is granted in lieu of all other range of motion or ankylosis values for that joint.

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

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

Stat. Auth.: ORS 656.726

Stats. Implemented.: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06;

WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0012

Social-Vocational Factors (Age/Education/Adaptability)

(1) When a worker does not meet the return/release to regular work requirements under ORS 656.726(4), the factors of age, education, and adaptability are determined under this rule and the final result is the social-vocational factor which is used in the calculation of permanent disability benefits. When the date of injury is prior to Jan. 1, 2005, the worker must have ratable unscheduled impairment under OAR 436-035-0019 or OAR 436-035-0330 through 436-035-0450.

(2) The age factor is based on the worker's age at the date of issuance and has a value of 0 or +1.

(a) Workers age 40 and above receive a value of + 1.

(b) Workers less than 40 years old receive a value of 0.

(3) The education factor is based on the worker's formal education and Specific Vocational Preparation (SVP) time at the date of issuance. These two values are determined by sections (4) and (5) of this rule, and are added to give a value from 0 to +5.

(4) A value of a worker's formal education is given as follows:

(a) Workers who have earned or acquired a high school diploma or general equivalency diploma (GED) are given a neutral value of 0. For purposes of this section, a GED is a certificate issued by any certifying authority or its equivalent.

(b) Workers who have not earned or acquired a high school diploma or a GED certificate are given a value of +1.

(5) A value for a worker's Specific Vocational Preparation (SVP) time is given based on the job(s) successfully performed by the worker in the five (5) years prior to the date of issuance. The SVP value is determined by identifying these jobs and locating their SVP in the Dictionary of Occupational Titles (DOT) or a specific job analysis. The job with the highest SVP the worker has met is used to assign a value according to the following table: [Table not included. See ED. NOTE.]

(a) For the purposes of this rule, SVP is defined as the amount of time required by a typical worker to acquire the knowledge, skills and abilities needed to perform a specific job.

(b) When a job is most accurately described by a combination of DOT codes, use all applicable DOT codes. If a preponderance of evidence establishes that the requirements of a specific job differ from the DOT description(s), a specific job analysis which includes the SVP time requirement may be substituted for the DOT description(s) if it more accurately describes the job.

(c) A worker is presumed to have met the SVP training time after completing employment with one or more employers in that job classification for the time period specified in the table.

ADMINISTRATIVE RULES

(d) A worker meets the SVP for a job after successfully completing an authorized training program, on-the-job training, vocational training, or apprentice training for that job classification. College training organized around a specific vocational objective is considered specific vocational training.

(e) For those workers who have not met the specific vocational preparation training time for any job, a value of +4 is granted.

(6) The values obtained in sections (4) and (5) of this rule are added to arrive at a final value for the education factor.

(7) The adaptability factor is a comparison of the worker's Base Functional Capacity (BFC) to their maximum Residual Functional Capacity (RFC). The adaptability factor is determined by subsections (8) to (12) of this section, and has a value from +1 to +7.

(8) For purposes of determining adaptability the following definitions apply:

(a) "Base Functional Capacity" (BFC) means an individual's demonstrated physical capacity before the date of injury or disease.

(b) "Residual Functional Capacity" (RFC) means an individual's remaining ability to perform work-related activities despite medically determinable impairment resulting only from the accepted compensable condition and any direct medical sequela.

(c) "Sedentary restricted" means the worker only has the ability to carry or lift docket, ledgers, small tools and other items weighing less than 10 pounds. A worker is also sedentary restricted if the worker can perform the full range of sedentary activities, but with restrictions.

(d) "Sedentary (S)" means the worker has the ability to occasionally lift or carry docket, ledgers, small tools and other items weighing 10 pounds.

(e) "Sedentary/Light (S/L)" means the worker has the ability to do more than sedentary activities, but less than the full range of light activities. A worker is also sedentary/light if the worker can perform the full range of light activities, but with restrictions.

(f) "Light (L)" means the worker has the ability to occasionally lift 20 pounds and can frequently lift or carry objects weighing up to 10 pounds.

(g) "Medium/Light (M/L)" means the worker has the ability to do more than light activities, but less than the full range of medium activities. A worker is also medium/light if the worker can perform the full range of medium activities, but with restrictions.

(h) "Medium (M)" means the worker can occasionally lift 50 pounds and can lift or carry objects weighing up to 25 pounds frequently.

(i) "Medium/Heavy (M/H)" means the worker has the ability to do more than medium activities, but less than the full range of heavy activities. A worker is also medium/heavy if the worker can perform the full range of heavy activities, but with restrictions.

(j) "Heavy (H)" means the worker has the ability to occasionally lift 100 pounds and the ability to frequently lift or carry objects weighing 50 pounds.

(k) "Very Heavy (V/H)" means the worker has the ability to occasionally lift in excess of 100 pounds and the ability to frequently lift or carry objects weighing more than 50 pounds.

(l) "Restrictions" means that, by a preponderance of medical opinion, the worker is permanently limited by:

(A) Sitting, standing, or walking less than two hours at a time; or

(B) Precluded from working the same number of hours as were worked at the time of injury or eight hours per day, whichever is less; or

(C) From frequently performing at least one of the following activities: stooping/bending, crouching, crawling, kneeling, twisting, climbing, balancing, reaching, or pushing/pulling.

(m) "Occasionally" means the activity or condition exists up to 1/3 of the time.

(n) "Frequently" means the activity or condition exists up to 2/3 of the time.

(o) "Constantly" means the activity or condition exists 2/3 or more of the time.

(9) Base Functional Capacity (BFC) is established by using the following classifications: sedentary (S), light (L), medium (M), heavy (H), and very heavy (VH) as defined in section (8) of this rule. Base Functional Capacity is the most current of:

(a) The highest strength category of the job(s) successfully performed by the worker in the five (5) years prior to the date of injury. The strength categories are found in the Dictionary of Occupational Titles (DOT). When a job is most accurately described by a combination of DOT codes, use all applicable DOT codes. If a preponderance of evidence establishes that the requirements of a specific job differ from the DOT descriptions, a specific job analysis which includes the strength requirements may be substituted

for the DOT description(s) if it most accurately describes the job. If a job analysis determines that the strength requirements are in between strength categories then use the higher strength category; or

(b) A second-level physical capacity evaluation as defined in OAR 436-010-0005 and 436-009-0070(4)(b) performed prior to the date of the on-the-job injury; or

(c) For those workers who do not meet the requirements under section (5) of this rule, and who have not had a second-level physical capacity evaluation performed prior to the on-the-job injury or disease, their prior strength is based on the worker's job at the time of injury.

(d) Where a worker's highest prior strength has been reduced as a result of an injury or condition which is not an accepted Oregon workers' compensation claim the Base Functional Capacity is the highest of:

(A) The job at injury; or

(B) A second-level physical capacities evaluation as defined in OAR 436-010-0005 and 436-009-0070(4)(b) performed after the injury or condition which was not an accepted Oregon workers' compensation claim but before the current work related injury.

(10) Residual functional capacity (RFC) is established by using the following classifications: restricted sedentary (RS), sedentary (S), sedentary/light (S/L), light (L), medium/light (M/L), medium (M), medium/heavy (M/H), heavy (H), and very heavy (VH) and restrictions as defined in section (8) of this rule.

(a) Residual functional capacity is evidenced by the attending physician's release unless a preponderance of medical opinion describes a different RFC.

(b) For the purposes of this rule, the other medical opinion must include at least a second-level physical capacity evaluation (PCE) or work capacity evaluation (WCE) as defined in OAR 436-010-0005 and 436-009-0070(4) or a medical evaluation which addresses the worker's capability for lifting, carrying, pushing/pulling, standing, walking, sitting, climbing, balancing, stooping, kneeling, crouching, crawling and reaching. If multiple levels of lifting and carrying are measured, an overall analysis of the worker's lifting and carrying abilities should be provided in order to allow an accurate determination of these abilities. When the worker fails to cooperate or complete a residual functional capacity (RFC) evaluation, the evaluation must be rescheduled or the evaluator must estimate the worker's RFC as if the worker had cooperated and used maximal effort.

(11) In comparing the worker's Base Functional Capacity (BFC) to the Residual Functional Capacity (RFC), the values for adaptability to perform a given job are as follows: [Table not included. See ED. NOTE.]

(12) For those workers who have an RFC between two categories and who also have restrictions, the next lower classification is used. (For example, if a worker's RFC is S/L and the worker has restrictions, use S).

(13) When the date of injury is on or after Jan. 1, 2005, determine adaptability by finding the adaptability value for the worker's extent of total impairment on the adaptability scale below; compare this value with the residual functional capacity scale in section (11) of this rule and use the higher of the two values for adaptability. Adaptability Scale: [Table not included. See ED. NOTE.]

(14) When the date of injury is before Jan. 1, 2005, for those workers who have ratable unscheduled impairment found in rules OAR 436-035-0019 or 436-035-0330 through 436-035-0450, determine adaptability by applying the extent of total unscheduled impairment to the adaptability scale in section (13) of this rule and the residual functional capacity scale in section (11) of this rule and use the higher of the two values for adaptability.

(15) To determine the social-vocational factor value, which represents the total calculation of age, education, and adaptability complete the following steps.

(a) Determine the appropriate value for the age factor using section (2) of this rule.

(b) Determine the appropriate value for the education factor using sections (4) and (5) of this rule.

(c) Add age and education values together.

(d) Determine the appropriate value for the adaptability factor using sections (7) through (14) of this rule.

(e) Multiply the result from step (c) by the value from step (d) for the social-vocational factor value.

(16) Prorating or interpolating between social-vocational values is not allowed. All values must be expressed as whole numbers.

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06;

WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

ADMINISTRATIVE RULES

436-035-0013

Apportionment

Except as provided in section (5) of this rule, where a worker has a superimposed or unrelated condition, only disability due to the compensable condition is rated, provided the compensable condition is medically stationary. Then, apportionment is appropriate. Disability is determined as follows:

(1) The physician describes the current total overall findings of impairment, then describes those findings that are due to the compensable condition. In cases where a physician determines a specific finding (e.g. range of motion, strength, instability, etc.) is partially attributable to the accepted condition, only the portion of those impairment findings that is due to the compensable condition receives a value. When apportioning impairment findings, the physician must identify any applicable superimposed or unrelated conditions. [Example not included. See ED. NOTE.]

(2) When determining the worker's RFC adaptability factor under OAR 436-035-0012, the physician describes the worker's RFC for lifting, carrying, and any other restrictions or limitations defined in OAR 436-035-0012(8) that are due only to the compensable condition. Limitations in the worker's RFC due to superimposed or unrelated conditions are excluded, and only the RFC value attributable to the compensable condition is given.

(3) When determining the adaptability factor using the adaptability scale in OAR 436-035-0012, which is based on the value of the worker's total impairment for the compensable condition, do not apportion the adaptability value.

(4) The social-vocational factors of age and education (including SVP) are not apportioned, but are determined as of the date of issuance.

(5) Workers with an irreversible finding of impairment or surgical value due to the compensable condition receive the full value awarded in these rules for the irreversible finding or surgical value. This value is combined with impairment noted in section (1) of this rule. [Example not included. See ED. NOTE.]

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

Stat. Auth.: ORS 656.726

Stats. Implemented.: ORS 656.005, 656.214, 656.268, 656.726

Hist.: WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0014

Preexisting Condition/Major Contributing Cause

(1) Where a worker has a pre-existing condition, the following applies:

(a) For purposes of these rules only, a prior Oregon workers' compensation claim is not considered a pre-existing condition.

(b) Under ORS 656.225, disability caused solely by a worker's pre-existing condition is rated completely if work conditions or events were the major contributing cause of a pathological worsening of the pre-existing physical condition or an actual worsening of the pre-existing mental disorder. Disability is rated without apportioning.

(c) Where a worker's compensable condition combines with a pre-existing condition, under ORS 656.005(7), the current disability resulting from the total accepted combined condition is rated under these rules as long as the compensable condition remains the major contributing cause of the accepted combined condition (e.g., a major contributing cause denial has not been issued under ORS 656.262(7)(b)). Disability is rated without apportioning. [Example not included. See ED. NOTE.]

(2) If the worker is not medically stationary, but otherwise qualifies for closure under ORS 656.268 (e.g., when a major contributing cause denial has been issued), the following applies:

(a) When the worker's compensable condition is not medically stationary and, upon examination, the findings of impairment related to the compensable condition would not overlap the findings of impairment related to any combined or superimposed condition, the following applies:

(A) Impairment is established based on an examination in which the physician first describes the current findings regarding impairment due to the worker's compensable condition. Then the physician estimates the likely future portion of those findings that would be present at the time the worker's condition is anticipated to become medically stationary. The value of the current findings is adjusted accordingly and only the portion of those current findings that are anticipated at the time of medically stationary status receives a value.

(B) The physician will estimate the worker's likely future residual functional capacity that would be due only to the compensable condition at the time the condition is anticipated to become medically stationary. Only the portion due to the compensable condition at the time of medically stationary status receives a value.

(C) For dates of injury prior to Jan. 1, 2005, when the compensable condition is to the shoulder, hip, head, neck, or torso, the physician estimates the worker's likely future residual functional capacity, under OAR 436-035-0012(8)(c) through (o), that would be due only to the compensable condition at the time the condition is anticipated to become medically stationary. Only the portion due to the compensable condition at the time of medically stationary status receives a value. For other unscheduled compensable conditions, adaptability is determined under OAR 436-035-0012 based on the physician's estimate of likely impairment.

(b) When the worker's overall condition is not medically stationary and, upon examination, the findings of impairment related to the compensable condition would overlap the findings of impairment related to any combined or superimposed condition, the following applies:

(A) Impairment is established based on an examination in which the physician describes current overall findings regarding impairment considering the worker's overall condition. The physician then estimates the likely future portion of those findings that would be present at the time the worker's condition is anticipated to become medically stationary. Next, the physician estimates the portion of those findings that would be due only to the compensable condition. The current overall value of the findings of impairment is adjusted accordingly and only the portion of those impairment findings that are anticipated at the time of medically stationary status and are due to the compensable condition receive a value. [Example not included. See ED. NOTE.]

(B) The physician will estimate the worker's likely future residual functional capacity under OAR 436-035-0012(8)(c) through (o), that would be due only to the compensable condition at the time medically stationary status is anticipated. Only the portion due to the compensable condition at the time of medically stationary status will receive a value.

(C) For dates of injury prior to Jan. 1, 2005, to estimate an adaptability factor when the compensable condition is to the shoulder, hip, head, neck, or torso, the physician estimates the worker's likely future residual functional capacity under OAR 436-035-0012 (8)(c) through (o), that would be due only to the compensable condition at the time medically stationary status is anticipated. Only the portion due to the compensable condition at the time of medically stationary status receives a value. For other unscheduled compensable conditions, adaptability is determined under OAR 436-035-0012 based on the physician's estimated likely impairment. [Example not included. See ED. NOTE.]

(c) Workers with an irreversible finding of impairment due to the compensable condition receive the full value awarded in these rules for the irreversible finding. This value is then combined with the portion of impairment findings that are anticipated at the time of medically stationary status and due to the compensable condition which are rated under OAR 436-035-0013(5). [Example not included. See ED. NOTE.]

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

Stat. Auth.: ORS 656.726

Stats. Implemented.: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0015

Offsetting Prior Awards

If a worker has a prior award of permanent disability under Oregon Workers' Compensation Law, the award is considered in subsequent claims under ORS 656.222 and 656.214.

(1) A prior award can be used to offset an award for a subsequent claim when all the following are true:

(a) The prior claim is closed under Oregon Workers' Compensation Law;

(b) The prior claim has an award of permanent disability;

(c) The disability in the prior claim has not fully dissipated as outlined in section (2) of this rule; and

(d) Both claims have similar disabilities as outlined in sections (3) and (4) of this rule.

(2) A disability from a prior claim is considered to have fully dissipated if there is not a preponderance of medical evidence or opinion establishing that disability from the prior injury or disease was still present on the date of the injury or disease of the claim being determined. If disability from the prior injury or disease was not still present, an offset is not applied.

(3) The following are considered when determining what impairment findings can be offset from a prior claim:

(a) Only identical impairment findings of like body parts or systems are to be offset (e.g., left leg sensation loss to left leg sensation loss, chronic low back to chronic low back, psychological to psychological, etc.).

ADMINISTRATIVE RULES

(b) A more distal body part impairment finding may be offset against a more proximal body part impairment finding (or vice versa) if there is a combined effect of impairment (e.g., a right forearm impairment finding may be offset against a right arm impairment finding).

(c) Irreversible findings and surgical values are not offset.

(4) The following are considered when determining what disability findings can be offset from a prior claim:

(a) When a worker successfully returns to work in a position requiring greater physical capacity than the RFC established at the time of claim closure in a prior claim, an offset is not applied. The BFC for the current claim closure is established under OAR 436-035-0012, without offsetting the RFC from the prior claim.

(b) The social-vocational factors of age and education (including SVP) are not offset, but are redetermined as of the date of issuance.

(5) The following are considered when calculating the current disability award and applying an offset:

(a) The worker's loss of use or function or loss of earning capacity for the current disability under the standards;

(b) The conditions or findings of impairment from the prior awards which were still present just prior to the current claim;

(c) The worker's adaptability factors which were still present just prior to the current claim, if appropriate; and

(d) The combined effect of the prior and current injuries (the overall disability to a given body part), including the extent to which the current loss of use or function or loss of earning capacity (impairment and social-vocational factors) from a prior injury or disease was still present at the time of the current injury or disease. After considering and comparing the claims, any award of compensation in the current claim for loss of use or function or loss of earning capacity caused by the current injury or disease (which did not exist at the time of the current injury or disease and for which the worker was not previously compensated) is granted.

(e) When there is measurable impairment in the current claim and the worker has not returned to regular work but the offset applied reduces the impairment award to zero, the worker is entitled to a work disability award. The work disability calculation must include the percentage of measurable impairment from the current claim.

Stat. Auth.: ORS 656.726

Stats. Implemented.: ORS 656.005, 656.214, 656.222, 656.268, 656.726

Hist.: WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0019

Chronic Condition

(1) A worker is entitled to a 5% chronic condition impairment value for each applicable body part, when a preponderance of medical opinion establishes that, due to a chronic and permanent medical condition, the worker is significantly limited in the repetitive use of one or more of the following body parts:

(a) Lower leg (below knee/foot/ankle);

(b) Upper leg (knee and above);

(c) Forearm (below elbow/hand/wrist);

(d) Arm (elbow and above);

(e) Cervical;

(f) Thoracic spine;

(g) Shoulder;

(h) Low back;

(i) Hip; or

(j) Chest.

(2) Chronic condition impairments are to be combined with other impairment values, not added.

Stat. Auth.: ORS 656.726

Stats. Implemented.: ORS 656.005, 656.214, 656.268, 656.726

Hist.: WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0050

Thumb

(1) The following ratings are for loss of flexion at the interphalangeal joint of the thumb: [Rating not included. See ED. NOTE.]

(2) The following ratings are for loss of extension at the interphalangeal joint of the thumb: [Rating not included. See ED. NOTE.]

(3) The following ratings are for ankylosis of the interphalangeal joint of the thumb: [Rating not included. See ED. NOTE.]

(4) The following ratings are for loss of flexion at the metacarpophalangeal joint of the thumb: [Rating not included. See ED. NOTE.]

(5) The following ratings are for loss of extension at the metacarpophalangeal joint of the thumb: [Rating not included. See ED. NOTE.]

(6) The following ratings are for ankylosis of the metacarpophalangeal joint of the thumb: [Rating not included. See ED. NOTE.]

(7) For losses in the carpometacarpal joint refer to OAR 436-035-0075.

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 8-1978(Admin), f. 6-30-78, ef. 7-10-78; WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0100, 5-1-85; WCD 13-1987, f. 12-18-87, ef. 1-1-88; WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0160; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 15-1996(Temp), f. & cert. ef. 7-3-96; WCD 18-1996(Temp), f. 8-6-96, cert. ef. 8-7-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0060

Finger

(1) The following ratings are for loss of flexion at the distal interphalangeal joint of any finger: [Rating not included. See ED. NOTE.]

(2) The following ratings are for loss of extension at the distal interphalangeal joint of any finger: [Rating not included. See ED. NOTE.]

(3) The following ratings are for ankylosis in the distal interphalangeal joint of any finger: [Rating not included. See ED. NOTE.]

(4) The following ratings are for loss of flexion at the proximal interphalangeal joint of any finger: [Rating not included. See ED. NOTE.]

(5) The following ratings are for loss of extension at the proximal interphalangeal joint of any finger: [Rating not included. See ED. NOTE.]

(6) The following ratings are for ankylosis in the proximal interphalangeal joint of any finger: [Rating not included. See ED. NOTE.]

(7) The following ratings are for loss of flexion at the metacarpophalangeal joint of any finger: [Rating not included. See ED. NOTE.]

(8) The following ratings are for loss of extension at the metacarpophalangeal joint of any finger: [Rating not included. See ED. NOTE.]

(9) The following ratings are for ankylosis in the metacarpophalangeal joint of any finger: [Rating not included. See ED. NOTE.]

(10) Rotational, lateral, dorsal, or palmar deformity of a finger shall receive a value of 10% for the finger.

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268, 656.726

Hist.: WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0170; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0110

Other Upper Extremity Findings

(1) Loss of palmar sensation in the hand, finger(s), or thumb is rated according to the location and quality of the loss, and is measured by the two-point discrimination method.

(a) Sensation is determined by using any instrumentation that allows for measuring the distance between two pin pricks applied at the same time (two-point) and using the following procedure:

(A) With the worker's eyes closed, the examiner touches the tip of the instrument to the digit in the longitudinal axis on the radial or ulnar side.

(B) The worker indicates whether one or two points are felt.

(C) A varied series of one or two points are applied.

(D) Testing is started distally and proceeds proximally to determine the longitudinal level of involvement.

(E) The ends of the testing device are set first at 15 mm apart and the distance is progressively decreased as accurate responses are obtained.

(F) The minimum distance at which the individual can accurately discriminate between one and two point tests in two out of three applications is recorded for each area.

(b) If enough sensitivity remains to distinguish two pin pricks applied at the same time (two point), the following apply: [Rating not included. See ED. NOTE.]

(c) In determining sensation findings for a digit which has been resected or amputated, the value is established by comparing the remaining overall length of the digit to the table in subsection (1)(d) of this rule and rating the length equivalency.

(d) Loss of sensation in the finger(s) or thumb is rated as follows: [Rating not included. See ED. NOTE.]

(e) If the level of the loss is less than 1/2 the distal phalanx or falls between the levels in subsection (d) of this section, rate at the next highest (or more proximal) level.

(f) In determining sensation impairment in a digit in which the sensation loss does not extend to the distal end of the digit, the value is estab-

ADMINISTRATIVE RULES

lished by determining the value for loss from the distal end of the digit to the proximal location of the loss, and subtracting the value for loss from the distal end of the digit to the distal location of the loss. [Rating not included. See ED. NOTE.]

(g) Any portion of palmar sensation loss is rated as follows: [Rating not included. See ED. NOTE.]

(h) Loss of sensation on the dorsal side of the hand, fingers or thumb is not considered a loss of function, so no value is allowed.

(i) Sensory loss in the forearm or arm is not considered a loss of function, therefore no value is allowed.

(j) When there are multiple losses of palmar sensation in a single body part (e.g. hand, finger(s), or thumb), the impairment values are first combined for an overall loss of sensation value for the individual digit or hand. This value is then combined with other impairment values for that digit or hand prior to conversion.

(k) Hypersensitivity resulting in a loss of use in the digits or palm, is valued using the above loss of sensation tables. Mild hypersensitivity is valued at the equivalent impairment level as less than normal sensation, moderate hypersensitivity the equivalent of protective sensation loss, and severe hypersensitivity the equivalent of a total loss of sensation.

(l) When there is a loss of use or function due to hypersensitivity and decreased two-point discrimination (i.e. sensation loss), both conditions are rated.

(2) When surgery or an injury results in arm length discrepancies involving the injured arm, the following values are given on the affected arm for the length discrepancy: [Rating not included. See ED. NOTE.]

(3) Joint instability in the finger(s), thumb, or hand is rated according to the body part affected: [Rating not included. See ED. NOTE.]

(4) Lateral deviation or malalignment of the upper extremity is valued as follows:

(a) Increased lateral deviation at the elbow is determined as follows: [Rating not included. See ED. NOTE.]

(b) Fracture resulting in angulation or malalignment, other than at the elbow, is determined as follows: [Rating not included. See ED. NOTE.]

(c) Rotational, lateral, dorsal, or palmar deformity of the thumb receives a value of 10% of the thumb.

(d) Rotational, lateral, dorsal, or palmar deformity of a finger receives a value of 10% for the finger.

(5) Surgery on the upper extremity is valued as follows: [Rating not included. See ED. NOTE.]

(6) Dermatological conditions, including burns, which are limited to the arm, forearm, hand, fingers, or thumb are rated according to the body part affected. The percentages indicated in the classes below are applied to the affected body part(s), e.g. a Class 1 dermatological condition of the thumb is 3% of the thumb, or a Class 1 dermatological condition of the hand is 3% of the hand, or a Class 1 dermatological condition of the arm is 3% of the arm. Contact dermatitis of an upper extremity is rated in this section unless it is an allergic systemic reaction, which is also rated under OAR 436-035-0450. Contact dermatitis for a body part other than the upper or lower extremities is rated under OAR 436-035-0440. Impairments may or may not show signs or symptoms of skin disorder upon examination but are rated according to the following classes:

(a) Class 1: 3% for the affected body part if treatment results in no more than minimal limitation in the performance of activities of daily living (ADL), although exposure to physical or chemical agents may temporarily increase limitations.

(b) Class 2: 15% for the affected body part if intermittent treatments and prescribed examinations are required, and the worker has some limitations in the performance of ADL.

(c) Class 3: 38% for the affected body part if regularly prescribed examinations and continuous treatments are required, and the worker has many limitations in the performance of ADL.

(d) Class 4: 68% for the affected body part if continuous prescribed treatments are required. The treatment may include periodically having the worker stay home or admitting the worker to a care facility, and the worker has many limitations in the performance of ADL.

(e) Class 5: 90% for the affected body part if continuous prescribed treatment is required. The treatment necessitates having the worker stay home or being permanently admitted to a care facility, and the worker has severe limitations in the performance of ADL.

(7) Vascular dysfunction of the upper extremity is valued according to the affected body part, using the following classification table:

(a) Class 1: 3% for the affected body part if the worker experiences only transient edema; and on physical examination, the findings are limited to the following: loss of pulses, minimal loss of subcutaneous tissue of

fingertips, calcification of arteries as detected by radiographic examination, asymptomatic dilation of arteries or veins (not requiring surgery and not resulting in curtailment of activity); or cold intolerance (e.g. Raynaud's phenomenon) which results in a loss of use or function that occurs with exposure to temperatures below freezing (0° Centigrade).

(b) Class 2: 15% for the affected body part if the worker experiences intermittent pain with repetitive exertional activity; or there is persistent moderate edema incompletely controlled by elastic supports; or there are signs of vascular damage such as a healed stump of an amputated digit, with evidence of persistent vascular disease, or a healed ulcer; or cold intolerance (e.g. Raynaud's phenomenon) which results in a loss of use or function that occurs on exposure to temperatures below 4° Centigrade.

(c) Class 3: 35% for the affected body part if the worker experiences intermittent pain with moderate upper extremity usage; or there is marked edema incompletely controlled by elastic supports; or there are signs of vascular damage such as a healed amputation of two or more digits, with evidence of persistent vascular disease, or superficial ulceration; or cold intolerance (e.g. Raynaud's phenomenon) which results in a loss of use or function that occurs on exposure to temperatures below 10° Centigrade.

(d) Class 4: 63% for the affected body part if the worker experiences intermittent pain upon mild upper extremity usage; or there is marked edema that cannot be controlled by elastic supports; or there are signs of vascular damage such as an amputation at or above the wrist, with evidence of persistent vascular disease, or persistent widespread or deep ulceration involving one extremity; or cold intolerance (e.g. Raynaud's phenomenon) which results in a loss of use or function that occurs on exposure to temperatures below 15° Centigrade.

(e) Class 5: 88% for the affected body part if the worker experiences constant and severe pain at rest; or there are signs of vascular damage involving more than one extremity such as amputation at or above the wrist, or amputation of all digits involving more than one extremity with evidence of persistent vascular disease, or persistent widespread deep ulceration involving more than one extremity; or cold intolerance such as Raynaud's phenomenon which results in a loss of use or function that occurs on exposure to temperatures below 20° Centigrade.

(f) If partial amputation of the affected body part occurs as a result of vascular disease, the impairment values are rated separately.

(8) Injuries to unilateral spinal nerve roots or brachial plexus with resultant loss of strength in the arm, forearm or hand are determined according to the specific nerve root which supplies (innervates) the weakened muscle(s), as described in the following table and modified under OAR 436-035-0011(7):

(a) SPINAL NERVE ROOT Arm Impairment; [Values not included. See ED. NOTE.]

(b) For loss of strength in bilateral extremities, each extremity is rated separately.

(9) When a spinal nerve root or brachial plexus are not injured, valid loss of strength in the arm, forearm or hand, substantiated by clinical findings, is valued based on the peripheral nerve supplying (innervating) the muscle(s) demonstrating the decreased strength, as described in the following table and as modified under OAR 436-035-0011(7). [Values not included. See ED. NOTE.]

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

(b) Decreased strength due to an amputation receives no rating for weakness in addition to that given for the amputation.

(c) Decreased strength due to a loss in range of motion receives no rating for weakness in addition to that given for the loss of range of motion.

(d) When loss of strength is present in the shoulder, refer to OAR 436-035-0330 for determination of the impairment.

(10) For motor loss in any part of an arm which is due to brain or spinal cord damage, impairment is valued as follows: [Values not included. See ED. NOTE.]

(b) When a value is granted under subsection (a) of this section, additional impairment values are not allowed for weakness, chronic condition, or reduced range of motion in the same extremity.

(c) For bilateral extremity loss, each extremity is rated separately.

(11) Neurological dysfunction resulting in cold intolerance in the upper extremity is valued according to the affected body part using the same classifications for cold intolerance due to vascular dysfunction in section (7) of this rule.

[ED. NOTE: Ratings and Values referenced are available from the agency.]

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268, 656.726

ADMINISTRATIVE RULES

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0530, 5-1-85; WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 5-1988, f. 8-22-88, cert. ef. 8-1-9-88; WCD 5-1988, f. 9-2-88, cert. ef. 8-19-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0220; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0190

Foot

(1) Ankylosis at the tarsometatarsal joints receives a rating of 10% of the foot for each of the tarsometatarsal joints ankylosed.

(2) The following ratings are for loss of subtalar inversion in the foot: [Rating not included. See ED. NOTE.]

(3) The following ratings are for subtalar inversion (varus) ankylosis in the foot: [Rating not included. See ED. NOTE.]

(4) The following ratings are for loss of subtalar eversion in the foot: [Rating not included. See ED. NOTE.]

(5) The following ratings are for subtalar eversion (valgus) ankylosis in the foot: [Rating not included. See ED. NOTE.]

(6) The following ratings are for loss of dorsiflexion (extension) in the ankle joint: [Rating not included. See ED. NOTE.]

(7) The following ratings are for dorsiflexion (extension) ankylosis in the ankle joint: [Rating not included. See ED. NOTE.]

(8) The following ratings are for loss of plantar flexion in the ankle joint: [Rating not included. See ED. NOTE.]

(9) The following ratings are for plantar flexion ankylosis in the ankle joint: [Rating not included. See ED. NOTE.]

(10) The following applies when determining impairment for loss of motion or ankylosis in the ankle or subtalar joint:

(a) If there is loss of motion only (no ankylosis in either joint) in the subtalar joint or the ankle joint, the following applies:

(A) the values for loss of motion in the subtalar joint are added;

(B) the values for loss of motion in the ankle joint are added;

(C) the value for loss of motion in the subtalar joint is added to the value for loss of motion in the ankle joint.

(b) If there is ankylosis in the ankle or subtalar joint, the following applies:

(A) When there is ankylosis in one joint only with no loss of motion or ankylosis in the other joint, that ankylosis value is granted.

(B) When there is loss of motion in one joint and ankylosis in the other joint, add the ankylosis value to the value for loss of motion in the non-ankylosed joint.

(C) When the ankle joint is ankylosed in plantar flexion and dorsiflexion, use only the largest ankylosis value for rating the loss or only one of the values if they are identical. Under OAR 436-035-0011(10), this ankylosis value is granted in lieu of all other range of motion or ankylosis values for the ankle joint.

(D) When the subtalar joint is ankylosed in inversion and eversion, use only the largest ankylosis value for rating the loss or only one of the values if they are identical. Under OAR 436-035-0011(10), this ankylosis value is granted in lieu of all other range of motion or ankylosis values for the subtalar joint.

(E) When both joints are ankylosed, add the ankle joint value to the subtalar joint value.

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0524, 5-1-85; WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0310; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0230

Other Lower Extremity Findings

(1) Loss or alteration (e.g. hypersensitivity) of sensation in the leg is not considered disabling except for the plantar surface of the foot and toes, including the great toe, where it is rated as follows:

(a) Toe (in any toe) Foot partial loss or alteration of sensation — 5%—5% total loss or severe alteration of sensation — 10% — 10%

(b) Loss or alteration of sensation in the toes in addition to loss or alteration of sensation in the foot is rated for the foot only. No additional value is allowed for loss or alteration of sensation in the toes.

(c) When there is a loss of use or function due to hypersensitivity and sensation loss, both conditions are rated.

(2) The following ratings are for length discrepancies of the injured leg. However, loss of length due to flexion/extension deformities are excluded. The rating is the same whether the length change is a result of an injury to the foot or to the upper leg: [Table not included. See ED. NOTE.]

(3) Valid instability in the ankle or knee substantiated by clinical findings is valued based on the ligament demonstrating the laxity, as described in the table below. The instability value is given even if the ligament itself has not been injured. [Table not included. See ED. NOTE.]

(a) For ankle joint instability to be rated as severe there must be a complete disruption of two or more ligaments. Following are examples of ankle ligaments that may contribute to joint instability:

(A) The lateral collateral ligaments including the anterior talofibular, calcaneofibular, talocalcaneal, posterior talocalcaneal, and the posterior talofibular.

(B) The medial collateral ligaments, or deltoid ligament, including the tibionavicular, calcaneotibial, anterior talotibial, and the posterior talotibial.

(b) For knee joint instability the severity of joint opening is mild at a grade 1 or 1+ (1-5mm), moderate at a grade 2 or 2+ (6-10mm), and severe at a grade 3 or 3+ (>10mm).

(c) Ankle joint instability with additional anterior or posterior instability receives an additional 10%.

(d) When there is a prosthetic knee replacement, instability of the knee is not rated unless the severity of the instability is equivalent to Grade 2 or greater.

(e) Rotary instability in the knee is included in the impairment value(s) of this section.

(f) Multiple instability values in a single joint are combined.

(4) When injury in the ankle or knee/leg results in angulation or malalignment, impairment values are determined according to the following:

(a) Varus deformity greater than 15° of the knee/leg is rated at 10% of the leg and of the ankle is rated at 10% of the foot.

(b) Valgus deformity greater than 20° of the knee/leg is rated at 10% of the leg and of the ankle is rated at 10% of the foot.

(c) Tibial shaft fracture resulting in angulation or malalignment (rotational deformity) affects the function of the entire leg and is rated as follows: [Values not included. See ED. NOTE.]

(d) Injury resulting in a rocker bottom deformity of the foot is valued at 14%.

(5) The following values are for surgery of the toes, foot, or leg:

(a) In the great toe: [Values not included. See ED. NOTE.]

(b) In the second through fifth toes: [Values not included. See ED. NOTE.]

(c) When rating a prosthetic knee replacement, a separate value for meniscectomy(s) or patellectomy for the same knee is not granted.

(f) A meniscectomy is rated as a complete loss unless the record indicates that more than the rim of the meniscus remains.

(6) Dermatological conditions including burns which are limited to the leg or foot are rated according to the body part affected. The percentages indicated in the classes below are applied to the affected body part(s), e.g. a Class 1 dermatological condition of the foot is 3% of the foot, or a Class 1 dermatological condition of the leg is 3% of the leg. Contact dermatitis is determined under this section unless it is caused by an allergic systemic reaction which is also determined under OAR 436-035-0450. Contact dermatitis for a body part other than the upper or lower extremities is rated under OAR 436-035-0440. Impairments may or may not show signs or symptoms of skin disorder upon examination but are rated according to the following classes:

(a) Class 1: 3% for the leg or foot if treatment results in no more than minimal limitations in the performance of the activities of daily living (ADL), although exposure to physical or chemical agents may temporarily increase limitations.

(b) Class 2: 15% for the leg or foot if intermittent treatments and prescribed examinations are required, and the worker has some limitations in the performance of ADL.

(c) Class 3: 38% for the leg or foot if regularly prescribed examinations and continuous treatments are required, and the worker has many limitations in the performance of ADL.

(d) Class 4: 68% for the leg or foot if continuous prescribed treatments are required. The treatment may include periodically having the worker stay home or admitting the worker to a care facility, and the worker has many limitations in the performance of ADL.

(e) Class 5: 90% for the leg or foot if continuous prescribed treatment is required. The treatment necessitates having the worker stay home or per-

ADMINISTRATIVE RULES

manently admitting the worker to a care facility, and the worker has severe limitations in the performance of ADL.

(f) Full thickness skin loss of the heel is valued at 10% of the foot, even when the area is successfully covered with an appropriate skin graft.

(7) The following ratings are for vascular dysfunction of the leg. The impairment values are determined according to the following classifications:

(a) Class 1: 3% for the leg. Workers belong in Class 1 when any of the following exist:

- (A) Loss of pulses in the foot.
- (B) Minimal loss of subcutaneous tissue.
- (C) Calcification of the arteries (as revealed by x-ray).
- (D) Transient edema.

(b) Class 2: 15% for the leg. Workers belong in Class 2 when they suffer from any of the following:

(A) Limping due to intermittent claudication that occurs when walking at least 100 yards.

(B) Vascular damage, as evidenced by a healed painless stump of a single amputated toe, with evidence of chronic vascular dysfunction or a healed ulcer.

(C) Persistent moderate edema which is only partially controlled by support hose.

(c) Class 3: 35% for the leg. Workers belong in Class 3 when they suffer from any of the following:

(A) Limping due to intermittent claudication when walking as little as 25 yards and no more than 100 yards.

(B) Vascular damage, as evidenced by healed amputation stumps of two or more toes on one foot, with evidence of chronic vascular dysfunction or persistent superficial ulcers on one leg.

(C) Obvious severe edema which is only partially controlled by support hose.

(d) Class 4: 63% for the leg. Workers belong in Class 4 when they suffer from any of the following:

(A) Limping due to intermittent claudication after walking less than 25 yards.

(B) Intermittent Pain in the legs due to intermittent claudication when at rest.

(C) Vascular damage, as evidenced by amputation at or above the ankle on one leg, or amputation of two or more toes on both feet, with evidence of chronic vascular dysfunction or widespread or deep ulcers on one leg.

(D) Obvious severe edema which cannot be controlled with support hose.

(e) Class 5: 88% for the leg. Workers belong in Class 5 when they suffer from either of the following:

(A) Constant severe pain due to claudication at rest.

(B) Vascular damage, as evidenced by amputations at or above the ankles of both legs, or amputation of all toes on both feet, with evidence of persistent vascular dysfunction or of persistent, widespread, or deep ulcerations on both legs.

(f) If partial amputation of the lower extremity occurs as a result of vascular dysfunction, the impairment values are rated separately. The amputation value is then combined with the impairment value for the vascular dysfunction.

(8) Injuries to unilateral spinal nerve roots with resultant loss of strength in the leg or foot is determined according to the specific nerve root supplying (innervating) the weakened muscle(s), as described in the following table and modified under OAR 436-035-0011(7). [Values not included. See ED. NOTE.]

(b) Loss of strength in bilateral extremities results in each extremity being rated separately.

(9) When a spinal nerve root or lumbosacral plexus are not injured, valid loss of strength in the leg or foot, substantiated by clinical findings, is valued based on the peripheral nerve supplying (innervating) the muscle(s) demonstrating the decreased strength, as described in the following table and as modified under OAR 436-035-0011(7). [Values not included. See ED. NOTE.]

(a) Loss of strength due to an injury in a single toe receives a value of zero, unless the strength loss is due to a compensable condition that is proximal to the digit.

(b) Decreased strength due to an amputation receives no rating for weakness in addition to that given for the amputation.

(c) Decreased strength due to a loss in range of motion receives no rating for weakness in addition to that given for the loss of range of motion.

(10) For motor loss to any part of a leg which is due to brain or spinal cord damage, impairment is valued as follows:

(a) Severity of Motor Loss: [Values not included. See ED. NOTE.]

(b) When a value is granted under subsection (a) of this section, additional impairment values in the same extremity are not allowed for weakness, reduced range of motion or limited ability to walk/stand for two hours or less.

(c) For bilateral extremity loss, each extremity is rated separately.

(11) If there is a diagnosis of Grade IV chondromalacia, extensive arthritis or extensive degenerative joint disease and one or more of the following are present: secondary strength loss; chronic effusion; varus or valgus deformity less than that specified in section (4) of this rule, then one or more of the following rating values apply:

(a) 5% of the foot for the ankle joint; or

(b) 5% of the leg for the knee joint.

(12) For a diagnosis of degenerative joint disease, chondromalacia, or arthritis which does not meet the criteria noted in section (11) of this rule, the impairment is determined under the chronic condition rule (OAR 436-035-0019) if the criteria in that rule is met.

(13) Other impairment values, e.g., weakness, chronic condition, reduced range of motion, etc., are combined with the value granted in section (11) of this rule.

(14) When objective medical evidence establishes a loss of use or function in the lower extremity, and the worker cannot be on his or her feet for more than two hours in an 8-hour period, the award is 15% of the leg.

[ED. NOTE: Ratings & Values referenced are available from the agency.]

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80.; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0532, 5-1-85; WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0340; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 10-1992(Temp), f. & cert. ef. 6-1-92; WCD 15-1992, f. 11-20-92, cert. ef. 11-27-92; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0340

Hip

(1) When a preponderance of objective medical evidence supports findings that reduced ranges of motion of the hip do not involve the pelvis or acetabulum, the impairment determination is valued according to OAR 436-035-0220. If the reduced ranges of motion are a residual of pelvic or acetabular involvement, the impairment is determined under this rule.

(2) The following ratings are for loss of forward flexion in the hip joint: [Ratings not included. See ED. NOTE.]

(3) The following ratings are for forward flexion ankylosis in the hip joint: [Ratings not included. See ED. NOTE.]

(4) The following ratings are for loss of backward extension in the hip joint: [Ratings not included. See ED. NOTE.]

(5) The following ratings are for backward extension ankylosis of the hip joint: [Ratings not included. See ED. NOTE.]

(6) The following ratings are for loss of abduction in the hip joint: [Ratings not included. See ED. NOTE.]

(7) The following ratings are for abduction ankylosis in the hip joint: [Ratings not included. See ED. NOTE.]

(8) The following ratings are for loss of adduction in the hip joint: [Ratings not included. See ED. NOTE.]

(9) The following ratings are for adduction ankylosis in the hip joint: [Ratings not included. See ED. NOTE.]

(10) The following ratings are for loss of internal rotation of the hip joint: [Ratings not included. See ED. NOTE.]

(11) The following ratings are for internal rotation ankylosis of the hip joint: [Ratings not included. See ED. NOTE.]

(12) The following ratings are for loss of external rotation of the hip joint: [Ratings not included. See ED. NOTE.]

(13) The following ratings are for external rotation ankylosis of the hip joint: [Ratings not included. See ED. NOTE.]

(14) When two or more ankylosis positions are documented, select the one direction representing the largest impairment. That will be the impairment value for the hip represented by ankylosis.

(15) A value of 13% is determined for a total hip replacement (both femoral and acetabular components involved). If a total hip replacement surgery occurs following an earlier femoral head replacement surgery under OAR 436-035-0230(5), both impairment values are rated.

(16) A value of 5% is awarded for a repeat total hip replacement surgery.

ADMINISTRATIVE RULES

(17) Total value for loss of range of motion is obtained by adding (not combining) the values for each range of motion.

(18) The final value for the hip is obtained by combining (not adding) the values in sections (15), (16) and (17) of this rule.

(19) Healed displaced fractures in the hip may cause leg length discrepancies. Impairment is determined under OAR 436-035-0230.

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0481; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0370

Pelvis

(1) A fractured pelvis which heals well, leaving no displacement, receives no rating.

(2) The following ratings are for a fractured pelvis which heals with displacement and deformity: [Ratings not included. See ED. NOTE.]

(3) A hemipelvectomy receives 25% for the pelvis, and the accompanying loss of the leg is determined under OAR 436-035-0140(1).

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0610, 5-1-85; WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 5-1988(Temp), f. 9-2-88, cert. ef. 8-19-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0510; WCD 2-1991, f. 3-26-91 & cert. ef. 4-1-91; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0375

Abdomen

Use the following classifications when impairment has resulted from a permanent and palpable defect in the supporting structures of the abdominal wall:

(1) Class 1: 5% for a slight protrusion at the site of the defect with increased abdominal pressure that is readily reducible; or occasional mild discomfort at the site of the defect, which limits the worker in one or more activities of daily living (ADL).

(2) Class 2: 15% for frequent or persistent protrusion at the site of the defect with increased pressure that is manually reducible; or frequent discomfort, which limits the worker from heavy lifting, but does not hamper some ADL.

(3) Class 3: 25% for persistent, irreducible, or irreparable protrusion at the site of the defect and there is a limitation in the worker's ADL.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 5-1988, f. 8-22-88, cert. ef. 8-19-88; WCD 5-1988, f. 9-2-88, cert. ef. 8-19-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0390

Cranial Nerves/Brain

(1) Impairment of the First Cranial Nerve (Olfactory) resulting in either complete inability to detect odors or alteration of the sense of smell is 3% impairment.

(2) Ratings given for impairment of the Second Cranial Nerve (Optic) are figured according to their effects on vision under OAR 436-035-0260.

(3) Ratings given for impairment in the Third Cranial Nerve (Oculomotor), Fourth Cranial Nerve (Trochlear), and Sixth Cranial Nerve (Abducens) are determined according to their effects on ocular motility under OAR 436-035-0260.

(4) Ratings given for impairment of the Fifth Cranial Nerve (Trigeminal) are as follows:

(a) For loss or alteration of sensation in the Trigeminal distribution on one side: 10%; on both sides: 35%.

(b) The rating given for loss of motor function for each Trigeminal Nerve is 5%.

(c) The rating given for loss of motor function of both Trigeminal Nerves is determined under OAR 436-035-0385 and 436-035-0420.

(5) Ratings given for impairment of the Sixth Cranial Nerve (Abducens) are described in section (3) of this rule.

(6) Ratings given for impairment of the Seventh Cranial Nerve (Facial) are as follows:

(a) No rating is given for loss of sensation from impairment of one or both Facial Nerves.

(b) If impairment of one or both Facial Nerves results in loss or alteration of the sense of taste, the rating is 3%.

(c) Motor loss on one side of the face due to impairment of the Facial Nerve is rated at 15% for a complete loss, or 5% for a partial loss.

(d) Motor loss on both sides of the face due to impairment of the Facial Nerve is rated at 45% for a complete loss, or 20% for a partial loss.

(7) Ratings given for impairment of the Eighth Cranial Nerve (Auditory) are determined according to their effects on hearing under OAR 436-035-0250. Other ratings for loss of function most commonly associated with this nerve include the following:

(a) For permanent disturbances resulting in disequilibrium which limits activities the impairment is rated according to the following:

(A) 8% when signs of disequilibrium are present with supporting objective findings and the usual activities of daily living (ADL) are performed without assistance.

(B) 23% when signs of disequilibrium are present with supporting objective findings and the usual activities of daily living can be performed without assistance, and the worker is unable to operate a motor vehicle.

(C) 48% when signs of disequilibrium are present with supporting objective findings and the usual ADL cannot be performed without assistance.

(D) 80% when signs of disequilibrium are present with supporting objective findings and the usual ADL cannot be performed without assistance, and confinement to the home or other facility is necessary.

(b) Tinnitus which by a preponderance of medical opinion requires job modification is valued at 5%. No additional impairment value is allowed for "bilateral" tinnitus.

(8) Ratings given for impairment of the Ninth Cranial Nerve (Glossopharyngeal), Tenth Cranial Nerve (Vagus), and Eleventh Cranial Nerve (Cranial Accessory) are as follows:

(a) Impairment of swallowing due to damage to the Ninth, Tenth, or Eleventh Cranial Nerves is determined under OAR 436-035-0420.

(b) Speech impairment due to damage to the Ninth, Tenth, or Eleventh Cranial Nerves is rated under the classifications in OAR 436-035-0385(8).

(9) Ratings given for impairment of the Twelfth Cranial Nerve (Hypoglossal) are as follows:

(a) No rating is allowed for loss on one side.

(b) Bilateral loss is rated as in section (8) of this rule.

(10) Impairment for injuries that have resulted in damage to the brain is determined based upon a preponderance of medical opinion which applies or describes the following criteria.

(a) The existence and severity of the claimed residuals and impairments must be objectively determined by observation or examination or a preponderance of evidence, and must be within the range reasonably considered to be possible, given the nature of the original injury, based upon a preponderance of medical opinion.

(b) The residuals must be a direct result of organic injury to the brain. For example, emotional or behavioral disturbances must result directly from injury to the brain. Emotional disturbances which are reactive to other residuals, but which are not directly organically based, such as frustration or depressed mood about memory deficits or work limitations, are not included under these criteria and must be addressed separately.

(c) The distinctions between Classes are intended to reflect, at their most fundamental level, the impact of the residuals on two domains: impairment of ADL, and impairment of employment capacity.

(d) Where the residuals from the accepted condition and any direct medical sequelae place the worker between one or more classes, the worker is entitled to be placed in the highest class that describes the worker's impairment. There is no averaging of impairment values when a worker falls between classes.

(e) As used in these rules, Episodic Neurologic Disorder refers to and includes any of the following:

(A) Any type of seizure disorder;

(B) Vestibular disorder, including disturbances of balance or sensorimotor integration;

(C) Neuro-ophthalmologic or oculomotor visual disorder, such as diplopia;

(D) Headaches: [Ratings not included. See ED. NOTE.]

(11) For the purpose of section (10) of this rule, the Rancho Los Amigos-Revised levels are based upon the Eight States Levels of Cognitive Recovery developed at the Rancho Los Amigos Hospital and co-authored by Chris Hagen, PhD, Danese Malkumus, M.A., and Patricia Durham, M.S., in 1972. These levels were revised by Danese Malkumus, M.A., and Kathryn Standenip, O.T.R., in 1974, revised by Chris Hagen, PhD, in 1999 to include ten levels, referred to as Rancho-R.

(12) For brain damage that has resulted in the loss of use or function of any upper or lower extremities, a value may be allowed for the affected

ADMINISTRATIVE RULES

body part(s). Refer to the appropriate section of these standards for that determination.

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

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0645, 5-1-85; WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0530; WCD 18-1990(Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 2-2003, f. 1-15-03, cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0400

Mental Illness

(1) Accepted mental disorders resulting in impairment must be diagnosed by a psychiatrist or other mental health professional as provided for in a Managed Care Organization certified under OAR chapter 436, division 015.

(2) Diagnoses of mental disorders for the purposes of these rules follow the guidelines of the Diagnostic and Statistical Manual of Mental Disorders DSM-IV (1994), published by the American Psychiatric Association.

(3) The physician describes permanent changes in mental function in terms of their affect on the worker's activities of daily living (ADLs), as defined in OAR 436-035-0005(1). Additionally, the physician describes the affect on social functioning and deterioration or decompensation in work or work-like settings.

(a) Social functioning refers to an individual's capacity to interact appropriately, communicate effectively, and get along with other individuals.

(b) Deterioration or decompensation in work or work-like settings refers to repeated failure to adapt to stressful circumstances, which causes the individual either to withdraw from that situation or to experience exacerbations with accompanying difficulty in maintaining ADL, social relationships, concentration, persistence, pace, or adaptive behaviors.

(4) Loss of function attributable to permanent worsening of personal-ity disorders may be stated as impairment only if it interferes with the worker's long-term ability to adapt to the ordinary activities and stresses of daily living. Personality disorders are rated as two classes with gradations within each class based on severity:

(a) Class 1: minimal (0%), mild (6%), or moderate (11%) A worker belongs in class 1 when:

(A) The worker shows little self-understanding or awareness of the mental illness;

(B) Has some problems with judgment;

(C) Has some problems with controlling personal behavior;

(D) Has some ability to avoid serious problems with social and personal relationships; and

(E) Has some ability to avoid self-harm.

(b) Class 2: minimal (20%), mild (29%), or moderate (38%) A worker belongs in class 2 when:

(A) The worker shows considerable loss of self control;

(B) Has an inability to learn from experience; and

(C) Causes harm to the community or to the self.

(5) Loss of function attributable to permanent symptoms of affective disorders, anxiety disorders, somatoform disorders, and chronic adjustment disorders is rated under the following classes, with gradations within each class based on the severity of the symptoms/loss of function:

(a) Class 1: (0%) A worker belongs in Class 1 when one or more of the following residual symptoms are noted:

(A) Anxiety symptoms: Require little or no treatment, are in response to a particular stress situation, produce unpleasant tension while the stress lasts, and might limit some activities.

(B) Depressive symptoms: The ADL can be carried out, but the worker might lack ambition, energy, and enthusiasm. There may be such depression-related, mentally-caused physical problems as mild loss of appetite and a general feeling of being unwell.

(C) Phobic symptoms: Phobias the worker already suffers from may come into play, or new phobias may appear in a mild form.

(D) Psychophysiological symptoms: Are temporary and in reaction to specific stress. Digestive problems are typical. Any treatment is for a short time and is not connected with any ongoing treatment. Any physical pathology is temporary and reversible. Conversion symptoms or hysterical symptoms are brief and do not occur very often. They might include some slight

and limited physical problems (such as weakness or hoarseness) that quickly respond to treatment.

(b) Class 2: minimal (6%), mild (23%), or moderate (35%). A worker belongs in Class 2 when one or more of the following residual symptoms/loss of functions are noted:

(A) Anxiety symptoms: May require extended treatment. Specific symptoms may include (but are not limited to) startle reactions, indecision because of fear, fear of being alone, and insomnia. There is no loss of intellect or disturbance in thinking, concentration, or memory.

(B) Depressive symptoms: Last for several weeks. There are disturbances in eating and sleeping patterns, loss of interest in usual activities, and moderate retardation of physical activity. There may be thoughts of suicide. Self-care activities and personal hygiene remain good.

(C) Phobic symptoms: Interfere with normal activities to a mild to moderate degree. Typical reactions include (but are not limited to) a desire to remain at home, a refusal to use elevators, a refusal to go into closed rooms, and an obvious reaction of fear when confronted with a situation that involves a superstition.

(D) Psychophysiological symptoms: Require substantial treatment. Frequent and recurring problems with the organs get in the way of common activities. The problems may include (but are not limited to) diarrhea; chest pains; muscle spasms in the arms, legs, or along the backbone; a feeling of being smothered; and hyperventilation. There is no actual pathology in the organs or tissues. Conversion or hysterical symptoms result in periods of loss of physical function that occur more than twice a year, last for several weeks, and need treatment. Symptoms may include (but are not limited to) temporary hoarseness, temporary blindness, temporary weakness in the arms or the legs. These problems continue to return.

(c) Class 3: Minimal (50%), mild (66%), or moderate (81%) A worker belongs in Class 3 when one or more of the following residual symptoms/loss of functions are noted:

(A) Anxiety symptoms: Fear, tension, and apprehension interfere with work or the ADL. Memory and concentration decrease or become unreliable. Long-lasting periods of anxiety keep returning and interfere with personal relationships. The worker needs constant reassurance and comfort from family, friends, and coworkers.

(B) Depressive symptoms: Include an obvious loss of interest in the usual ADL, including eating and self-care. These problems are long-lasting and result in loss of weight and an unkempt appearance. There may be retardation of physical activity, a preoccupation with suicide, and actual attempts at suicide. The worker may be extremely agitated on a frequent or constant basis.

(C) Phobic symptoms: Existing phobias are intensified. In addition, new phobias develop. This results in bizarre and disruptive behavior. In the most serious cases, the worker may become home-bound, or even room-bound. Persons in this state often carry out strange rituals which require them to be isolated or protected.

(D) Psychophysiological symptoms: Include tissue changes in one or more body systems or organs. These may not be reversible. Typical reactions include (but are not limited to) changes in the wall of the intestine that results in constant digestive and elimination problems. Conversion or hysterical symptoms include loss of physical function that occurs often and lasts for weeks or longer. Evidence of physical change follows such events. A symptomatic period (18 months or more) is associated with advanced negative changes in the tissues and organs. These include (but are not limited to) atrophy of muscles in the legs and arms. A common symptom is general flabbiness.

(6) Psychotic disorders are rated based on perception, thinking process, social behavior, and emotional control. Variations in these aspects of mental function are rated under the following classifications with gradations within each class based on severity:

(a) Class 1: minimal (0%), mild (6%), or moderate (11%) A worker belongs in Class 1 when the following is established:

(A) Perception: The worker misinterprets conversations or events. It is common for persons with this problem to think others are talking about them or laughing at them.

(B) Thinking process: The worker is absent-minded, forgetful, day-dreams too much, thinks slowly, has unusual thoughts that recur, or suffers from an obsession. The worker is aware of these problems and may also show mild problems with judgment. It is also possible that the worker may have little self-understanding or understanding of the problem.

(C) Social behavior: Small problems appear in general behavior, but do not get in the way of social or living activities. Others are not disturbed by them. The worker may be over-reactive or depressed or may neglect self-care and personal hygiene.

ADMINISTRATIVE RULES

(D) Emotional control: The worker may be depressed and have little interest in work or life. The worker may have an extreme feeling of well-being without reason. Controlled and productive activities are possible, but the worker is likely to be irritable and unpredictable.

(b) Class 2: minimal (20%), mild (29%), or moderate (38%) A worker belongs in Class 2 when the following is established:

(A) Perception: Workers in this state have fairly serious problems in understanding their personal surroundings. They cannot be counted on to understand the difference between daydreams, imagination, and reality. They may have fantasies involving money or power, but they recognize them as fantasies. Because persons in this state are likely to be overly excited or suffering from paranoia, they are also likely to be domineering, peremptory, irritable, or suspicious.

(B) Thinking process: The thinking process is so disturbed that persons in this state might not realize they are having mental problems. The problems might include (but are not limited to) obsessions, blocking, memory loss serious enough to affect work and personal life, confusion, powerful daydreams or long periods of being deeply lost in thought to no set purpose.

(C) Social behavior: Persons in this state can control their social behavior if they are asked to do so. However, if left on their own, their behavior is so bizarre that others may be concerned. Such behavior might include (but is not limited to) over-activity, disarranged clothing, and talk or gestures which neither make sense nor fit the situation.

(D) Emotional control: Persons in this state suffer a serious loss of control over their emotions. They may become extremely angry for little or no reason, they may cry easily, or they may have an extreme feeling of well-being, causing them to talk too much and to little purpose. These behaviors interfere with living and work and cause concern in others.

(c) Class 3: minimal (50%), mild (63%), or moderate (75%) A worker belongs in Class 3 when the following is established:

(A) Perception: Workers in this state suffer from frequent illusions and hallucinations. Following the demands of these illusions and hallucinations leads to bizarre and disruptive behavior.

(B) Thinking process: Workers in this state suffer from disturbances in thought that are obvious even to a casual observer. These include an inability to communicate clearly because of slurred speech, rambling speech, primitive language, and an absence of the ability to understand the self or the nature of the problem. Such workers also show poor judgment and openly talk about delusions without recognizing them as such.

(C) Social behavior: Persons in this state are a nuisance or a danger to others. Actions might include interfering with work and other activities, shouting, sudden inappropriate bursts of profanity, carelessness about excretory functions, threatening others, and endangering others.

(D) Emotional control: Workers in this state cannot control their personal behavior. They might be very irritable and overactive or so depressed they become suicidal.

(d) Class 4: (90%) Workers who belong in Class 4 usually need to be placed in a hospital or institution. Medication may help them to a certain extent. A worker belongs in Class 4 when the following is established:

(A) Perception: Workers become so obsessed with hallucinations, illusions, and delusions that normal self-care is not possible. Bursts of violence may occur.

(B) Thinking process: Communication is either very difficult or impossible. The worker is responding almost entirely to delusions, illusions, and hallucinations. Evidence of disturbed mental processes may include (but are not limited to) severe confusion, incoherence, irrelevance, refusal to speak, the creation of new words or using existing words in a new manner.

(C) Social behavior: The worker's personal behavior endangers both the worker and others. Poor perceptions, confused thinking, lack of emotional control, and obsessive reaction to hallucinations, illusions, and delusions produce behavior that can result in the worker being inaccessible, suicidal, openly aggressive and assaultive, or even homicidal.

(D) Emotional control: The worker may have either a severe emotional disturbance in which the worker is delirious and uncontrolled or extreme depression in which the worker is silent, hostile, and self-destructive. In either case, lack of control over anger and rage might result in homicidal behavior.

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 4-1980(Admin), f. 3-20-80, cert. ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0555, 5-1-85; WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-065-0540; WCD 18-1990(Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0410

Hematopoietic System

(1) Anemia can be impairing when the cardiovascular system cannot compensate for the effects of the anemia. When a worker becomes anemic as a result of an injury or occupational disease, the following values are given:

(a) Class 1: 0% when there are no complaints or evidence of disease and the usual activities of daily living can be performed; no blood transfusion is required; and the hemoglobin level is 10-12gm/100ml.

(b) Class 2: 30% when there are complaints or evidence of disease and the usual activities of daily living can be performed with some difficulty; no blood transfusion is required; and the hemoglobin level is 8-10gm/100ml.

(c) Class 3: 70% when there are signs and symptoms of disease and the usual activities of daily living can be performed with difficulty and with varying amounts of assistance from others; blood transfusion of 2 to 3 units is required every 4 to 6 weeks; and the hemoglobin level is 5-8gm/100ml before transfusion.

(d) Class 4: 85% when there are signs and symptoms of disease and the usual activities of daily living cannot be performed without assistance from others; blood transfusion of 2 to 3 units is required every 2 weeks, implying hemolysis of transfused blood; and the hemoglobin level is 5-8gm/100ml before transfusion.

(2) White Blood Cell System impairments resulting from injury or occupational disease are rated according to the following classification system:

(a) Class 1: 5% impairment when there are symptoms or signs of leukocyte abnormality and no or infrequent treatment is needed and all or most of the activities of daily living can be performed.

(b) Class 2: 20% impairment when there are symptoms and signs of leukocyte abnormality and continuous treatment is needed but most of the activities of daily living can be performed.

(c) Class 3: 40% impairment when there are symptoms and signs of leukocyte abnormality and continuous treatment is needed and the activities of daily living can be performed with occasional assistance from others.

(d) Class 4: 73% impairment when there are symptoms and signs of leukocyte abnormality and continuous treatment is needed and continuous care is required for activities of daily living.

(3) Splenectomy is given an impairment value of 5%.

(4) Hemorrhagic Disorders acquired as a result of an injury or occupational disease may result in 5% impairment if many activities must be avoided and constant endocrine therapy is needed, or anticoagulant treatment with a vitamin K antagonist is required. Hemorrhagic disorders that stem from damage to other organs or body systems are not rated under this section but are rated according to the impairment of the other organ or body system.

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; WCD 18-1990(Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0420

Gastrointestinal and Genitourinary Systems

(1) Impairments in mastication (chewing) and deglutition (swallowing) are determined based on the following criteria:

(a) Diet limited to semi-solid or soft foods — 8%

(b) Diet limited to liquid foods — 25%

(c) Eating requires tube feeding or gastrostomy — 50%

(2) Impairment of the upper digestive tract (esophagus, stomach and duodenum, small intestine, pancreas) is valued according to the following classes: [Classes not included. See ED. NOTE.]

(3) Colonic and rectal impairment is rated according to the following classes: [Classes not included. See ED. NOTE.]

(4) Anal impairment is rated according to the following classes: [Classes not included. See ED. NOTE.]

(5) Liver impairment is determined according to the following classes: [Classes not included. See ED. NOTE.]

(6) Biliary tract impairment is determined according to the following classes: [Classes not included. See ED. NOTE.]

(7) Impairment of the Upper Urinary Tract is determined according to the following classes: [Classes not included. See ED. NOTE.]

(8) Impairment of the Bladder: When evaluating permanent impairment of the bladder, the status of the upper urinary tract must also be considered. The appropriate impairment values for both are combined under

ADMINISTRATIVE RULES

OAR 436-035-0011(5). Impairment of the bladder is determined according to the following classes: [Classes not included. See ED. NOTE.]

(9) Urethra: When evaluating permanent impairment of the urethra, one must also consider the status of the upper urinary tract and bladder. The values for all parts of the urinary system are combined under OAR 436-035-0011(5). Impairment of the urethra is determined according to the following classes: [Classes not included. See ED. NOTE.]

(10) Penile Sexual Dysfunction: When evaluating permanent impairment due to sexual dysfunction of the penis, one must also consider the status of the urethra upper urinary tract and bladder. The values for all parts of the system are combined under OAR 436-035-0011(6). Loss or alteration of the gonads is valued under OAR 436-035-0430. Impairment due to sexual dysfunction of the penis is determined according to the following classes for men 40 to 65 years of age. [Classes not included. See ED. NOTE.]

(11) Cervix/Uterus: When evaluating permanent impairment of the cervix/uterus, one must also consider the status of the urethra, upper urinary tract and bladder. The values for all parts of the system are combined under OAR 436-035-0011(5). Loss or alteration of the gonads is valued under OAR 436-035-0430. Impairment of the cervix/uterus is determined according to the following classes: [Classes not included. See ED. NOTE.]

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 5-1988(Temp), f. 8-22-88, cert. ef. 8-19-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; WCD 18-1990(Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 2-2003, f. 1-15-03, cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

436-035-0450

Immune System

(1) When exposure to physical, chemical, or biological agents has resulted in the development of an immunological response, impairment of the immune system is valued as follows:

(a) 3% when the reaction is a nuisance but does not prevent most regular work related activities; or

(b) 8% when the reaction prevents some regular work related activities; or

(c) 13% when the reaction prevents most regular work related activities.

(2) An allergy is considered to be an immunologic state and is ratable under this rule.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10

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Department of Energy

Chapter 330

Rule Caption: Amend and adopt Business Energy Tax Credit (BETC) program rules.

Adm. Order No.: DOE 3-2010

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 4-30-10

Notice Publication Date: 12-1-2009

Rules Adopted: 330-090-0133

Rules Amended: 330-090-0105, 330-090-0110, 330-090-0120, 330-090-0130, 330-090-0135, 330-090-0150

Rules Repealed: 330-090-0105(T), 330-090-0110(T), 330-090-0120(T), 330-090-0130(T), 330-090-0133(T), 330-090-0135(T), 330-090-0150(T)

Subject: The rules are designed to slow the growth of the BETC program and reduce the program's impact on the general fund. They provide predictability, timeliness and consistency for BETC applicants. The rules eliminate the "multiple applications" practice for the same or similar projects and the cost overrun allowance between Pre-application and final application approval. They also establish new criteria for project eligibility and maximum project eligibility cost, data reporting requirements, new criteria for applications and performance standards and application approval/denial standards. The rules will enhance the department's ability to revoke, suspend, and/or condition application.

Rules Coordinator: Kathy Stuttaford—(503) 373-2127

330-090-0105

What a BETC Is

(1) A Business Energy Tax Credit (BETC) for up to 35 percent of the eligible cost of qualifying facilities may be offset against owed Oregon income and corporation excise taxes. Qualifying renewable energy resource equipment manufacturing facilities and renewable energy resource facilities including high efficiency combined heat and power facilities, completed on or after January 1, 2007 are eligible for a tax credit equal to 50 percent of eligible costs. Qualifying homebuilder installed renewable energy facilities completed on or after January 1, 2007 are eligible for a tax credit of up to \$9,000 and qualifying high performance homes completed on or after January 1, 2007 are eligible for a tax credit of up to \$12,000. An Oregon business or non-profit entity qualifying for the tax credit may transfer the credit through the Pass-through Option in return for a cash payment.

(2) The Oregon Department of Energy (Department) must approve the credit before it can be claimed. The credit is an incentive for Oregonians to invest in qualifying facilities. Oregon Administrative Rules Chapter 330, Division 90 applies to all Business Energy Tax Credit applications for facilities eligible for a 35 percent tax credit received by the Department on or after December 1, 2007. These rules also apply to applications for; qualifying renewable energy resource facilities, including high efficiency combined heat and power facilities; qualifying homebuilder installed renewable energy facilities and high performance homes facilities received by the Department on or after January 1, 2007. These rules apply to all applications pending as of the effective date of these rules and applications received on or after April 28, 2010.

(3) The Department may also apply these rules to applications currently being reviewed by the Department where a final determination is pending or has been made, when the Department finds that its failure to apply the new criteria set forth in these rules may hamper the Department's efforts to reduce the costs of the BETC program.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.185 - 469.225

Hist.: DOE 7-1985, f. 12-31-85, ef. 1-1-86; DOE 3-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 2-1993, f. & cert. ef. 1-28-93; DOE 5-1993, f. & cert. ef. 12-14-93; DOE 2-1995, f. 12-12-95, cert. ef. 12-15-95; DOE 3-1996, f. & cert. ef. 11-27-96; DOE 2-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 2-1999, f. 12-22-99, cert. ef. 1-1-00; DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 1-2005, f. 12-30-05, cert. ef. 1-1-06; DOE 2-2006, f. 9-29-06, cert. ef. 10-1-06; DOE 3-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 4-2008, f. 6-19-08, cert. ef. 6-20-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10

330-090-0110

Definitions

For the purposes of Oregon Administrative Rules, Chapter 330, Division 90, the following definitions apply unless the context requires otherwise:

(1) "Alternative Fuel": A motor vehicle fuel, other than petroleum gasoline or diesel, certified by the U.S. Environmental Protection Agency for roadway use that results in equivalent or lower exhaust emissions or higher energy efficiency when used. Alternative fuels include electricity, biofuels, hydrogen, hythane, methane, methanol, natural gas, liquefied natural gas, liquefied petroleum gas (propane), renewable diesel and other fuels the Director allows. Blends of these alternative fuels with conventional fuels will only be considered an alternative fuel under these rules when the concentration of the alternative fuel is 20 percent of the entire volume of the blended fuel or greater. Hydrated fuels must have a water content of 10 percent of the entire volume of the blended fuel or greater to be considered eligible as an alternative fuel under these rules.

(2) "Alternative Fuel Fueling Station": A renewable energy resource facility necessary to refuel alternative fuel vehicle fleets. This will include the facilities for mixing, storing, compressing, charging, and dispensing alternative fuels, and any other necessary and reasonable equipment. It can be a facility for either public or private use.

(3) "Alternative Fuel Vehicle (AFV)" is a vehicle designed to operate on an alternative fuel and includes vehicles direct from the factory or vehicles modified to allow the use of alternative fuels. AFV does not include vehicles owned or leased by the State of Oregon acquired to comply with federal requirements for fleet acquisition of alternative fueled vehicles Or vehicles leased by an investor-owned utility (IOU) to others. For purposes of qualifying for a BETC, gasoline-hybrid AFVs purchased on or after January 1, 2010 must also be designed for electrical plug-in.

(4) "Applicant": An applicant means:

(a) A person who applies for a preliminary certification of a Business Energy Tax Credit under this section includes:

(A) Individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

ADMINISTRATIVE RULES

(B) Any cooperative, non-profit corporation, or federal, state or local governments including school districts, water districts, or any other special districts. These entities are qualified applicants when they have a qualified pass-through partner, or commit to select such a partner prior to final certification.

(C) A contractor installing an alternative fueled vehicle fueling station in a dwelling.

(b) A person who applies for a final certification of a Business Energy Tax Credit under this section must be the facility owner listed on the preliminary certification.

(c) The tax credit certificate will be issued to a facility owner or a qualified pass-through partner, but the tax credit may only be claimed pursuant to ORS 315.354.

(d) An applicant for preliminary certification or final certification or a tax credit recipient may not include any business or non-profit corporation or cooperative that restricts membership, sales or service on the basis of race, color, creed, religion, national origin, sexual preference or gender.

(5) "Biofuels": A motor vehicle or thermal combustion fuel other than petroleum gasoline or diesel which includes ethanol or is an ethanol blend at concentrations of 11 percent of the entire volume of the blended fuel or greater or biodiesel or is a biodiesel blend at concentrations of 20 percent of the entire volume of the blended fuel or greater, including:

(a) Biodiesel which is a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of American Standards and Testing Measurement (ASTM) D 6751 in effect on December 1, 2007 and is registered with the US EPA as a fuel and a fuel additive under Section 211(b) of the Clean Air Act, and

(b) Biodiesel Blends is biodiesel fuel meeting the requirements of ASTM D 6751 in effect on December 1, 2007, blended with petroleum-based diesel fuel, designated BXX, where XX represents the volume percentage of biodiesel fuel in the blend, and

(c) Ethanol (CH₃CH₂OH) is an alcohol fuel also known as ethyl alcohol, grain alcohol, and EtOH made from starch crops or from cellulose biomass materials, such as grass, wood, crop residues, or used cellulose materials where component sugars are fermented into ethanol meeting the requirements of ASTM designation D 4806-01a: "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel" in effect on December 1, 2007, and

(d) Ethanol Blends which is ethanol fuel meeting the requirements of ASTM D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel" in effect on December 1, 2007, blended with petroleum-based gasoline fuel, designated EXX, where XX represents the volume percentage of ethanol fuel in the blend, and

(e) "E85," a motor vehicle fuel that is a blend of agriculturally derived denatured ethanol and gasoline or natural gasoline that typically contains 85 percent ethanol by volume, but at a minimum must contain 75 percent ethanol by volume. For the purposes of this chapter, the energy content of E85 is considered to be eighty-two thousand BTUs per gallon. E85 produced for use as a motor fuel shall comply with ASTM specification D 5798-99 in effect on December 1, 2007.

(6) "Biomass": An organic matter such as agricultural crops and residue, wood and wood waste, animal waste, aquatic plants and organic components of municipal and industrial wastes comprised of uncontaminated carbohydrates and other cellulosic material, and organic by products from wood pulping and other biologically derived materials including organic fibers that are available on a renewable or naturally recurring basis. This definition excludes cordwood or wood used for burning in fireplaces.

(7) "Building Automation Controls Facility": Energy facilities that control energy consuming equipment in a building are eligible when energy saving features exceed standard practice and applicable building code requirements. Eligible cost does not include costs associated with operations, maintenance, or repair as described in section 17(b)(D) of this rule. Facilities are eligible when energy saving features meet the following requirements and applicable code:

(a) For existing systems within their service life, the following standards apply:

(A) The baseline will be based on the existing system's capabilities in fully functional and operating condition.

(B) Eligible costs will be based on the incremental cost and energy savings of the proposed system as compared to a fully functioning baseline system (savings and costs associated with maintenance and repair activities are not eligible).

(b) For systems beyond service life or new buildings, the following standards apply:

(A) Eligible costs and energy savings will be based on the incremental cost and energy savings between the proposed system and the baseline system.

(B) Only the components of the project that achieve energy savings will be considered eligible. If the component does not achieve energy savings it will not be considered an eligible cost.

(C) The baseline system must incorporate similar technologies to the proposed system. The minimum standard or baseline system will have the following features, plus any additional features required by code: a start/stop program, night setback program, enthalpy control program (economizer), lighting control program (sweep > 5,000 sq.ft.) and a variable flow (10 hp and above).

(8) "Building Code": Applicable state and local building codes as defined in ORS 455.010 that are in effect the date the Department receives the application for preliminary certification.

(9) "Building Envelope": That element of a building which encloses conditioned spaces through which thermal energy may be transmitted to or from the exterior or to or from unconditioned spaces.

(10) "Car Sharing Facility": A facility in which drivers pay to become members in order to have joint access to a fleet of cars from a common parking area on an hourly basis. It does not include operations conducted by a car rental agency.

(11) "Combined Heat and Power (Cogeneration)": Means a facility designed to generate electrical power and thermal energy from a single fuel source with a fuel-chargeable-to-heat rate calculation demonstrating a heat rate of 6,120 Btu/kWh or less (10 percent better than the 6,800 Btu/kWh current standard generation). This facility may be eligible for a 35 percent Business Energy Tax Credit. Facilities that do not meet this heat rate requirement may still qualify in part for a credit relating to the heat recovery portion of the project. The equation for the fuel chargeable to power heat rate calculation is $FCP = (FI - FD) / P$, where:

(a) FCP = Fuel chargeable to power heat rate.

(b) FI = Annual fuel input applicable to the co-generation process in Btu (higher heating value).

(c) FD = Annual fuel displaced in any industrial or commercial process, heating, or cooling application by supplying useful thermal energy from a co-generation facility.

(d) P = Annual net electric output of the co-generation facility in kilowatt-hours.

(12) "Commercial New Construction Facility": An energy facility which includes a new structure or one of the following:

(a) An addition to an existing structure, which provides additional square footage;

(b) An alteration to an existing structure, which changes the functional use of the entire structure;

(c) An alteration to an existing structure occurring within six months of a change in the facility's ownership; or

(d) A major renovation to 50 percent or more of the square footage of an existing structure in which three or more building systems are changed. Systems include but are not limited to: envelope, space conditioning, lighting, water heating and process.

(13) "Commissioning": The process to assure that Heating Ventilating and Air Conditioning (HVAC) systems (and associated hydronic systems), lighting system controls and automatic temperature control systems have been completely and properly installed and put into service in accordance with their design intent as defined by the contract documents. The process of commissioning also includes the systematic testing, verification, documentation, training of operations personnel and preparation of operations and maintenance documentation.

(14) "Commercial Process": An energy facility that is an energy-using system (e.g., lighting, HVAC, or water heating). Such a system can be studied and judged on its own.

(15) "Commuter Parking Space" means a facility that is a parking space that is:

(a) Located in an area where parking spaces are regularly available for lease by the day or month to the public.

(b) Leased by the employer for an employee's use:

(A) Separate from the lease for the business premises.

(B) As an integral part of the lease for the business premises if the employer has the right to sublease the parking space to a commuter.

(c) Owned by the employer.

(d) Not located in a lot used primarily for business customers.

ADMINISTRATIVE RULES

(e) Not provided to an employee for parking a vehicle the employee regularly uses to perform the employee's job duties.

(16) "Completed Application": Contains all of the information required in OAR 330-090-0120() and payments under OAR 330-090-0150. All questions on the application must be answered.

(17) "Completed Facility": A facility for which all costs have been paid or committed by a binding contract or agreement and that is installed and operating or, in the case of a Research, Development and Demonstration facility, which the Director decides the applicant has made all reasonable efforts to operate, including making changes required by the Department.

(18) "Cooperative Agreement Organization": The Department may enter into cooperative agreements with qualified public purpose, governmental, or other organizations to assist in the development and qualification of BETC applications, with the scope of the agreement defined by the Department based on the qualifications of the organization and subject to conditions specified in the agreement.

(19) "Cost": The actual capital costs and expenses needed to acquire, erect, design, build, modify, or install a facility that is eligible to receive a BETC. Costs that are incurred to bring a facility up to building code standards or otherwise repair the building in order to install the facility are considered necessary features, and may not be eligible. Costs financed with federal funds, subject to specific restrictions, terms and conditions, other than costs financed by grants excluded by ORS 315.356(1), may be eligible expenses, including but not limited to costs incurred by federal agencies directly for capital, operating, or other expenses.

(a) Cost can include payments for:

(A) Fees to finance, design or engineer the facility, including but not limited to debt fees and equity fees;

(B) Title searches, escrow fees, government fees, excluding fees required by OAR 330-090-0150, and shipping;

(C) All materials and supplies needed for the erection, construction, installation or acquisition of the proposed facility; and

(D) Work performed by employees or independent contractors of the applicant based on the following conditions:

(i) Employees or contractors must be certified, accredited, licensed, or otherwise qualified to do the work;

(ii) The work must be associated with the erection, construction, installation or acquisition of the proposed facility or in the case of a research development and demonstration facility, the work shall be directly related to the research, development, demonstration, facility design, monitoring, assessment, evaluation and reporting related to the product or technology. Project management and other similar costs may only account for up to 15 percent of the total eligible costs; and

(iii) Costs for employee's or contractor's work on the energy facility must be detailed and documented as to specific tasks, hours worked, and compensation costs.

(E) Costs for legal counsel that is directly related to the development of a qualifying facility (non-litigation related) or directly linked to the research, development or demonstration facility (excluding patents, copyrights, etc.); and

(F) Facilities or equipment required for vehicles to provide transportation services to serve riders (such as a wheelchair lift system) under the American with Disabilities Act.

(b) Cost may not include:

(A) Interest and warranty charges;

(B) Litigation or other operational-related legal fees and court costs;

(C) Patent searches, application and filing payments;

(D) Costs to maintain, operate, or repair a facility; or

(E) Administrative costs to apply for grants, loans or a tax credits or other similar funding for a facility including, but not limited to, the Business Energy Tax Credit review charge, costs associated with the creation and development of the CPA verification letter and the costs associated with securing a pass-through partner for the facility;

(F) Routine operational or maintenance costs associated with the facility, other than a transportation services facility, including services, supplies and labor;

(G) Expenses related to training, education or other related expenses;

(H) Expenses that are directly or indirectly offset with federal grants or fee waivers. Final certified costs will be reduced dollar for dollar by any federal grant amount received in connection with the facility.

(I) Other costs the Director excludes.

(c) If a facility is built under a lease, lease-option or lease-purchase contract, the lessee's cost to acquire the facility is the value paid for the facility. If that amount is not known, the cost is the sum of:

(A) Tax credits passed through by the lessor to the lessee;

(B) The amount paid when the facility is transferred; and

(C) The lease payments not including taxes, insurance, interest, and operating costs.

(D) Payments to be made in the future must be discounted to present value.

(d) If a facility serves more than one purpose, cost includes only items needed to save energy and/or use renewable energy resources. This includes new or replacement equipment that costs more because of its energy saving features. The Department may do inspections to verify eligible costs.

(e) Incremental cost is the cost above a reasonable minimum expected to construct a similar facility without energy efficient features.

(A) In commercial new construction, it is the difference between building to code and building to meet or exceed the standards for substantial energy savings.

(B) In other facilities, it is the difference between prevailing practices for that business or industry and a more energy efficient method.

(f) Eligible facility costs are limited by the following:

(A) Facilities must have a one to 15-year simple payback period unless specified below. If the simple payback period exceeds those limits, eligible costs will be prorated down to the highest amount that would result in a qualifying payback; and

(B) Facilities must have a simple payback of more than one year and less than the service life of the facility.

(C) Rental dwelling weatherization facilities are limited to a 30-year simple payback.

(D) Solar photovoltaic (PV) facilities are limited by the maximum eligible facility cost ratio (MEC), expressed in terms of \$/watt. PV facility eligible cost shall be calculated by multiplying the appropriate rate provided below by the facility size. Once a facility has received preliminary certification the calculated cost shall be effective for 36 months for facilities to be owned by the public and 12 months for all other facilities, from the date of certification. If the Department has not received a complete application for final certification within this time, the cost shall be recalculated based on the rate in effect at that time the final application is submitted. The minimum module performance certified by the manufacturer shall be used to calculate eligible cost. The MEC for a facility rated to produce:

(i) Up to and including 30 kW is \$7.50/watt.

(ii) More than 30 kW, but less than 200 kW, is $-0.01 \times (\text{system size in kW}) + 7.8$.

(iii) 200 kW or more is \$5.80/watt.

(E) Costs for a facility, or portion thereof, that has previously received a business energy tax credit.

(F) Costs to replace the same baseline facility more than once.

(i) The Department may require the baseline facility to be specifically identified and/or permanently decommissioned.

(G) For solar thermal (ST) systems,

(i) The maximum eligible cost (MEC), not including pool heating facilities, shall be calculated using the following formula: $\text{MEC} = \text{SOC} \times \text{Number of modules} \times \text{Solar Thermal Rate}$. Standard Oregon Conditions (SOC) is based on the OG-100 collector performance data published by the Solar Rating and Certification Corporation (SRCC) on the date the preliminary application is issued. SOC is calculated using a weighted average of the values in the "Mildly Cloudy" (1500Btu/ft²-day) test data using the following equation: $\text{SOC} = 0.1(\text{Category A}) + 0.2(\text{Category B}) + 0.3(\text{Category C}) + 0.4(\text{Category D})$.

(ii) The system size is defined as the SOC multiplied by the number of collectors in the system. The following thermal rates are divided into three tiers based on the system size:

(I) For a system size of less than 100, the rate is \$220

(II) For a system size that is 100 or greater, but less than 250, the rate is \$210

(III) For a system size greater than 250, the rate is \$200.

(H) Sustainable building practices facilities, recycling market development, high performance homes, homebuilder installed renewable energy facilities and transportation facilities, excluding efficient truck technology, are exempt from simple payback requirements.

(I) For renewable energy facility installations, the following are ineligible costs: roofing, re-roofing and engineering for roofing on renewable facilities.

(g) Costs for space conditioning or individual metering a facility(s) are limited to incremental costs, except when existing equipment is within its Service Life when costs will be the total eligible facility costs. Incremental costs are limited to 40 percent of the cost to install a replace-

ADMINISTRATIVE RULES

ment space or hot water heating system in rental dwellings, except as defined in (i) below.

(h) Eligible costs for transportation facilities include, but are not limited to, telework, commuter pool vehicles, bicycles, Transportation Management Association fees, incentive programs, transit passes, car sharing, vanpool, individualized behavior change program, Research, Development and Demonstration (RD&D), purchasing or otherwise obtaining alternative fuel vehicles that are designed to transport five or more passengers, transportation services and transportation services for K-12 students. Except for RD&D facilities, bicycle purchases, and commuter pool vehicles with special equipment, the maximum eligible cost for transportation facilities is the result of the cost-per-vehicle mile calculated by a formula adopted by the Oregon Department of Energy multiplied by the estimated vehicle miles reduced (VMR) by the facility.

(i) Costs for premium efficient appliances as defined in this rule are limited to incremental costs. The Department may determine the incremental cost as a portion of the facility cost based on similar facilities up to forty percent of the purchase cost.

(j) In implementing the utility pass-through in OAR 330-090-0140(2), utilities may set a minimum eligible cost to participate. The following requirements apply:

(A) The utility must submit exact specifications of the limit to and receive approval by the Department prior to implementation of the limit.

(B) The utility must provide notification to the customer that there is no minimum when applying directly to the Department, however, payments required by OAR 330-090-0150(3) do apply.

(k) Sustainable building practices facilities are exempt from the previous requirements of this definition, as the eligible cost for these facilities is calculated using data established in Table 1. [ED. NOTE: Table reference is available from the agency.]

(l) The sum of any rebates or cash payments under ORS 469.631 to 469.645, 469.649 to 469.659, 469.673 to 469.683, or 757.612(5)(a), or from a public purpose organization or federal grants or credits and the business energy tax credit may not exceed eligible project costs.

(20) "Cost-per-Vehicle Mile": The total cost of one vehicle mile driven by a single occupant. The components of calculating the total cost include, but are not limited to, vehicle operation cost, fuel cost, travel time, congestion and pollution. The calculation formula for the total costs is available on the Department's website.

(21) "Dwelling Unit": means the space within a building, manufactured dwelling, recreational vehicle or floating home that is a rental dwelling. If a person rents only a space for a manufactured dwelling or recreational vehicle or moorage space for a floating home as defined in ORS 830.700.

(22) "Director": The Director of the Oregon Department of Energy or designees.

(23) "Energy Department": The Department of Energy.

(24) "Energy Facility": is defined in ORS 469.185 (5).

(25) "Facility": is defined in ORS 469.185 (6) and also includes a Research, Development & Demonstration (RD&D) facility that complies with these rules. A facility must be located within the geographical confines of Oregon. The dollar value of the first year energy savings must be less than the cost of such facility, except as allowed for a Research Development & Demonstration facility, transportation or recycling market development or recycling facility.

(a) An energy conservation measure (ECM), is a facility if it results in substantial savings in the amount of purchased energy used at a site by a business or other eligible entity. Energy conservation measures include equipment installed for the purpose of reducing energy use.

(b) Costs for a facility needed to obtain substantial energy savings for a new commercial, institutional, or industrial building. Savings will be compared to energy used by a building, unit, or industrial process that does not have the proposed conservation. But, such buildings must comply with the Building Code and have the same use, size, space heat fuel, and orientation as the applicant's building, unit, or industrial process.

(c) A space conditioning system(s) is a facility if it provides substantial energy savings and complies with the following Business Energy Tax Credit program requirements:

(A) A report demonstrating any mercury-switch thermostats that is replaced or have been recycled and, if so, how.

(B) Space conditioning systems installed in an existing dwelling unit must not involve changing the fuel source. An incremental upgrade, as defined in OAR 330-090-0110(18)(e), of a fuel switching facility will be allowed if the upgrade complies with these rules.

(C) Additionally, space conditioning equipment shall meet one of the following requirements:

(i) Two-stage gas or propane furnace, minimum AFUE 0.92,

(ii) Gas or propane boiler, minimum AFUE 0.88

(iii) Central AC SEER \geq 14 (if installed)

(iv) Ducted heat pump \geq HSPF 8.5, air source, and ground source COP \geq 3.0

(v) Ductless mini-split heat pump with inverter drive, no incorporated electric backup heat, sized and installed as per ENERGY STAR® Homes Northwest specifications in effect at the time the preliminary application is issued.

(d) For buildings to be owned, leased, or otherwise operated and maintained by the state, including the State System of Higher Education, to qualify for the credit it must comply with the requirements of the State Energy-Efficient Design Program (SEED) as defined in OAR Chapter 330, Division 130 and associated guidelines, in addition to meeting requirements of these rules.

(e) For a solar photovoltaic facility to be eligible to receive a Business Energy Tax Credit, all qualifying installations must meet the following minimum facility specifications:

(A) Facility must be permitted and in compliance with all applicable building and electrical codes.

(B) All facility equipment must be rated for the temperature and exposure conditions in which it will operate.

(C) All facility components must be new (modules, inverter, batteries, mounting hardware).

(D) Array mounting must not reduce the expected life or durability of the structure on which it is located.

(E) The facility must include all building code required signage and a customer manual.

(F) A customer manual must contain the following information:

(i) Facility documentation, including:

(I) As-built drawings that accurately describe the components installed and the wiring design, including wire sizes, and estimated length of wire runs.

(II) Facility site plan that indicates array and inverter location.

(III) Sunchart used to determine facility total solar resource fraction.

(IV) Operation and maintenance requirements including the name and phone number of person(s) or company to call in the case of a facility failure.

(ii) Warranties and installation documentation

(I) Minimum two-year contractor warranty for materials and workmanship

(II) Manufacturer's warranty for PV modules and inverter

(III) Permit documentation

(iii) Manuals and data sheets

(I) Bill of material listing all primary facility components including part numbers

(II) Inverter owner's manual

(III) Manufacturer data sheets for major components, including but not limited to: inverters, modules, racking/mounting facility, charge controller and batteries.

(G) All facilities must include one or more meters that are capable of recording the facility's total energy production. Meters must be equivalent to American National Standards Institute (ANSI) certified revenue meters with a 0.5 or better accuracy class and, if digital, it must have non-volatile data memory.

(H) Array must be sized to operate within the current, voltage and power limits approved and warranted by the inverter manufacturer. The temperature-adjusted voltage must remain within the inverter limits at the historical record low temperature for the location in which it is installed.

(I) Wires must be sized to keep the total voltage drop below 2 percent on the DC conductors from the array to the inverter including the existing wire whips on the PV modules, and/or 2 percent on the AC conductors from the inverter to the point of interconnection (total not to exceed 4 percent).

(J) The installing contractor must provide a minimum 24-month full warranty on parts and labor to the facility owner.

(K) Facilities participating in the pilot Feed-In Tariff program under ORS 757.365 are not eligible to receive a Business Energy Tax Credit.

(f) For a solar thermal facility to be eligible to receive a Business Energy Tax Credit, all qualifying installations must meet the following minimum facility specifications:

(A) The facility must be permitted and in compliance with all applicable building, electrical, and plumbing codes.

(B) All equipment must be rated for the temperature and exposure conditions in which it will operate.

ADMINISTRATIVE RULES

(C) All primary facility components must be new (collectors, tanks, controls, pumps).

(D) Array mounting must not reduce the expected life or durability of the structure on which it is located.

(E) The facility must include a customer manual containing the following information:

(i) Facility documentation, including:

(I) As-built drawings that accurately describe the components installed, including a valve chart.

(II) Facility site plan that indicates the location of collectors and storage tank.

(III) Sunchart used to determine facility total solar resource fraction.

(IV) Operation and maintenance requirements including the name and phone number of person(s) or company to call in the case of a facility failure.

(V) Permit documentation.

(ii) Warranties and installation documentation, including:

(1) A minimum two-year contractor warranty for materials and workmanship

(2) Manufacturer's warranty for collector, tanks, pumps and heat exchanger (if present) and any other components under warranty by the manufacturer.

(3) Permit documentation.

(iii) Manuals and data sheets, including:

(1) Bill of material listing all primary facility components, including part numbers

(2) Facility controller owner's manual

(3) Manufacturer data sheets for major components, including, but not limited to: collectors, tank, controllers, pumps, Btu meter, expansion tank, etc.

(F) Facility is sized appropriately for the load. The solar savings fraction is not to exceed 0.70 for domestic water heating systems without a means of rejecting heat once the load is met.

(G) Thermal storage is adequate to accommodate daily use pattern. For typical domestic load profiles, this is defined as a minimum of 1.25 gallons per square foot of collector area. For facilities with loads that are coincident with solar generate this storage amount may be reduced if documentation is provided.

(H) All solar storage tanks must be insulated with not less than R15 insulation.

(I) The following standards are for pipe insulation:

(i) Collector loop insulation must be rated for conditions in which it operates. Pipe insulation shall have a maximum K value of 0.25 Btu in/hr. sq. ft. F° and a minimum thickness of 0.75 inches.

(ii) Potable water pipe located outdoors must be insulated to a minimum R-value of 12. Pipe insulation must be protected with a U-V rated tape or pipe jacket. U-V paint is not sufficiently durable.

(J) Anti-convective pipe loop or trap is required on the inlet and outlet of the storage tank. These loops or traps shall have a minimum 8-inch vertical drop to constitute an effective convective heat barrier. Heat trap nipples alone are not reliable in stopping heat migration, and will not meet this requirement.

(K) Install thermometers on collector supply and return pipes. One movable thermometer for two wells is sufficient.

(L) Install a BTU meter capable of measuring total delivered energy on all facilities with standard Oregon conditions rating greater than 250 kBtu/day. A Btu meter must have a designated flow meter and temperature sensors and be located on the load side of the system.

(M) Install a properly sized thermostatic mixing valve on the output of the domestic hot water system to ensure that delivered temperature does not exceed 140°F. A Btu meter must have a designated flow meter and temperature sensors and be located on the load side of the system.

(N) Solar thermal facilities must be installed in compliance with the **Oregon Mechanical Specialty Code** (Chapter 14 OSMC), the **Oregon Residential Specialty Code** (Chapter 23), the Oregon Plumbing Specialty Code and all other local regulations with jurisdiction.

(O) Facilities must be designed and installed for complete automatic operation including protection from freeze damage and overheating of collectors.

(P) Pressurized storage tanks must not be allowed to be heated above 180°F.

(g) A facility does not include:

(A) A residential structure or dwelling that is being used for a residence, except for residential structures that are used exclusively as rental

properties or that qualify as a licensed homebuilder installed renewable energy facility or high performance home facility.

(B) Swimming pools and hot tubs used to store heat.

(C) Wood stoves.

(D) Space conditioning systems and back-up heating systems, including systems that do not meet code or minimum standards listed in the Business Energy Tax Credit rules.

(E) Devices and substances whose use is common in the applicant's business, except hog fuel boilers that replace fossil fuel boilers.

(F) Pollution control facilities and alternate energy devices for which a tax credit or ad valorem tax relief is granted under ORS 307.405, 316.097 or 316.116.

(G) Devices or materials which are standard practice.

(H) Recycling automotive air conditioning chlorofluorocarbons (CFC).

(I) Conservation in rental dwellings, for applicants listed in ORS 469.205(1)(c)(A) and (B), which were issued an occupancy permit on or after January 1, 1996.

(J) Other items the Director finds are not allowed under ORS 469.185 to 469.225.

(26) "Facility Eligible Square Footage": For the purpose of calculating the tax credit amount for a Sustainable Building Practices Facility, facility eligible square footage includes all temperature-conditioned floor areas, and one level of parking structures or parking structure elements of the facility. It does not include exterior square footage beneath overhangs, awnings, canopies; walkways or unconditioned plaza areas beneath conditioned portions of the building.

(27) "Facility Operator": The person or people to whom the applicant gives authority to manage a facility. Such person or people will be the applicant's agent for all reasons related to the facility once its development begins.

(28) "Facility Owner": An applicant who purchases and owns a qualified facility.

(29) "Facility Start" prior to erection, construction, installation or acquisition": The earliest date on or after the date of the application that meets one of the following criteria:

(a) A non-refundable deposit will be placed on the facility equipment;

(b) A purchase order will be placed for the equipment;

(c) A contract for the design of the facility will be executed;

(d) A document is executed that obligates the applicant to proceed with a facility will be executed; or

(e) Any other type of financial commitment towards the erection, construction, installation or acquisition of the facility.

(f) For a Sustainable Building Practices Facility, the eligible cost date is within 30 days of receiving the LEED registration number, before 50% of Design Document for the facility are complete, or prior to receiving building permits for the facility.

(30) "Final Certification": Final certificate issued after completion of an approved BETC facility.

(31) "Geothermal Energy": Natural heat in any form below the earth's surface. It also means minerals in solution, or other products of naturally heated substances below the earth's surface. It includes:

(a) Products of geothermal processes, such as steam, hot water, and hot brines; or

(b) Steam and gases, hot water and brine caused by injecting substances into the earth; or

(c) Heat or other related energy in the earth; or

(d) By-products of (a) through (c).

(32) "Ground Source Heat Pump": means a heating, ventilating and air-conditioning system, also known as a ground water heat pump, earth-coupled heat pump, geothermal heat pump or ground loop alternative energy device that utilizes a subsurface closed loop heat exchanger to extract or reject heat to the earth. A ground source heat pump is eligible for a 35 percent Business Energy Tax Credit.

(33) "High Efficiency Combined Heat and Power" (Cogeneration): means a renewable energy resource facility designed to generate electrical power and thermal energy from a single fuel source with a fuel-chargeable-to-heat rate yielding annual average energy savings of 20 percent is eligible for a 50 percent Business Energy Tax Credit. If this energy savings is not achievable, the facility may be eligible for a 35 percent tax credit under OAR 330-090-0110(32). The fuel chargeable-to-heat rate calculations shall demonstrate a heat rate of 5,440 Btu/kWh or less (20 percent better than the 6,800 Btu/kWh current standard generation). Facilities that do not meet this requirement may still qualify for a 35 percent tax credit (see Combined Heat and Power) or in part for a tax credit relating to the heat recovery por-

ADMINISTRATIVE RULES

tion of the project. The equation for the fuel chargeable to power heat rate calculation is $FCP = (FI - FD) / P$, where:

(a) FCP = Fuel chargeable to power heat rate.

(b) FI = Annual fuel input applicable to the co-generation process in Btu (higher heating value).

(c) FD = Annual fuel displaced in any industrial or commercial process, heating, or cooling application by supplying useful thermal energy from a co-generation facility

(d) P = Annual net electric output of the co-generation facility in kilowatt-hours.

(34) "High Performance Home": Meets the criteria in ORS 469.185(8) and 469.197 and is a home that is a dwelling unit constructed by a licensed builder under the Oregon Residential Specialty Code with its own space conditioning and water heating facilities and intended for sale to an end-use homebuyer. The facility must meet the following requirements:

(a) Shall be certified through the ENERGY STAR® Homes Northwest program.

(b) Designed and constructed to reduce net purchased energy through use of both energy efficiency and on-site renewable energy resources;

(c) Meet the criteria established for a high-performance home under ORS 469.197

(d) The building shell shall be constructed to at least the minimum values specified in the following prescriptive path:

(A) Ceilings: $U \leq 0.030$

(B) Walls: above grade $U \leq 0.050$

(C) Walls: below grade $U \leq 0.060$

(D) Floors: above grade $U \leq 0.025$

(E) Floors: on grade, perimeter R-15 min. 2 feet vertical or combined vertical/horizontal – heated slab also requires R-10 foam board under slab.

(F) Windows and glass doors: $U \leq 0.32$ (weighted average). Exception: solar glazing that is part of a passive solar design may have a higher U-factor. Glass doors are doors that contain 50 percent or more glazing.

(G) Glazing area: glazing to floor area ratio ≤ 16 percent (including windows, skylights, and glass doors considered as glazing in the code) for homes larger than 1,500 square feet of conditioned space floor area and < 18 percent for homes 1,500 square feet of conditioned space floor area and smaller.

(H) Shell tightness: 5.0 ACH50 Pa confirmed by blower door test

(d) HVAC system and air ducts shall be incorporated into conditioned space, or eliminate forced-air ductwork.

(e) Space conditioning equipment shall meet the eligibility requirements listed in (21)(c)(C).

(f) A Renewable Energy Facility shall provide on-site energy savings or generation of not less than 1kWh/yr per square foot of conditioned floor space.

(g) Water heating systems shall meet ENERGY STAR® Homes Northwest specifications including secondary water heating equipment that backs up solar domestic water heating facilities.

(h) Includes at least one of the following measures:

(A) Obtain certification through a Green Building program recognized by the Department.

(B) Meet ENERGY STAR Homes Northwest Builder Option Package #2 ventilation specifications through the use of a heat or energy recovery ventilator, except that the sensible recovery efficiency shall be > 50 percent at 32°F and the EUI shall be < 1.5 Watts/cfm.

(C) Use a gas or propane water heater with a minimum EF of 0.80 for primary water heating. The water heater may not also be used for space heating or as the backup to a solar water heating facility to be considered a qualifying measure under this section.

(I) A High performance home may meet a package of alternate shell or HVAC measures that are equivalent to these requirements. Shell measures may be increased to offset HVAC efficiency, however HVAC measures may not be used to reduce minimum shell requirements.

(a) Shell measures shall be a combination of assemblies that together have a total $U \times A$ no higher than a base case home described in section (C)(c), above. Trade-offs will be evaluated according to the thermal trade-off procedure in Oregon Residential Specialty Code Chapter 11, Energy Efficiency, Table N1104.1(1).

(b) Mechanical facilities will be evaluated for comparable annual energy use.

(35) "Homebuilder Installed Renewable Energy Facility" is defined in ORS 469.185(9). The amount of the tax credit for homebuilder-installed renewable energy facilities shall be capped at \$9,000 per high performance home. For purposes of this section, renewable energy resource facilities may include: photovoltaic, solar domestic water heating, active solar space heating, passive solar, and ground source heat pumps. The following requirements must be met:

(a) Photovoltaic: The credit amount is based on \$3 per watt of installed capacity as determined by the Department. Eligible installations have a Total Solar Resource Fraction of at least 75 percent using the Total Solar Resource Fraction (TSRF) method as described in the Business Energy Tax Credit (BETC) application. Installations must be verified by a Tax Credit Certified Solar PV Technician. This verification must cover performance, longevity, and proper documentation of the facility design, operation and maintenance. Installers must provide a warranty covering all parts and labor for two years.

(b) Solar domestic water heating: The credit amount is equal to \$0.60 per kWh saved annually. The savings are based on values published by the Solar Rating and Certification Corporation (SRCC) plus 100 kWh, which are added to represent Oregon water heating loads. Solar thermal domestic water heating installations must have a Total Solar Resource Fraction (TSRF) of at least 75 percent and be designed to provide no less than 25 percent but not more than 70 percent of the annual domestic water heating load. Installations must be OG-300 certified. Installations must be verified by a solar thermal Tax Credit Certified Technician. This verification must cover performance, longevity, and proper documentation of the facility design, operation and maintenance. Installers must provide a warranty covering all parts and labor of the facility for two years.

(c) Active solar space heating: The credit amount is equal to \$0.60 per kWh saved based on a calculation procedure approved by Department staff. Active solar space heating installations must demonstrate a whole building annual energy savings of at least 15 percent to be eligible. Installations that combine space heating and domestic water heating are allowed providing that the solar storage tank is not heated by a backup heat source (e.g. gas or electric water heater). Installations must be verified by a solar thermal Tax Credit Certified Technician. This verification must cover performance, longevity, and proper documentation of the facility design, operation and maintenance. Installers must provide a warranty covering all parts and labor of the facility for two years.

(d) Passive solar: The credit amount is equal to \$600 per home plus \$0.60 per square foot of heated floor space. Passive solar design strategies must demonstrate a whole building annual energy savings of at least 20 percent to be eligible. This can be achieved by either meeting the prescriptive requirements for a passive solar home under the residential energy tax credit or demonstrated with whole building energy modeling and certified by a professional engineer.

(e) Ground source heat pumps: Ground source heat pumps must have a coefficient of performance (COP) of 3.5 or greater. The savings is based on the incremental savings over the energy savings provided by the ground source heat pump with a COP of 3.0. The credit amount is equal to \$0.60 per kWh saved.

(f) Other: Other renewable energy resource facilities (e.g. wind turbines, fuel cells) will be evaluated on a case-by-case basis and the credit amount will be equal to \$0.60 per kWh saved. Facilities must be connected to home's main service panel and installers must provide a warranty covering all parts and labor of the facility for two years.

(36) "HVAC Equipment": Heating, Ventilation, and Air Conditioning (HVAC) systems are eligible for a 35 percent Business Energy Tax Credit.

(a) Eligible combustion equipment (furnaces, boilers, water heaters, and burners) must have a minimum combustion efficiency of 86 percent Annual Fuel Use Efficiency (AFUE) rating. An exception may be granted if the system efficiency is proven to be higher due to application of a different distribution system (e.g.: radiant systems in high infiltration spaces), control strategies (e.g.: pony boilers), or reduced stand-by losses (e.g.: low-mass boilers).

(b) Heat pumps must have an energy input that is entirely electric and be rated with a Heating Season Performance Factor (HSPF) or Coefficient of Performance (COP) as follows or higher:

(A) Air source heat pumps: 8.5 HSPF

(B) Water source heat pumps: 4.2 COP or ten percent greater than COP listed in Table 13-M of Oregon code

(C) Air Conditioning: 10 % greater than COP listed in Table 13-L of Oregon code

(37) "Hybrid Electric Vehicle": An energy facility that is a vehicle which draws propulsion energy from onboard sources of stored energy which include both an internal combustion engine and a rechargeable energy storage system. The charging system for the energy storage system must have an operating voltage of 100 Volts or higher. In addition to a hybrid drive train, a Hybrid Electric Vehicle (HEV) must also have a regenerative braking system. A vehicle purchased after January 1, 2010 is not eligible to receive a Business Energy Tax Credit.

(38) "Individualized Travel Behavior Change Program": A facility that is a program approved by the Oregon Department of Energy that

ADMINISTRATIVE RULES

reduces vehicle miles traveled through one-on-one contact with participants in a specific geographical area or in a targeted group.

(39) "Industrial Process Energy Facility": An energy facility that provides a direct improvement to a manufacturing process in a facility conducting activities categorized in two-digit 1987 Standard Industrial Classification (SIC) codes 01 through 49 or the corollary 2002 North American Industry Classification System (NAICS) codes including 11 through 31 and 48-49 regardless of ownership, and:

(a) An energy facility that provides substantial energy savings from conservation, or;

(b) A renewable energy resource facility that provides substantial energy savings through the use of renewable resources; or

(c) A renewable energy resource facility that provides substantial energy savings by recovering waste heat from cogeneration systems; or

(d) A renewable energy resource facility that prepares or conditions alternative fuels for distribution or dispensing; or

(e) An energy facility that increases industrial process efficiency through recycling market development; or

(f) An energy facility that provides emergency replacement inventory of electric motors as defined in OAR 330-090-0110(23)(d); but

(g) Does not include space conditioning for human comfort or general illumination.

(40) "Lease Contract": A contract between a lessor and a lessee of a facility.

(a) In a lease-purchase contract the lessee owns the facility at the end of the lease and is eligible for the BETC.

(b) In a lease or lease-option contract the lessor owns the facility through the life of the contract and is eligible for the BETC.

(41) "Lighting Facility": An energy facility that will reduce the affected lighting energy use by at least 25 percent or by at least 10 percent for a new facility. For non-residential structures, an eligible facility must also report whether there will be any lamps in the facility that will be subsequently replaced and if those lamps will be recycled, how.

(42) "Low Interest Loan":

(a) For an electric utility, a loan with interest that is not more than 6.5 percent per year for those measures identified as cost effective in the utility audit. All other measures identified in the utility audit will be financed by a rate established by the OPUC. The combined interest rate will not exceed 12 percent.

(b) For all utilities, the loan principal or interest rate will be reduced by the present value of the tax credit earned under these rules. If the principal or interest is reduced to zero by applying the present value of the credit without allotting all that value, the excess will accrue to the owner who receives the loan. The loan will be repaid in a reasonable time not more than 10 years after it is issued.

(c) Some utilities may offer cash payment incentives as an option to a loan. The present value of the tax credit may be added to this incentive as provided in OAR 330-090-0140(2) of this rule.

(43) "Mass Transit District": A mass transit district included in ORS 184.675(7).

(44) "Metropolitan Service District": A metropolitan service district included in ORS 184.675(7).

(45) "Necessary Feature": A necessary feature does not qualify as an eligible cost and is a feature for which the primary purpose is:

(a) Complying with the Building Code, including remodeling or new construction that includes facilities to comply with the Building Code;

(b) Complying with specific state or federal statutes or requirements for pollution control or recycling facility equipment. Recycling facilities are necessary features except as noted in OAR 330-090-0110(53); or

(c) Routine maintenance or repair, such as replacing water damaged insulation, a broken window, dry-rotted wood siding or trim.

(46) "Net Present Value": A cash payment equivalent to the net present value of the BETC as determined under OAR 330-090-0140(1)(b). This is also referred to as the "pass-through rate."

(47) "Organization": A corporation, association, firm, partnership, limited liability company, joint stock company, cooperative, non-profit corporation, or federal, state or local government including school district, water district, or any other special district.

(48) "Pass-through Option": An option that allows a facility owner to transfer the facility's tax credit eligibility to certain persons or businesses in return for a cash payment equivalent to the net present value. A tax credit may be transferred one time only, from the facility owner to an eligible pass-through partner or partners.

(49) "Pass-through Partner": A personal income tax payer, individual, C corporation or S corporation that purchases a tax credit certificate in return for a cash payment equivalent to the net present value of the BETC.

(50) "Preliminary Certification": Preliminary certificate issued upon successful completion of the first stage in obtaining a BETC.

(51) "Premium Efficient Appliance": An energy facility that is an appliance that has been certified by the Department to have premium energy efficiency characteristics. Residential appliances are listed in the Department's Alternative Energy Devices Systems Directory. Commercial appliances are listed in the Department's Premium Efficient Commercial Appliances Directory.

(52) "Public Purpose Organization": The entity administering the conservation and renewable public purpose funds described in ORS 757.612(3)(b)(A) and (B) or its agents.

(53) "Qualified Transit Pass Contract": is defined in ORS 469.185(10).

(54) "Recycling": A process to change a waste stream into a useable product or material. It does not include re-use in the same way the product or material first was used unless it changes the product or material. It does not include the combustion or incineration of a waste stream or components thereof, although these processes may be a part of an "Energy Facility" or "Waste to Energy Facility" where they include characteristics required to meet those definitions.

(55) "Recycling Facility": is defined in ORS 469.815(11)

(56) "Recycling Market Development Facility": Facilities that stimulate demand for recycled materials. It includes facilities that meet one of the following criteria:

(a) The facility uses recycled materials as feedstock to produce new products; or

(b) Equipment that allows reuse of pre or post consumer waste in the production of new products; or

(c) Recycled material equipment which yields a feedstock with new and changed characteristics for the production of new products; or

(d) Equipment that enables a higher amount of recycled material feedstock to be used in the manufacture of a product.

(57) "Renewable Diesel": A diesel fuel derived from biomass as defined in United States Energy Policy Act 2005 Section 45K (C)(3), using the process of thermal depolymerization that meets the following:

(a) Registration requirements for fuels and chemicals established by the EPA under Section 211 of the Clean Air Act (42 U.S.C. 7454) in effect on December 1, 2007, and

(b) Requirements of the ASTM D975 or D396 in effect on December 1, 2007, and

(c) Has a producer's Certificate of Analysis which certifies that the lot, batch or produced volume for sale has an organic content concentration of greater than 50 percent of the entire volume of the resultant fuel and the organic feedstock material is described.

(58) "Renewable Energy Resource": is defined in ORS 469.185(12).

(59) "Renewable Energy Resource Facility": means an energy facility used in the processing utilization, or storage of renewable energy resources to:

(a) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

(b) Provide the initial use of energy where electricity, petroleum or natural gas would have been used;

(c) Generate electricity to replace an existing source of electricity or to provide a new source of electricity for sale by or use in the trade or business;

(d) Perform a process that obtains energy resources from material that would otherwise be solid waste as defined in ORS 459.005; or

(e) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol, methanol, gasohol or biodiesel.

(60) "Renewable Energy Resource Equipment Manufacturing Facility": means a facility as defined in ORS 469.185 (13) and subject to standards adopted by the Oregon Department of Energy in these rules.

(61) "Rental Dwelling": means any property that contains a dwelling unit or rooming unit with living facilities. Living facilities include facilities for sleeping, eating, cooking and sanitation, for one or more persons, other than the property owner, which is subject to a rental agreement that provides for meaningful compensation to the owner and which compensation subject to Oregon income or excise tax.

(62) "Rental Weatherization": means energy conservation and efficiency measures that improve the energy efficiency of a rental dwelling. In order to qualify for a Business Energy Tax Credit, an applicant must meet requirements (a) through (c):

(a) An applicant must be planning to perform a minimum of two weatherization measures on the rental dwelling if one of the measures is to replace windows on the rental dwelling.

(b) Prior to being eligible to receive a Business Energy Tax Credit for installing a renewable facility on a rental dwelling, all standard weatheriza-

ADMINISTRATIVE RULES

tion measures, including roof insulation to a minimum of R-38, floor to minimum of R-21 and walls to a minimum of R-13 (where achievable on outside walls where no insulation is present) must be completed.

(c) For purposes of meeting the requirements of ORS 469.207, when a utility audit is not available, a vendor-provided audit demonstrating substantial savings and approved by the Department will suffice. A self-audit based upon the following list may be substituted when accompanied by U-values, areas, and other appropriate general information regarding the measures, including:

(A) Caulking, weather-stripping and other prescriptive actions to seal the heated space and ducts in a dwelling;

(B) Insulation of ceilings or attics to R-38 if achievable in areas with R-19 or less, including insulation installed on flat roofs and associated ventilation;

(C) Insulation of outside walls to a nominal R-13 if achievable in areas where no insulation is present, of unfinished walls adjacent to unheated areas to R-21 if achievable in areas where no insulation is present, and of finished walls adjacent to unheated areas to R-11 if achievable in areas where no insulation is present;

(D) Insulation of floors over unheated spaces to at least R-25 if achievable in areas where no insulation is present, and materials to support the insulation and needed ground cover and ventilation;

(E) Insulation and sealing of supply and return air ducts in unheated spaces to at least R-8 if achievable and no insulation is present and the ducts are in unheated areas;

(F) Insulation of water heaters, water pipes, or steam pipes in unheated spaces and for at least 10 feet from the water heater in unheated areas to at least R-3 if achievable and no insulation is present;

(G) Double-glazed windows (including sliding doors) with a U-value of 0.30 or lower, when replacing single-glazed windows.

(H) Insulated exterior doors with a U-value of 0.20 or lower (R-5 or higher).

(I) Programmable thermostats;

(J) Blower door tests and blower door assisted whole house air sealing or duct sealing performed by a contractor certified by the Department's Residential Energy Tax Credit technician certification program;

(d) If an applicant undertakes envelope measures, the following requirements apply:

(A) Replacement windows must have a U-value of 0.30 or less for residences.

(B) U-values must be 10% better (lower) than code requirements for commercial.

(C) Insulation that exceeds code requirements or when not required by code is an eligible measure if substantial savings and economic criteria required in the OARs are met.

(63) "Research, Development, and Demonstration Facility (RD&D)": A facility that complies with (a) through (e):

(a) A facility that is not standard practice and that is likely to produce or produces products or technologies that are likely to qualify as a facility in Oregon when commercialized. Business Energy Tax Credit RD&D applicants' total lifetime project costs will be determined for a defined period established at the time of the initial application and will be capped at \$20,000,000 for renewable energy RD&D and high efficiency CHP RD&D and \$10,000,000 for all other RD&D project types. Additionally, eligible RD&D facilities must comply with one or more of the following criteria:

(A) Research facilities that include a test bench research, prototype or pilot scale construction of a theoretically proved or primary researched technology;

(B) Development facilities that include the new manufacture or initiation of the capability to produce or deliver facilities in Oregon, excluding development facilities that increase established manufacturing or production capacity in Oregon;

(C) Demonstration facilities that are likely to resolve questions on how to apply new technology or that inform the public about new or improved technology though pilot or production scale applications of technology;

(D) Innovative travel reduction facilities that reduce vehicle miles traveled. The applicant must conduct pre and post surveys that measure travel reductions and submit the results with the application for final certification. A transportation district, mass transit district, or metropolitan service district within a community of 50,000 or more people may not qualify for more than \$2 million annually in eligible costs for innovative travel reduction programs.

(E) Facilities that improve energy efficiency in a focused geographic area through the replacement of outmoded energy equipment with energy-efficient equipment.

(F) Facilities in the Director's determination are likely to achieve Oregon Department of Energy goals.

(b) A facility that demonstrates a reasonable potential to result in energy or conservation benefits in Oregon for which the value is likely to exceed the value of the tax credit, based on information filed with the application for preliminary certification.

(c) A qualifying RD&D facility that exclusively supports renewable energy resource use will be eligible for a 50 percent Business Energy Tax Credit; all other qualifying RD&D facilities will be eligible for a 35 percent tax credit.

(d) Eligible costs for a Research, Development or Demonstration facility may include:

(A) Engineering, design and administrative costs

(B) Costs inherent in a research, development and demonstration facility that may not result directly in saved or produced energy. Such costs may include:

(i) Facility design, monitoring, assessment, evaluation and reporting. This includes but is not limited to: the development of standards, specifications, policies and procedures facilitating technology transfer; instruments, and controls.

(ii) Other equipment needed to monitor, assess or evaluate the facility and the impacts of the facility.

(C) The following costs related to demonstration model(s) may be considered eligible:

(i) Materials for the demonstration model(s).

(ii) The manufacturing, construction, assembly, and/or installation of the demonstration model(s).

(iii) Testing and monitoring the demonstration model(s).

(D) Eligible costs for a Research, Development or Demonstration facility are not subject to OAR 330-090-0110(18)(f).

(E) Other eligible costs defined by Oregon Administrative Rule.

(e) Ineligible costs for a Research, Development or Demonstration facility may include:

(A) The lease or purchase of land or building(s) unless the applicant can clearly demonstrate to the Director that the cost is necessary and exclusive to the facility.

(B) Other ineligible costs defined by Oregon Administrative Rule.

(f) A Research, Development or Demonstration facility is not eligible to receive a Business Energy Tax Credit when the facility's activities are a refinement of an existing technology and do not represent a strategic, new or potentially large benefit to Oregon.

(64) "Residential Dwelling": means a structure or the part of a structure that is used as a home, residence or sleeping place by one or more persons who maintain a household or by two or more persons who maintain a common household. A Business Energy Tax Credit may not be claimed for a renewable energy facility located in, adjacent to, or on a one or two family home unless the home is used exclusively as a rental dwelling where the rental agreement provides for meaningful compensation to the owner and which compensation is subject to Oregon income or excise tax.

(65) "Residential Energy Tax Credit Qualifying Equipment": means equipment that qualifies for the Residential Energy Tax Credit (RETC) from the Department. The equipment is eligible for the Business Energy Tax Credit (BETC) in either of the two following methods:

(a) A facility that consists solely of equipment that is on the qualifying equipment list at the time of the application submittal may apply as outlined in the Oregon Administrative Rules 330-90-105-150 using operating schedules, capacity, efficiency and cost information to prove qualification; or

(b) The facility, made up of qualifying equipment may also choose to effectively take the RETC through the BETC Program by using the following formula. Residential tax credit amount (from qualifying appliance list) ÷ 0.35 = BETC eligible cost.

(66) "Riders": Employees, students, clients, customers, or other individuals using transportation facilities or transportation facilities for travel.

(67) "Service Life": Equipment service life is as established in the most recent edition of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Heating, Ventilating and Air Conditioning (HVAC) Applications Handbook as of the date the application for preliminary certification is received by the Department or as determined by the Director for equipment not rated by ASHRAE. The Department may prorate the eligible project cost based on the remaining service life of the equipment. If the baseline facility has exceeded its service life, only an incremental facility will be considered eligible for a tax credit.

(68) "Simple Payback": The total eligible cost of a facility divided by the expected yearly energy cost savings, stated in years.

ADMINISTRATIVE RULES

(69) "Standard Practice": Conventional equipment or material applied in a way that it may be observed as a common or necessary feature of new and existing businesses.

(e) In new commercial construction it may include but is not limited to: electronic fluorescent ballasts; T-8 fluorescent lamps, compact fluorescent lamps that are not hard wired; parabolic louvered fluorescent fixtures; R-19 insulated walls in wood frame construction; variable air volume space conditioning systems; the portion of energy management controls that monitor for life safety, maintenance, or control process for purposes other than saving energy.

(f) In other energy facilities it may include but not be limited to propane powered lift trucks, electric golf carts or curbside recycling bins.

(g) Any other equipment, material, or applications of equipment or material as determined by the Director.

(70) "Substantial Energy Savings": Means that the Department has determined that:

(a) A facility, other than a lighting retrofit or sustainable building facility and excluding Research Development & Demonstration, transportation, recycling market development, recycling facility, will save at least 10 percent of the energy used in a given facility;

(b) A lighting retrofit facility will reduce the affected lighting system energy use by at least 25 percent;

(c) The energy facility is a sustainable building practices facility as defined under "Sustainable Building Practices Facility" of this rule; or

(d) The facility measures are measures that would qualify under or are measures recommended in an energy audit completed under ORS 469.631 to 469.645, 469.649 to 469.659, and 469.673 to 469.683.

(71) "Sustainable Building Practices Facility": Means a building facility as defined under "Commercial New Construction" of this rule and that:

(a) Is rated and certified LEED-NC™, LEED-CS™, or LEED-CI™ under the Leadership in Energy & Environmental Design (LEED™) Green Building Rating System managed by the U.S. Green Building Council or is rated and certified by a program approved by the Department that provides comparable performance on environmental measures and equivalent or better energy performance as documented by whole building energy modeling, is commissioned and is verified by an independent third party. In addition, a facility must:

(A) In achieving its LEED™ rating, the facility must earn at least two points under Energy & Atmosphere Credit 1 (Optimize Energy Performance).

(B) In achieving its LEED™ rating, the facility must earn at least one point under Energy & Atmosphere Credit 3 (Enhanced Commissioning).

(c) Each LEED-NC™ or LEED-CS™ facility must calculate and report the building's annual solar income in Btu (not the site income). The calculation must account for the contribution from each face (orientation with surfaces exposed to direct sunlight) and must take into account any existing or reasonably expected shading (by other buildings or vegetation, e.g.) of these surfaces. Calculations may ignore such things as rooftop or wall-mounted mechanical facility components.

(d) Facilities using on-site renewable energy production technologies such as photovoltaic or wind technologies may treat these elements as a separate renewable energy resource facility for tax credit purposes, provided that any points earned for such features in the LEED™ rating are not required to achieve the rating on which the Sustainable Building facility credit is to be based. In cases where subtracting such points would result in a lowering of the LEED™ rating (e.g. from Gold to Silver), the tax credit will be awarded on the basis of the lower rating. The rating point total, net of renewable generation credits, can never be less than that required for a Silver rating.

(72) "Transportation District": A transportation district included in ORS 184.675(7).

(73) "Transportation Facility": A facility that reduces energy used for traveling, including but not limited to traveling to and from work or school, work-related travel or travel to obtain medical or other services. A transportation facility must meet one or more of the following criteria:

(a) Telework defined as working from home instead of commuting a longer distance to the principal place of employment. It does not include home-based businesses or extension of the workday. Telework equipment must be installed to reduce employee vehicle miles traveled a minimum of 45 working days per 12 consecutive months. Eligible costs include purchase and installation of new equipment at the telework site. Computer, facsimile device, modem, phone, printer, software, copier, and other equipment necessary to facilitate telework as determined by the Director are eligible costs. Eligible cost for telework facilities does not include replacement cost for equipment at the principal place of business when that equip-

ment is relocated to the telework site; fees for maintenance and operation of any equipment; office furniture and office supplies or training costs.

(b) Telework for the purpose of reducing business vehicle miles traveled must reduce employee business related travel by 25 percent.

(c) Commuter pool vehicles transporting three or more riders dedicated to reducing vehicle miles traveled. The vehicle must be used a minimum of 150 working days per 12 consecutive months. Eligible cost includes the purchase or cost of the vehicle(s). If vehicles with special equipment are being purchased, a copy of the sales quotation showing the additional cost for the equipment must be submitted. The vehicle must remain in service for five years. Where vehicles are used for business travel other than transporting riders, eligible cost shall be reduced based on the estimated percent of miles dedicated to reducing travel. Transportation districts, mass transit districts, or metropolitan service districts within communities of 50,000 or more people are not eligible if they receive other federal or state funding for the purposes of offsetting the costs.

(d) Transit passes used by an applicant's riders or in fareless zones to reduce vehicle miles traveled. Eligible cost includes the cost of the transit pass or the cost specified in the contract for providing the fareless zone. Transportation districts, mass transit districts, or metropolitan service districts within communities of 50,000 or more people are not eligible. Eligible cost also includes the cost of equipment used as a shelter for riders waiting for transit. To be eligible, the shelter must be part of a transit pass facility. Applicants must subtract any employee contributions for transit passes from eligible costs.

(e) Bicycle used by an applicant's riders to reduce vehicle miles traveled a minimum of 45 work days per 12 consecutive months. Maximum eligible costs of \$800 include purchase of bicycles and equipment used to store bicycles. Accessory items, such as locks, panniers, rain gear helmets, etc. are not eligible, except for bicycle lights.

(f) Fees paid by an applicant to a Transportation Management Association (TMA) or nonprofit organization that provides transportation services for the purpose of reducing vehicle miles traveled by a passenger. The fee must be part of a transportation facility and cannot exceed the cost of the transportation facility. To be eligible, the applicant must provide verification of an agreement with the transportation provider for specific services that reduce vehicle miles traveled.

(g) The cost of an incentive program paid by the applicant that provides a financial incentive to a passenger for reducing vehicle miles a minimum of 45 work days per 12 consecutive months. To be eligible the applicant must provide a written incentive program plan for Energy Department approval.

(h) Car sharing is defined as a program in which drivers pay to become members in order to have joint access to a fleet of cars. Eligible cost for car sharing includes the cost of operating a car sharing program, including the fair market value of parking spaces used to store the cars available for the car sharing program, but does not include the cost of the fleet of cars. It does not include operations conducted by a car rental agency.

(i) Transportation Service is defined as a facility that provides transportation services to reduce vehicle miles driven by a single occupant vehicle. The eligible cost for a transportation service facility is the cost for providing the transportation service, but does not include the cost of the vehicle. The transportation service facility must provide service for a minimum of 150 days per 12 consecutive months. Transportation districts, mass transit districts, and metropolitan service districts in communities with 50,000 or more people are not eligible if they receive other federal or state funding for the purposes of offsetting the costs. Applicants must subtract any fare-box contributions from eligible costs.

(j) Individualized Travel Behavior Change is defined as a facility that is a program approved by the Oregon Department of Energy that reduces vehicle miles traveled through one-on-one contact with the participants in a specific geographical area or in a targeted group. Pre and post-facility surveys must be conducted. The applicant must submit a report with the results of these surveys to measure travel reduction. Eligible costs include capital expenditures, administrative and communication costs. Facilities are subject to the VMR cost-effectiveness formula.

(k) Vanpool Program is defined as a facility that is an employer-sponsored or organization sponsored program that provides transportation to registered members to commute on a regular basis. Eligible costs include vehicle operation costs, but do not include the cost of the vehicle. The applicant must conduct pre and post-facility surveys and submit a report with the results of these surveys to measure reduction in vehicle miles. The program must provide service for a minimum of 150 work days per 12 consecutive months. Facilities are subject to the VMR cost-effectiveness formula.

(l) Transportation Services for K-12 Students is defined as a facility that is a program that provides transportation services for K-12 students

ADMINISTRATIVE RULES

during the school year. All entities, including transportation districts, mass transit districts, or metropolitan service districts within communities of greater than 50,000 people, are eligible.

(A) The tax credit amount shall be based on the cost per student and a reasonable estimate of the actual number of students served.

(B) Eligible agencies shall develop a monthly cost per student service, based on but not limited to lost revenues, added costs, and VMR cost-effectiveness to be approved by the Department.

(C) The applicant must conduct pre and post-facility surveys and submit a report with the results of these surveys to measure reduction in vehicle miles.

(m) The purchase of efficient truck technology for trucks and related truck trailers, as defined in ORS 801.580, for commercial motor vehicles, as defined in ORS 801.208, that are registered under ORS 803.420, or for commercial motor vehicles that are proportionally registered under ORS 826.009 or 826.011. Eligible efficient truck technology, such as an auxiliary power unit (APU), must be recognized as a verified technology by the U.S. Environmental Protection Agency (USEPA) SmartWay Transport Partnership to potentially qualify.

(A) Eligible projects must meet the following requirements:

(i) Retrofit a truck with a qualifying APU; or

(ii) Add an APU and two or more USEPA Smartway efficiency measures to a newly-manufactured truck. A trailer with two or more Smartway efficiency measures may also be included with this project; and

(iii) Eligible vehicles must demonstrate Oregon registration with a current Cab Card as part of the Application for Preliminary Certification by:

(I) Commercial (Oregon-only registration operated solely in Oregon) with a red Oregon-only commercial "YC" plate from the Oregon Motor Carrier Transportation Division (MCTD); or

(II) International Registration Plan (IRP), also referred to as Apportioned registration, with a red Apportioned "YA" plate from the Oregon MCTD. For IRP vehicles, eligible facilities must meet the following requirements as part of the application for preliminary certification:

(a) Provide the two most recent calendar year IRP billing notices that document the percentage of a vehicle's annual mileage that was driven in Oregon.

(b) For proposed eligible facilities that have no recent calendar year IRP billing notice documentation, provide a signed project owner statement indicating the anticipated percentage of miles that will be driven in Oregon over the next two years.

(B) Facilities that can document that 15 percent to 50 percent of the vehicles that meet the requirement in (A) of this subsection annual mileage occurs in Oregon are eligible to receive a tax credit of 25 percent of the facility's eligible certified costs.

(C) Facilities that can document that more than 50 percent of the vehicle that meet the requirement in (A) of this subsection occurs in Oregon are eligible to receive a tax credit of 35 percent of the facility's eligible certified costs.

(D) Proof that the applicant has a sufficient nexus with the state of Oregon. This includes a dedicated location in Oregon for maintenance, dispatch, and monitoring of facilities.

(E) The facility's simple payback period must be between two and fifteen years of the time the tax credit is issued.

(74) "Transportation Provider": is defined in ORS 469.185(16).

(75) "Transportation Services Contract": is defined in ORS 469.185(17).

(76) "Utility": Gas or electric utilities as defined below.

(a) An Investor Owned Utility (IOU) as defined in ORS 757.005, or its subsidiaries and affiliated interests as defined in ORS 757.015; or

(b) A Publicly Owned Utility (POU) and people's utility district as defined in ORS 261.010, or a municipal or cooperative utility.

(77) "Vanpool Program": means a program that provides opportunities for a designated group of riders to share the usage of a vehicle to commute between different communities/neighborhoods on a regular basis.

(78) "Vehicle Miles Reduced (VMR)": Reduction in miles achieved by a facility when compared to single occupant vehicles.

(79) "Waste-to-Energy Facility": means an energy resource facility that recovers materials and energy from a waste stream under conditions listed below. The BETC program intends to encourage the responsible use of all resources including waste streams. Generally, recovery of a material will be preferred in comparison to recovery of energy. In order to respect the embedded energy of a material stream the following criteria have been established to define facilities that do not meet the definition of a recycling facility, but provide environmentally responsible recovery from a waste stream. Therefore, equipment used to recover materials and energy from a

waste stream is an eligible facility when all of the following conditions are met:

(a) The value of the marketable materials and energy resources recovered from the waste stream, less the value of the external energy resources consumed in the recovery process is greater than the magnitude of the costs incurred or revenues derived in disposal of the waste stream in standard industry practice.

(b) Recovered material/end product, exclusive of fuel or lubricant, exceeds 50 percent or higher on a dry mass basis.

(c) The facility does not increase the release of toxins, fossil-derived greenhouse gas emissions, or other emissions.

(d) The facility does not divert materials from a higher value use.

(e) The facility has an acceptable energy balance as determined by the Director.

(80) "Year": Calendar year.

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

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.185 - 469.225

Hist.: DOE 7-1985, f. 12-31-85, ef. 1-1-86; DOE 3-1986, f. & ef. 8-29-86; DOE 2-1988, f. & cert. ef. 3-17-88; DOE 3-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 3-1990, f. & cert. ef. 9-20-90; DOE 4-1991, f. & cert. ef. 12-31-91; DOE 2-1992(Temp), f. 12-14-92, cert. ef. 12-15-92; DOE 2-1993, f. & cert. ef. 1-28-93; DOE 5-1993, f. & cert. ef. 12-14-93; DOE 2-1995, f. 12-12-95, cert. ef. 12-15-95; DOE 3-1996, f. & cert. ef. 11-27-96; DOE 2-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 4-1998, f. 12-14-98, cert. ef. 12-15-98; DOE 2-1999, f. 12-22-99, cert. ef. 1-1-00; DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 1-2005, f. 12-30-05, cert. ef. 1-1-06; DOE 2-2006, f. 9-29-06, cert. ef. 10-1-06; DOE 3-2006, f. 11-27-06, cert. ef. 12-1-06; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 4-2008, f. 6-19-08, cert. ef. 6-20-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10

330-090-0120

Preliminary Certificate Application Requirements for a Business Energy Tax Credit

(1) Eligible facilities: The Department may issue only one BETC for each separate and distinct qualified energy facility under these rules. The following facilities, as further defined in these rules, are eligible for a Business Energy Tax Credit: An energy facility, recycling facility, rental dwelling weatherization facility, transportation facility, car sharing facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to operate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling station, a high-efficiency combined heat and power facility, a high-performance home, a homebuilder-installed renewable energy system, a renewable energy resource equipment manufacturing facility or a research development & demonstration facility that complies with these rules.

(2) Required information:

(a) Persons requesting a Business Energy Tax Credit shall apply on the Department-approved form for a preliminary certificate. In addition to the information required in ORS 469.205, the applicant shall provide the following information:

(A) The name, address, and phone number of the applicant, owners of the facility, and the developers of the project.

(B) The applicant's federal tax identification number or social security number which may be shared with the Department of Revenue to facilitate the administration of the state tax law.

(C) Proposed facility construction and operational start and finish dates. A facility's start date is the date that the project applicant financially commits to the project. Financial commitment includes, but is not limited to: making a down-payment or deposit, signing a contract with a vendor, ordering material or equipment, beginning construction or installation.

(D) The proposed facility location within the geographical confines of Oregon or in the case of an alternate fuel vehicle demonstrated intent that the vehicle will be titled in the State of Oregon.

(E) Information demonstrating that the proposed facility will comply with or have a variance from the land use laws of the city or county where the facility will be located;

(F) Information demonstrating that the proposed facility will comply with all other local, federal, and state laws, including but not limited to the following:

(i) A water power energy facility that uses navigable waters or that sells electricity must have a permit, license or exemption from the Oregon Department of Water Resources (DWR) and the Federal Energy Regulatory Commission (FERC). Proof of permits, licenses, or exemptions from DWR and the FERC must be submitted to the Department before a facility is eligible to receive final certification. Also, if the facility uses water from the Columbia River basin, it must comply with the Northwest Power and Conservation Council's Fish and Wildlife Program.

ADMINISTRATIVE RULES

(ii) A geothermal energy facility must have the proper permit from the Oregon Department of Geology and Mineral Industries (DOGAMI) or a permit from DWR.

(iii) A biomass energy facility must have required permits from the Oregon Department of Environmental Quality (DEQ).

(G) A list of appropriate authorizations for all work performed including but not limited to appropriate licenses, permits, or other authorizations that are required by state or local jurisdiction for the facility.

(H) Information demonstrating the intended operation, maintenance and use of the facility, including but not limited to, where appropriate, the amount and type of jobs potentially created or eliminated in the construction, installation and operation of the facility in Oregon, the amount of projected energy saved, generated or transmitted and a demonstrated intent that the facility will be maintained and operated for at least five years after the facility is issued a final certification under these rules.

(I) A declaration from the applicant that all property taxes for the facility have been paid and there are no delinquent property taxes associated with the facility.

(J) If the application is for a Renewable Energy Resource Equipment Manufacturing Facility, information that demonstrates that the facility will be used solely to manufacture equipment, machinery or other products that will be used exclusively for renewable energy resource facilities. An applicant shall provide sufficient information relating to the specific characteristics of the equipment, machinery or other products that demonstrate how such equipment, machinery or other products will be used exclusively for renewable energy resource facilities and not for other commercial purposes.

(b) Criteria for a separate and distinct facility applying to receive a thirty-five percent non-renewable tax credit. If an applicant has other current applications, or has received a preliminary certification, or a final certification within twelve months of the application date, the applications will be considered a single facility for the purposes of these rules provided the proposed eligible costs do not exceed the annual limit set forth in ORS 469.200. If the applicant has submitted more than one application that exceeds the eligible costs, then the application will be considered a separate and distinct facility if the facility does not meet three or more of the following:

(A) shared ownership of facilities;

(B) shared location of facilities;

(C) project permits issued to a shared entity or at the same time; or

(D) a shared contract to complete the facilities.

(c) Criteria for a separate and distinct facility applying to receive a fifty percent tax credit for facilities using or producing renewable energy, manufacturing facilities, or high efficiency combined heat and power facilities. If an applicant has other current applications, or has received a preliminary certification, or a final certification within twelve months of the application date, the applications will be considered a single facility for the purposes of these rules provided the proposed eligible costs do not exceed the annual limit set forth in ORS 469.200. For the purposes of determining whether a facility is separate and distinct, a facility shall be considered one if three or more of the following apply:

(A) The facility is located on one or more adjacent parcels of land or parcels;

(B) The facility has been recognized as a single facility by a federal, state, county, city or local authority including, but not limited to siting council, state or local boards or commissions. The facility has obtained or made application for siting or land use approval and other applicable permits, licenses or site certificates as a single facility or on a single application;

(C) When the facility is designed to generate energy, the construction of the facility is performed under the same contract with a general contractor licensed under ORS 701 or multiple contracts entered into within one year of each other with one or more general contractors licensed under ORS 701. If facilities will be completed in phases over time, the applicant must demonstrate that each of the phases of the facility would independently qualify as an eligible facility and that each phase of the facility are not interdependent in purpose or the manner in which they will be owned, financed, constructed, operated, or maintained or the facilities or phases of the facility will be considered as one facility for the purposes of these rules.

(D) The facility owners have entered into or anticipate entering into agreements to share project expenses, personnel, capital investments including generating equipment or other resources related to the facility;

(E) The generating equipment for the facility and the related facility was purchased by the same person or persons who own or operate the facility or have taken action under any of the above factors;

(F) A facility is connected to the grid through a single connection or multiple connections when there is a shared net metering, power purchase or other applicable transmission agreement; or

(G) Other factors or considerations which demonstrate that the facility is not a separate and distinct facility based on its construction, operation, maintenance and output.

(d) Anticipated capital expenditures and other costs as defined in these rules for the erection, construction, installation or acquisition of the proposed facility, its expected operational life, and its simple payback as defined in ORS Chapter 469 and these rules.

(e) Information demonstrating anticipated substantial energy savings or a description of products that will result from the facility and how those products will result in substantial energy savings.

(f) For a proposed renewable energy resource facility, proof the resource level is adequate for a feasible facility. Such proof includes data listed in (A) through (G). Other data may be used if the listed data cannot be obtained at a reasonable cost, such as for RD&D facilities.

(A) For a solar energy facility: A sun chart and solar insolation data for the site. Facilities must have a Total Solar Resource Fraction of at Least 75%.

(B) For a wind energy facility:

(i) The average monthly wind speed for 12 consecutive months at the proposed site. Measure wind speed at or as close as practically feasible to the hub height of a horizontal axis wind machine; or, the equator of a vertical axis wind machine; or

(ii) Measure wind speed at two heights for 12 consecutive months, the lowest one at least 10 meters above ground and estimate the wind speed at hub or equator height; or

(iii) In the event of less than one year's measurements at the proposed site, include the months of on-site measurements and supplement these data with estimated average monthly wind speeds at or near the proposed site to complete the 12 consecutive month data set. Such estimated data should be obtained from a nationally recognized firm that provides estimated wind resource data based on advanced national wind mapping technology; or

(iv) The estimated average monthly wind speed for 12 consecutive months at or near the proposed site obtained from a nationally recognized firm that provides estimated wind resource data based on advanced national wind mapping technology.

(v) In the event that estimated wind resource data are used as described under section (3) and (4) above, the project owner shall provide to the Department not later than 14 months after the start-up date, one year of actual monthly energy production data and, if available, actual monthly average wind speed data at wind energy facility's site.

(vi) Proposed equipment must meet the following:

(I) Each proposed model of the system must demonstrate reliable operation of that model of equipment and show monthly data of average energy produced (kWh) and average wind speed for one consecutive year at a site with average annual wind speeds of at least 12 mph; or

(II) Proof that the proposed wind system model is listed on the official list of Qualified Wind Generators published by the Energy Trust of Oregon, the California Energy Commission, or the New York State Energy Research and Development Authority (NYSERDA) in effect on April 30, 2010; or

(III) The proposed manufacturer's power curve, the estimated annual energy production based on the site's wind speed data, and the manufacturer's performance guarantees (on-line availability and power curve).

(vii) The Department reserves the right to deny eligibility for any wind system for any reason including, but not limited to: poor generator performance, concerns about wind generation system design or quality of data presented, lack of manufacturing support for maintenance, warranties, etc., and insufficient experience with generation.

(C) For a geothermal energy facility (except a heat pump system): A plot of well temperature versus time at the design flow rate at steady state temperature.

(D) For a water power facility: One year of real or predicted average monthly stream flows. If flows are predicted, describe how.

(E) For a biomass energy facility: Data that show the resource is available in an amount that meets the facility's energy needs for a period of a minimum of five years.

(F) For a waste heat recovery facility: A table showing how much waste heat is available and from what sources.

(G) For wood-fired boilers or furnaces with heat output capacities of less than 2 million British Thermal Units per Hour: Certification that they produce particle emissions equal to or less than 2.5 grams per hour for catalytic stoves and 4.5 grams per hour for noncatalytic stoves by an inde-

ADMINISTRATIVE RULES

pendent wood stove laboratory currently certified by the United States Environmental Protection Agency (US EPA).

(g) The payment required by OAR 330-090-0150(3).

(h) For proposed alternative fuel vehicle facilities: proof that the proposed vehicle or conversion equipment is on DEQ's approved list in effect on December 1, 2007, the current exhaust emissions, the expected emission reductions, the expected annual energy and/or cost savings (if any).

(i) For proposed alternative fuel vehicle facilities: the proposed number of vehicles to be converted or new vehicles purchased, the expected annual fuel savings, the type of alternative fuel used, and the expected annual amount of alternative fuel used.

(j) For proposed alternative fuel fueling station facilities: a description of proposed fueling systems, the estimated number of alternative fuel vehicles that will use the proposed station, the type of alternative fuel that will be dispensed, and the expected annual amount that will be dispensed.

(k) For proposed transportation facilities: required documentation for each category specified by OAR 330-090-0110 (70)(a) through (m).

(l) For a proposed waste-to-energy renewable energy resource facility that meets the definition of waste stream includes the anticipated percentage of waste stream product to be recovered and a remediation plan for anticipated emissions and byproducts.

(m) For a proposed renewable energy resource equipment manufacturing facility:

(A) The applicant shall demonstrate that they can meet ORS 469.197(4)(c) through (f) by:

(i) Describing the minimum level of direct employment that will be provided by the facility during each of the tax years in which the tax credit will be claimed and by describing the anticipated average annual direct employment during each of those years, including the number of average hourly and annual wages of employees by employment classifications by geographic location. The applicant must also describe actions it will take to achieve cultural diversity in its work force.

(ii) Demonstrating its financial ability to construct and operate the proposed facility through documentation such as independent credit ratings; credit references, including letters from banks or other financial institutions attesting to the applicant's credit worthiness; and other documentation demonstrating the applicant's financial viability.

(iii) Demonstrating that the facility will achieve long-term success by documenting the qualifications, capabilities and experience of the applicant in the construction and operation of such facilities, the long-term commercial and technical viability of the renewable energy resources manufacturing equipment and the renewable energy resource facilities for which the equipment is produced.

(iv) Certifying that allowance of the tax credit is integral to the decision to expand or locate the facility in Oregon.

(v) Before the Director will approve a final certification for a renewable energy resource equipment manufacturing facility, the Department may require the applicant to enter into a performance agreement or other similar agreement for the facility. Failure to comply with the terms of the performance agreement or other similar agreement may be the basis for denial or revocation of the final certification pursuant to OAR 330-090-0133.

(B) Any other information necessary to find that a proposed facility complies with ORS 469.185 to 469.225 and these rules.

(C) In considering such applications, the Director may consult with other state agencies.

(D) The Director must find that:

(i) The applicant has demonstrated that it has a reasonable likelihood of achieving the minimum level of employment proposed and that such employment will contribute to public benefit, based on the number of average hourly and annual wages of employees including benefits by employment classifications by geographic location, and actions to achieve cultural diversity in its workforce.

(ii) The applicant has a reasonable likelihood of being financially viable based on its credit ratings and references from banks and financial institutions attesting to its credit worthiness.

(iii) The applicant has the organizational expertise as demonstrated by qualifications and experience to construct and operate the proposed facility.

(iv) The renewable energy resource equipment and the renewable energy resource facilities for which the equipment is produced have the commercial and technical viability to have a reasonable likelihood to achieve long-term success.

(v) The facility will contribute to a diversified portfolio of renewable energy resource equipment manufacturing facilities.

(vi) The applicant has certified that allowance of the tax credit is integral to the decision to expand or locate in Oregon.

(3) Standards When Reconstructing a Facility: If a facility is reconstructed and a preliminary certification is filed for a tax credit on the reconstructed facility, the tax credit for the reconstructed facility may be reduced by the amount of the original tax credit remaining for the original facility.

(4) Eligible Costs of a Renewable Energy Resource Equipment Manufacturing Facility:

(a) A BETC may be granted based on the eligible costs of a facility that is used to manufacture equipment, machinery or other products that will be used exclusively for renewable energy resource facilities.

(b) Subject to the facility cost limitations of OAR 330-090-0150 (1)(a)(C) and the provisions of OAR 330-090-0120 (4), eligible costs for a renewable energy resource equipment manufacturing facility include any land purchase costs, structures, buildings, installations, excavations, machinery, equipment or devices, or any addition, reconstruction or improvements to land or existing structures, buildings, installations, excavations, machinery, equipment or devices, necessarily acquired, constructed or installed by a person in connection with the conduct of a trade or business, that is used to manufacture the equipment, machinery or other products that will be used exclusively for renewable energy resource facilities.

(A) Eligible costs do not include any costs of any land purchase costs, structures, buildings, installations, excavations, machinery, equipment or devices, or any addition, reconstruction or improvements to land or existing structures, buildings, installations, excavations, machinery, equipment or devices that have been subject in whole or in part to the facility cost limitation of OAR 330-090-0150 (1)(a)(A) if such costs would exceed that cost limitation.

(B) Eligible costs do not include costs of a facility that is used to manufacture equipment, machinery or other products not used exclusively for renewable energy resource facilities.

(C) An application for a renewable energy resource equipment manufacturing facility must demonstrate compliance with these provisions to be accepted, including clearly describing the specific characteristics of the equipment, machinery or other products that demonstrate why such equipment, machinery or other products will be used exclusively for renewable energy resource facilities and not for other commercial purposes and therefore why the costs of such of such equipment, machinery or other products are eligible costs.

(5) If the Department determines that the applicant qualifies for a BETC, the Department may issue a preliminary certification. The preliminary certification may contain specific criteria and conditions for the facility to meet in order to obtain a final certification based on the information provided in the application for the BETC and type of facility that is described in the application. In addition, the Department may require the applicant to enter a performance agreement or other similar agreement as a condition of approval.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.185 - 469.225

Hist.: DOE 7-1985, f. 12-31-85, ef. 1-1-86; DOE 4-1991, f. & cert. ef. 12-3-91; DOE 2-1993, f. & cert. ef. 1-28-93; DOE 5-1993, f. & cert. ef. 12-14-93; DOE 2-1995, f. 12-12-95, cert. ef. 12-15-95; DOE 3-1996, f. & cert. ef. 11-27-96; DOE 2-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 4-1998, f. 12-14-98, cert. ef. 12-15-98; DOE 2-1999, f.12-22-99, cert. ef. 1-1-00; DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 1-2005, f. 12-30-05, cert. ef. 1-1-06; DOE 3-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 4-2008, f. 6-19-08, cert. ef. 6-20-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10

330-090-0130

How the Oregon Department of Energy Processes a BETC Application

(1) General:

(a) The Director reviews a BETC application in two stages. The first stage is called preliminary certification. The second stage is called final certification. The final certification consists of the determination of eligible costs for purposes of the tax credit and the issuance of the BETC final certificate.

(b) To begin the review process for each stage, or to change the facility during the review process, an applicant must submit an application on the form approved by the Department.

(c) A facility owner planning to use a Pass-through Partner will select the pass-through option on the Application for Preliminary Certification.

(d) The Director may impose conditions in approving a preliminary or final certification that the facility must operate in accordance with the representations made by the applicant, and is in accordance with the provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the Director.

ADMINISTRATIVE RULES

(e) If the Department determines that the applicant qualifies for a BETC, the Department may issue a preliminary certification. The preliminary certification may contain specific criteria and conditions for the facility to meet in order to obtain a final certification based on the information provided in the application for the BETC and type of facility that is described in the application. In addition, the Department may require the applicant to enter a performance agreement or other similar agreement as a condition of approval.

(2) Approval of Preliminary Certifications: The Director has approved preliminary certifications for the following facilities that the Department has reviewed and determined to be otherwise qualified under these rules:

(a) Alternate energy devices qualifying for a tax credit under the Residential Energy Tax Credit Program, OAR 330-070-0010 through 330-070-0097, for which the Department has determined qualified costs, energy savings, and eligible tax credits. A facility owner may file for a preliminary certification to present documentation supporting different determinations for review and approval.

(b) Pre-qualified hybrid-electric vehicles.

(3) Preliminary Certification Review Process: Except as provided in OAR 330-090-0130(2), a completed application for preliminary certification shall be received by the Department on or prior to the erection, construction, installation or acquisition of a facility.

(a) Within 60 days after an application for preliminary certification is filed, the Director will decide if it is complete. An application is incomplete if it does not include information needed to demonstrate substantive compliance with the provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the Director. The Director will provide the applicant a written notice relating to the incomplete application and the information needed to make the application complete. If no action is taken within 30 days by the applicant, the application will expire.

(b) Within 120 days after a completed application is submitted the Director will notify the applicant of the status of the application, except as otherwise provided in subsection (5), if the applicant has not been notified otherwise the application has been denied.

(A) If it complies, the Director will approve the preliminary certification. The preliminary certification will state the amount of the costs that are eligible (eligible costs) for a BETC tax credit. It may differ from the amount requested for reasons explained in the preliminary certification and based on these rules. Also, it will state any conditions that must be met before development, final certification, or some other event can occur. The Director will explain why each condition is needed to comply with these rules.

(B) If it does not comply, the Director will deny the application. No later than 60 days after the Director issues an order denying the application, the applicant may request reconsideration as provided in OAR 330-090-0133(4).

(C) An applicant can re-submit an application that is denied if features of the facility change, the applicant provides data the absence of which resulted in the denial, or other changes warrant. An application for preliminary certification can be amended or withdrawn by the applicant before the Director issues a final certification. If an application is amended, the time within which review occurs starts over. An applicant may request reconsideration of an application denial under this rule.

(4) Renewable Energy Resource Equipment Manufacturing Facility: If under the provisions of ORS 469.200(2), the Director intends to certify less than the total or no amount of eligible costs of a renewable energy resource equipment manufacturing facility, the Director will notify the applicant in writing of that intent before approving the preliminary certification. The applicant will have 30 calendar days from the date notification was issued to inform the Director in writing whether it wishes to withdraw the application or suspend further consideration of the application until a future date specified or submit additional information in support of the application. If the Director has not received notification or additional information in support of the application within that period of time, the Director may certify less than the total or no amount of eligible costs of the renewable energy resource equipment manufacturing facility. Once eligible costs are certified and a preliminary certification is issued under this section, the certified eligible costs may be revised if conditions under ORS 469.200(2) change or upon notification from the applicant or other information indicating that the scope of the project or the energy facility has changed in such a way to impact the preliminary certificate.

(5) Preliminary Certification After Start of a Facility:

(a) If a facility has been started an applicant may file a written request with the Director for approval of a preliminary certification after facility start. Such a request must contain information in accord with OAR 330-090-0120 and OAR 330-090-0130(5)(b).

(b) The Director may approve preliminary certification after facility start if:

(A) The request is in accord with OAR 330-090-0120;

(B) Special circumstances make application for preliminary certification before facility start up impracticable. Such circumstances include process delays beyond the applicant's control, facility funding and energy supplies or markets; and

(C) The Director receives the waiver request within 90 days of facility start date. Under extraordinary circumstances the Director may extend the waiver period provided the facility serves the aims of the program.

(D) Failing to submit an application for preliminary certification before signing contracts for the facility does not constitute special circumstances supporting a waiver.

(6) How Preliminary Certification Can be Revoked: The Director may revoke a preliminary certification for a reason listed in subsection (a) through (c) of this section

(a) A facility, other than a renewable energy resource equipment manufacturing facility, is not started before 1,095 days (3 years) after either the application for preliminary certification was received or an amendment of the preliminary certification was approved. A renewable energy equipment manufacturing facility is not started before 1,825 days (5 years) after either the application for preliminary certification was received or an amendment of the preliminary certification was approved.

(b) Permits, waivers, and licenses required by OAR 330-090-0120 are not filed with the Department before facility development starts.

(c) The facility undergoes changes without the changes being approved under OAR 330-090-0130(7).

(7) Amendments to Preliminary Certifications: To change a facility that has a preliminary certification and amend the preliminary certification, the applicant must file a written request with the Director prior to the project completion date.

(a) The request must describe the change to the facility and reasons for the change. It may include changes in cost, tax credit amount, facility design, and materials. The change may also include changes in the amount of energy saved or produced, jobs created, project financing, the applicant, or other matters that demonstrate substantial change in the project's scope.

(b) Within 60 days after the applicant files the change request, the Director will decide if the facility as modified complies with these rules..

(A) If it complies, the Director may issue an amended preliminary certification which may contain new or amended criteria, conditions and requirements.

(B) If it does not comply, the Director will issue an order that denies the change and provide written reasons for the denial.

(8) If the facility does not proceed: The applicant must inform the Director in writing if it does not proceed with the facility or proceeds without the tax credit. In that case, the Director will cancel the preliminary certification.

(9) Pass-through Option Process and Application:

(a) In addition to the application for preliminary certification, an applicant who plans to transfer the tax credit certificate to a Pass-through Partner must complete and file the Pass-through Option Application form supplied by the Department.

(b) If the Pass-through Partner is not yet secured at the time of the Application for Preliminary Certification, the facility owner will complete that section of the application by inserting "Partner to be identified" and will submit an updated application when the Pass-through Partner is secured.

(c) The Department will not transfer and issue a final certificate to a pass-through partner until the facility owner provides evidence to the Department that the owner has received the pass-through payment in full.

(10) Final Certification Review Process and Application: An application for final certification must be filed after the facility is completed as defined in these rules.

(a) An application for final certification must include:

(A) Evidence to demonstrate that:

(i) The facility complies with all conditions and criteria of the preliminary certification and with the provisions of ORS Chapter 469 and the rules adopted thereunder; and

(ii) The facility remains in compliance with local, state, and federal laws, including local land use laws and with any conditions imposed by the local government as a condition of land use approval.

(B) An account of the facility costs, including prorated costs.

(i) If facility costs are less than \$50,000, the account may be records of facility costs paid or incurred based on canceled checks, invoices, receipts, a binding contract or agreement, or other documentation as may be required by OAR 330-090-0110(18) unless required by the Director to supply verification from a certified public accountant, who is not otherwise

ADMINISTRATIVE RULES

permanently employed by the facility owner or pass-through partner. If an applicant has an outstanding binding contract or loan agreement, the account shall demonstrate that payments on contract or loan are not in default; or

(ii) If the facility costs are \$50,000 or more, a certified public accountant, who is not otherwise permanently employed by the facility owner or pass-through partner, must complete a written review and summary of costs paid or incurred based on canceled checks, invoices, or receipts, a binding contract or agreement, or other documentation as may be required by OAR 330-090-0110(18). If an applicant has an outstanding binding contract or loan agreement, the certified public accountant shall include sufficient information to demonstrate that accounts directly related to the facility are not in default; or

(C) For a Sustainable Building Practices Facility, a copy of the facility U.S. Green Building Council (USGBC) Rating Certificate, USGBC Final LEED™ Review, Energy Performance Documentation, Narrative for Energy and Atmosphere Credit 1, Annual Solar Income as described in the rules and method of calculation will be accepted in lieu of facility cost reports.

(D) Proof the facility is completed and operating.

(E) If the facility is leased, a copy of the lease.

(F) For Alternative Fuel Vehicle facilities, proof of conversion must include a copy of vehicle emission test performance results from DEQ or a conversion shop.

(G) Documentation that the applicant and facility owner or owners are current on their property taxes where the facility is located if appropriate; and

(H) Other data the Director finds are needed to assure a facility complies with these rules and conditions imposed in the preliminary certificate

(I) The names of the person or persons who are to be issued the final certificate. If the final certificate is to be issued to a pass-through partner, the Department will not issue the certificate until the appropriate criteria, conditions and requirements of the preliminary and final certification and these rules are satisfied.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.185 - 469.225

Hist.: DOE 7-1985, f. 12-31-85, ef. 1-1-86; DOE 3-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 4-1991, f. & cert. ef. 12-31-91; DOE 2-1992(Temp), f. 12-14-92, cert. ef. 12-15-92; DOE 2-1993, f. & cert. ef. 1-28-93; DOE 5-1993, f. & cert. ef. 12-14-93; DOE 2-1995, f. 12-12-95, cert. ef. 12-15-95; DOE 3-1996, f. & cert. ef. 11-27-96; DOE 2-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 4-1998, f. 12-14-98, cert. ef. 12-15-98; DOE 2-1999, f. 12-22-99, cert. ef. 1-1-00; DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 1-2005, f. 12-30-05, cert. ef. 1-1-06; DOE 2-2006, f. 9-29-06, cert. ef. 10-1-06; DOE 3-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 4-2008, f. 6-19-08, cert. ef. 6-20-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10

330-090-0133

How ODOE Processes a Final Application

(1) Processing the Final Certification

(a) Within 30 days after a final certification application is filed, the Director will determine whether the application is complete. An application is incomplete if it does not include information needed to demonstrate substantive compliance with the provisions of ORS 469.185 to 469.225 and any applicable rules or standards and preliminary certification conditions adopted by the Director. If it is not complete, the applicant will be provided a written explanation describing deficiencies. If it is complete, the Director will process the application. Within 60 days after a completed final certification application is filed the director will either approve or deny the final certification.

(b) If the Director approves the application, the Director will issue final certification or issue a final authorization letter, which will state the amount of eligible costs and the amount of the tax credit approved. The final certification may contain additional criteria and conditions that must be met in order to retain tax credit benefits or the tax credit may be subject to revocation. If the facility fails to meet any of the criteria, conditions and requirements established in the final certification, the facility owner must notify the Department within 30 days.

(2) Basis for Revoking Tax Credit Benefits

(a) If the Director does not approve the application, the Director will provide written notice of the action, including a statement of the findings and reasons for the denial by regular and certified mail.

(b) A final certification application that is denied can be submitted again. A final certification application can be amended or withdrawn by the applicant. If an application is submitted again or amended, the time within which final certification review occurs starts over.

(c) If the Director does not issue a final certification within 60 days after an application is filed, the application is denied pursuant to ORS 469.215(4).

(d) The Director may deny a preliminary or final certificate if:

(A) The applicant does not provide information about the facility in a reasonable time after the Director requests it;

(B) The facility is significantly different than the proposed facility for which the preliminary certification was issued;

(C) The applicant misrepresents or fails to construct or operate the facility;

(D) The applicant fails to demonstrate that the facility described in the application is separate and distinct from previous or current applications reviewed by the Department;

(E) The facility does not meet all of the conditions and requirements contained in the preliminary certificate; or

(F) The applicant is unable to demonstrate that the facility complies with all applicable provisions of ORS Chapter 469 and the rules adopted thereunder.

(e) The Director may revoke certificates as provided in ORS 469.225 and ORS 315.354 (5). For the purposes of this section, "fraud or misrepresentation" means any misrepresentation made by an applicant for a preliminary or final certification, including but not limited to, misrepresentations as to the applicant's financial viability, facility construction and operation, or any other information provided as part of an application for a preliminary or final certification.

(f) After the Director issues a final certificate, an applicant must notify the director in writing of any of the following conditions:

(A) The facility has been moved;

(B) Title to the facility has been conveyed;

(C) The facility is subject to or part of a bankruptcy proceeding; or

(D) The facility is not operating; or

(E) The term of a leased facility has ended.

(g) Pursuant to ORS 469.225, upon receiving information that a BETC certification was obtained by fraud or misrepresentation, or that the facility has not been constructed or operated in compliance with the requirements in the certificate, the Director shall revoke the certificate for the facility.

(h) A revocation of the final certification or portion of a certification due to fraud or misrepresentation results in the loss of all prior and future tax credits in connection with that facility. A certificate or portion of a certificate that has been transferred pursuant to ORS 469.206 will not be revoked.

(i) For a facility other than a renewable energy resource equipment manufacturing facility, the revocation of a certificate due to failure to construct or operate the facility in compliance with the certificate results in the loss of any tax credits not yet claimed by the facility owner. A certificate or portion of a certificate that has been transferred pursuant to ORS 469.206 will not be revoked.

(j) For a renewable energy resource equipment manufacturing facility, revocation of the certificate due to misrepresentation, fraud or failure to construct or operate the facility in compliance with the certificate results in the loss of all prior and future tax credits. If all or a part of the tax credit certificate has been transferred to a Pass-through partner under ORS 469.206, the certificate is not considered revoked, but the facility owner is liable for the amount of tax credits claimed or that could be claimed.

(3) Sale or Disposition of the Facility After Final Certification:

(a) Pursuant to ORS 315.354(5), upon receiving notice that the facility has been sold or otherwise transferred, the Director will revoke the final certificate, as provided in OAR 330-090-0110 (29) as of the date of the disposition of the facility, unless the BETC for the facility has already been transferred under ORS 468.206.

(b) The new owner or new or renewed lessee of a facility may apply for a final certificate. The request must comply with OAR 330-090-0130(9) and include information to allow the Director to determine the amount of tax credit not claimed by the former owner or former lessor or lessors. If the facility it continues to comply with the requirements set out in these rules and any applicable conditions imposed by the Director, the Director will issue a new final certification consistent with the provisions of ORS 315.354 (5).

(4) Request for Reconsideration: No later than 60 days after the Director issues an order on a preliminary certification or an amendment to a preliminary certification under OAR 330-090-0130(3) and (6), final certification under OAR 330-090-0133, or canceling or revoking a final certificate under section OAR 330-090-0133(7), the applicant or certificate holder may request reconsideration in writing.

ADMINISTRATIVE RULES

(5) Inspections: After an application is filed under ORS 469.205 or ORS 469.215 or a tax credit is claimed under these rules, the Department may inspect the facility. The Department will schedule the inspection during normal working hours, following reasonable notice to the facility operator.

Stat. Auth.: ORS 469.040 & 469.165
Stats. Implemented: ORS 469.185 - 469.225
Hist.: DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10

330-090-0135

Business Energy Tax Credit Sustainable Building Practices Facility Rules

(1) To be eligible for a tax credit, Sustainable Building Practices Facilities must achieve a minimum rating of "Silver" using the LEED-NC, LEED-CS, or LEED-CI path of the U.S. Green Building Council's rating systems, listed in the rules, in effect as of the facility registration date. Facilities receiving a "Gold" or "Platinum" rating will be awarded proportionally larger tax credits, as calculated by the Department. Sustainable Building Practices Facilities must also comply with all applicable rules.

(2) All Sustainable Building Practices Facilities must acquire a preliminary certification from the Department in accordance with OAR 330-090-0130(3). For these facilities, the facility owner must submit a certified copy of the Facility Registration Certificate issued by the U.S. Green Building Council, before the completion of Design Development. If an owner elects not to continue the LEED™ rating program to completion and the issuance of a rating certificate, the owner must, within 30 days, so notify the Department in writing, and provide a statement of intent to apply for a tax credit as an energy facility, if desired. Within 60 days of the statement of such intent, the owner must submit a preliminary certification application in accordance with OAR 330-090-0130(3).

(3) The Department may, at its discretion, convert a preliminary certification for an Energy Facility to a preliminary certification as a Sustainable Building Practices Facility, or accept a statement of intent to register as a Sustainable Building Practices Facility, provided that a certified copy of the U.S. Green Building Council facility registration certificate is provided to the Department within 30 days of the new preliminary certification date.

Stat. Auth.: ORS 469.040 & 469.165
Stats. Implemented: ORS 469.185 - 469.225
Hist.: DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 3-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10

330-090-0150

Budget Limits and Payments for BETC

(1) Amount of Credits Allowed for a Facility:

(a) During any calendar year, a BETC preliminary certification will not be issued for more than:

(A) \$20 million in maximum eligible facility costs for a renewable energy resource facility or high efficiency combined heat and power facility;

(B) \$10 million in maximum eligible facility costs for any other facility, not including homebuilder-installed renewable energy facility and high performance home Business Energy Tax Credits subject to subsection (b).

(C) \$40 million in maximum eligible facility costs for a renewable energy resource equipment manufacturing facility.

(b) A final certification for a Business Energy Tax Credit will not be issued for more than 50 percent of the cost not to exceed \$9,000 for a homebuilder-installed renewable energy facility or \$12,000 if the facility also constitutes a high performance home.

(2) Return of Review Charge for Returned Incomplete Applications: If under OAR 330-090-0130, the Department does not accept and returns an incomplete application for preliminary certification, the Department will also return the review charge submitted by the applicant.

(3) Cost of Reviews: ORS 469.217 requires applicants to pay all costs for the review of their applications. In order to meet this statutory requirement the Department has established the following schedule for payments to accompany an application.

(a) Included with each application for preliminary certification must be a payment payable to the Department, except for facilities qualifying under OAR 330-090-0130(2), for which a charge must be paid with the application for final certification. For all facilities except Sustainable Building Facilities, renewable energy resource equipment manufacturing facilities, or facilities qualifying under OAR 330-090-0130(2), the payment will be 0.0060 multiplied by the facility eligible cost requested in the preliminary certification application, or a request to amend a preliminary certification, or \$30 whichever is greater. The maximum payment amount is \$35,000. The 0.0060 payment rate up to \$35,000 will be applied to all facilities

with eligible costs of \$1 million and more that were received on or after January 1, 2007. For facilities with eligible costs of less than \$1 million, the 0.0060 payment rate up to \$35,000 will be applied to applications received on or after December 1, 2007. For renewable energy resource equipment manufacturing facility applications received on or after January 1, 2007, but before the effective date of these rules, the payment will be 0.0060 multiplied by the facility eligible costs requested in the preliminary certification application, or a request to amend the preliminary certification, not to exceed a payment amount of \$35,000. For renewable energy resource equipment manufacturing facility applications received on or after the effective date of these rules, the payment will be 0.0060 multiplied by the facility eligible cost requested in the preliminary certification application, or a request to amend a preliminary certification, not to exceed a payment amount of \$75,000. For Sustainable Building Facilities, the payment will be 0.0035 multiplied by the eligible cost calculated as required under these rules and as reported in the preliminary certification application, or a request to amend a preliminary certification. For facilities that qualify under OAR 330-090-0130(2), the payment will be 0.0035 multiplied by the eligible cost as requested in the final certification application.

(b) A refund of up to 75 percent of this payment may be granted up to 730 days (2 years) from the date the preliminary certification was approved by the Department. Under no circumstances will an amount over 75 percent be refunded. Conditions for which a refund may be granted are:

(A) Denial of an application for preliminary certification or for facilities that qualify under OAR 330-090-0130(2) of final certification; or

(B) Denial of a portion of costs requested in an application for preliminary certification or for facilities that qualify under OAR 330-090-0130(2) of final certification; or,

(C) A request to amend a preliminary certification resulting in decreased eligible costs. A refund will not be granted for any costs that are included in a pending certification.

(c) If a request to amend a preliminary certification results in facility re-certification with increased eligible cost then additional application payments will be paid for the additional cost as specified in (2)(a) of this rule.

(d) No facilities will be exempt from these requirements including applications for BETC pass-through under OAR 330-090-0140.

(e) The payment is a required part of a completed preliminary certification application per OAR 330-090-0130, except for facilities that qualify under OAR 330-090-0130(2). Preliminary certifications will only be issued if the application is complete. In addition, the applicant may be required to pay for costs incurred in connection with the application that exceed these payments and which the Director of the Department determines are incurred solely in connection with processing the application. The applicant will be advised of any additional costs the applicant must pay before the costs are incurred.

Stat. Auth.: ORS 469.040 & 469.165
Stats. Implemented: ORS 469.185 - 469.225
Hist.: DOE 7-1985, f. 12-31-85, ef. 1-1-86; DOE 3-1986, f. & ef. 8-29-86; DOE 3-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 4-1991, f. & cert. ef. 12-31-91; DOE 2-1992(Temp), f. 12-14-92, cert. ef. 12-15-92; DOE 2-1993, f. & cert. ef. 1-28-93; DOE 5-1993, f. & cert. ef. 12-14-93; DOE 2-1995, f. 12-12-95, cert. ef. 12-15-95; DOE 3-1996, f. & cert. ef. 11-27-96; DOE 2-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 4-1998, f. 12-14-98, cert. ef. 12-15-98; DOE 2-1999, f. 12-22-99, cert. ef. 1-1-00; DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 3-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 4-2008, f. 6-19-08, cert. ef. 6-20-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10

Department of Energy, Energy Facility Siting Council Chapter 345

Rule Caption: Amend OAR 345-001-0220 to eliminate the Umatilla County Wind Energy Generation Area.

Adm. Order No.: EFSC 1-2010

Filed with Sec. of State: 5-11-2010

Certified to be Effective: 5-11-10

Notice Publication Date: 1-1-2010

Rules Amended: 345-001-0220

Subject: Amend OAR 345-001-0220 to repeal the designation of Umatilla County Wind Energy Generation Area.

Rules Coordinator: Kathy Stuttaford—(503) 373-2127

345-001-0220

Energy Generation Areas

The Council may designate geothermal, solar or wind energy generation areas by rule.

Stat. Auth.: ORS 469.470
Stats. Implemented: ORS 469.300 & 469.320
Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2010, f. & cert. ef. 5-11-10

ADMINISTRATIVE RULES

Department of Environmental Quality Chapter 340

Rule Caption: Clean Water State Revolving Fund - Use of Federal Funds.

Adm. Order No.: DEQ 3-2010(Temp)

Filed with Sec. of State: 5-4-2010

Certified to be Effective: 5-4-10 thru 10-29-10

Notice Publication Date:

Rules Amended: 340-054-0010, 340-054-0025, 340-054-0065

Subject: This temporary rulemaking amends the Department of Environmental Quality's Clean Water State Revolving Fund loan program at OAR 340-054-0025 and OAR 340-054-0065 to establish a green project financial reserve and allow additional subsidization respectively, as required by federal appropriations. These rule revisions are intended to align Oregon's CWSRF loan program with changes in federal requirements.

Specifically, the rule revisions allow the Department of Environmental Quality to set aside 20% of its annual CWSRF capitalization grant as a reserve to fund qualifying green projects and provide additional subsidization in the form of principal forgiveness to qualifying loans. A minor, clarifying edit is made in OAR 340-054-0010 to include a definition for principal forgiveness.

Rules Coordinator: Maggie Vandehey—(503) 229-6878

340-054-0010

Definitions

The following definitions apply to this division unless a different meaning is required by context:

(1) "Allocation Cycle" means the funding cycle as determined by the Department.

(2) "Applicant" means an eligible Clean Water State Revolving Fund (CWSRF) applicant.

(3) "Available CWSRF" means the amount in the Clean Water State Revolving Fund minus monies for the Clean Water State Revolving Fund administration and prior obligations.

(4) "Borrower" means a CWSRF loan recipient.

(5) "Change Order" means a written order and supporting information from the Borrower to the Borrower's contractor authorizing an addition, deletion or revision in the work within the scope of the contract documents, including any required adjustment in contract price or time.

(6) "Checklist of Exhibits and Requirements" means the most recent version of the list of all the exhibits and required documents that must be submitted in conjunction with the CWSRF application and then be reviewed and approved by the Department before a loan agreement is executed.

(7) "Clean Water Act" means the federal Clean Water Act, 33 USC §1251–§1387.

(8) "Clean Water State Revolving Fund" or CWSRF means the Water Pollution Control Revolving Fund established under ORS 468.427.

(9) "Collector Sewer" means that portion of the public sewerage system that is installed primarily to receive wastewater directly from individual residences and other individual public or private structures.

(10) "Combined Sewer" means a sewer that is designed as both a sanitary and a storm water sewer.

(11) "Comprehensive Conservation Management Plan" (CCMP) means a plan developed for a designated National Estuary, pursuant to 33 USC § 1330 of the Clean Water Act.

(12) "Construction" means the erection, installation, expansion or improvement of sewage facilities, nonpoint source control and estuary management projects.

(13) "Default" means nonpayment by the Borrower of the principal or interest amount of a CWSRF loan on the payment's due date, failure to comply with the terms or conditions of the CWSRF loan, a formal bankruptcy filing or other written admission of inability to pay CWSRF obligations.

(14) "Department" means the Oregon Department of Environmental Quality.

(15) "Director" means the Director of the Oregon Department of Environmental Quality.

(16) "Documented Health Hazard" means an area-wide failure of on-site sewage disposal systems or other sewage disposal practices resulting in discharge of inadequately treated wastes to the environment as demonstrated by sanitary surveys or other data collection methods and confirmed by

the Oregon Office of Public Health Services, within the Department of Human Services pursuant to ORS 222.850 to 222.915, or 431.705 to 431.760, by the Department pursuant to OAR 340-071-0130(3), by either agency pursuant to OAR 660-011-0060, or by county health officials pursuant to applicable local ordinances.

(17) "Documented Water Quality Problem" means a violation of statutes, rules or permit conditions or an exceedance of water quality standards documented by data and confirmed by the Department.

(18) "Emergency Conditions" means conditions caused by fire, flood, storm, earthquake, vandalism, sabotage or other events that could not have been reasonably foreseen or prevented that require immediate repairs to a sewage facility to prevent significant environmental degradation or a threat to public health.

(19) "EPA" means the U.S. Environmental Protection Agency.

(20) "Estuary Management" means the implementation of actions identified in a Comprehensive Conservation Management Plan.

(21) "Federal Capitalization Grant" means federal dollars allocated to the State of Oregon for a federal fiscal year from funds appropriated by U. S. Congress for the State Revolving Fund under Title VI of the Clean Water Act.

(22) "Ground Water Management Area" means an area in which contaminants in the groundwater have exceeded the levels established under ORS 468B.165 and the affected area is subject to a declaration under 468B.180.

(23) "Implementing Partner" means any individual or organization that has entered into a contract with a public agency to implement a water resource activity within the sponsorship option of a construction loan.

(24) "Infiltration" means the intrusion of groundwater into a collector sewer or interceptor sewer.

(25) "Inflow" means a direct flow of water other than wastewater or groundwater into a collector sewer or interceptor sewer.

(26) "Initiation of Operation" means the date that a facility funded by a CWSRF loan is operationally complete and ready for the purposes for which it was planned, designed and built.

(27) "Intended Use Plan (IUP)" means a document submitted at least annually by the Department to the EPA identifying proposed uses of the CWSRF.

(28) "Interceptor Sewer" means a sewer primarily intended to receive wastewater from collector sewers or other interceptor sewers.

(29) "Local Community Loan" means a loan to a public agency that will then be used by the public agency to establish a local financial program to address estuary management efforts or nonpoint source control activities.

(30) "Maintenance" means regularly scheduled work that is performed to repair, replace or upgrade equipment in a facility, or to prevent or correct a failure or a malfunction of a sewage facility, nonpoint source control or estuary management project.

(31) "Major Sewer Replacement and Rehabilitation" means the repair or replacement of interceptor or collector sewers.

(32) "Nonpoint Source Control" means the implementation of a nonpoint source pollution management activity under section 319 of the Clean Water Act and 40 CFR § 35.3115(b) and included in the most recent edition of the Oregon Nonpoint Source Control Program Plan.

(33) "Nonpoint Source" means diffuse or unconfined sources of pollution where wastes can either enter into or be conveyed by the movement of water to public waters, including individual on-site sewage disposal systems and any other source of pollution of waters of the state not subject to regulation under ORS 468B.050.

(34) "On-site system" has the meaning given in OAR 340-071-0100(90).

(35) "Operation" means the control of sewage collection system pumping stations and treatment unit processes within a sewage facility. Operation also means the control of equipment and processes of nonpoint source control and estuary management projects. Furthermore, operation means the financial and personnel management, records, laboratory control, process control, safety, and emergency planning for these same facilities and projects.

(36) "Operation and Maintenance Manual" means a procedural and guidance document for operating and maintaining a sewage collection system or sewage treatment facility as required by OAR chapter 340, division 052.

(37) "Persistent Bioaccumulative Toxics" means mercury, PCBs, dioxins, furans, benzo(a) pyrene, aldrin, dieldrin, chlordane, DDT, DDE, DDD, hexachlorobenzene, mirex or toxaphene.

(38) "Planning" means monitoring, data collection and measurement, evaluation, analysis, security evaluations, report preparation, environmental

ADMINISTRATIVE RULES

review, public education and review process and any other activity leading to a written plan for the provision of sewage facilities, nonpoint source control and estuary management projects intended to remediate an existing or anticipated water pollution problem, but excluding the preparation of detailed bid documents for construction.

(39) "Point Source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

(40) "Principal Forgiveness" means additional subsidization that allows a borrower to repay only a specified portion of the loan principal.

(41) "Proactive Proposals" means a proposed project that does not address ongoing violations of effluent limits in permits, water quality standards in OAR chapter 340, division 41, or unpermitted discharges.

(42) "Project" means the activities or tasks identified in the application or the loan agreement for which the Borrower may expend or obligate funds.

(43) "Replacement" means expenditures for obtaining and installing equipment, accessories or appurtenances necessary for the ongoing operation during the design or useful life, if longer, of a sewage facility, nonpoint source control or estuary management project to maintain the facility or project for the purpose for which it was designed and constructed. Replacement does not mean the replacement of the facility or project at the end of its useful life.

(44) "Reserve Capacity" means that portion of the sewage collection system or sewage treatment facility that was incorporated into the design to handle future increases in sewage flows and loading. Reserve capacity must have been identified at the time of design and must be based on demand generated from future development that is consistent with acknowledged local comprehensive plans and land use regulations.

(45) "Security Measure" means the evaluation, planning, design, purchase and installation of equipment and facilities intended to prevent unauthorized physical and electronic intrusion into, or willful damage of, sewage facilities, nonpoint source control or estuary management projects.

(46) "Sewage Collection System" means publicly owned pipelines, conduits, pumping stations, force mains and any other related structures, devices or equipment used to convey wastewater to a sewage treatment facility.

(47) "Sewage Facility" means a sewage collection system or sewage treatment facility.

(48) "Sewage Treatment Facility" means any publicly owned device, structure or equipment used to treat, neutralize, stabilize, reuse or dispose of wastewater and treatment residuals.

(49) "Small Community" means a public agency serving a population of 5,000 or less.

(50) "Special Status Water Body" means the following water bodies of the state: federally designated Wild and Scenic Rivers, State Scenic Waterways, federally designated Sole Source Aquifers, the federally designated Lower Columbia River and Tillamook Bay estuaries, the Clackamas, North Santiam and McKenzie River sub basins of the Three Basin Rule (OAR 340-041-0470) and locally designated "significant" water bodies or wetlands as related to the Department of Land Conservation and Development Goal 5.

(51) "Sponsoring Community" means a public agency with the authority to finance and implement both a sewage facility project and water resource activity through the sponsorship option of a construction loan.

(52) "Sponsorship Option" means the Department's financing mechanism that allows a public agency's sewage collection system or sewage treatment facility project and a qualifying water resource activity to be financed through a single CWSRF loan. The Department, as an incentive to the public agency (referred to in OAR 340-054-0024(3) as a sponsoring community), discounts the interest rate on the resulting loan. The intention of this type of financing is to provide restoration or protection to a local water resource in conjunction with a traditional project without significantly increasing utility rates.

(53) "Storm water" means water derived from rainfall, snowmelt or other storm events that flows across the ground's surface rather than infiltrating the ground.

(54) "Surface Water" means streams, lakes, reservoirs, estuaries and the topographical features that define their volume.

(55) "Urgent Repair" means the immediate stabilization of equipment and facilities pertaining to a sewage collection system or sewage treatment facility that have failed unexpectedly or are in imminent threat of failure as

the result of age or wear, and the failure poses an immediate and significant threat to environmental quality or public health.

(56) "Value Engineering" means a specialized cost control technique specifically applicable to the design of sewage treatment facilities that identifies cost savings that can be made without sacrificing the reliability or efficiency of the project.

(57) "Wastewater" means waters carrying wastes from individual public or private structures combined with infiltration and inflow.

(58) "Wastewater Reuse" means a project that reuses treated effluent from a sewage treatment system, commercial, or industrial process and, as a result of treatment, is suitable for a direct beneficial purpose or a controlled use that could not otherwise occur.

(59) "Water Pollution Control Revolving Fund" means the "CWSRF".

(60) "Water Quality Standards" means the standards established in OAR chapter 340, division 41 for surface waters and the minimum protection requirements established in OAR chapter 340, division 40 for groundwater.

(61) "Water Resource Activity" means a nonpoint source control or an estuary management activity funded through the sponsorship option in OAR 340-054-0024(3). These activities include the protecting or restoring of riparian habitat to prevent loss of biological diversity or ecological health, establishing conservation easements, acquiring riparian lands or wetlands and other activities.

(62) "Waters of the State" means the same as defined in ORS 468B.005(8).

(63) "Wellhead Protection Area" has the meaning provided in OAR 340-040-0150(13).

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

Stat. Auth.: ORS 468.423 - 468.440

Stats. Implemented: ORS 468.423

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993,

f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-

03; DEQ 3-2010(Temp), f. & cert. ef. 5-4-10 thru 10-29-10

340-054-0025

Application Process; Project Priority List; Intended Use Plan; Allocation of Funds

The Department will periodically, but not less than annually, develop and submit an Intended Use Plan (IUP) to EPA as described in section 606 of the CWA and 40 CFR ¼ 35.3150. The IUP will describe the proposed uses of the CWSRF and will include a project priority list numerically ranking all eligible applications received. The Department will develop the IUP using the following processes in this rule.

(1) Notice: The Department will notify interested parties at least annually of the opportunity to submit applications. Interested parties include, but are not limited to, watershed councils, counties, soil and water conservation districts, special districts and all of the incorporated cities listed in the current edition of the Oregon Blue Book.

(2) Applications: For a project to be considered for the project priority list, an Applicant must submit a completed application; the application must address an imminent, actual or threatened water quality problem; and the project must be eligible for funding under OAR 340-054-0015.

(3) Timing: In addition to applications received in response to the solicitation for applications indicated in OAR 340-054-0025(1), the Department will accept applications at any time.

(4) Project Priority List Ranking:

(a) The Department will develop a project priority list by ranking all eligible proposed projects using the criteria in Table 1 of this rule. Projects will be numerically ranked based on the sum of the points awarded each proposed project. A maximum of one hundred (100) points is available for a proposed project.

(b) The Department will update the project priority list and the IUP at least every four months or upon receipt by the Department of five eligible applications, whichever timeframe is shorter. If no eligible applications are received during a four month period, the project priority list will not be updated.

TABLE 1: CWSRF Project Ranking Criteria.

Category 1: Proposed Project's anticipated benefit for water quality or public health.

1A — (0 or 8 points) — Project addresses water quality or public health issue within a "special status" water body

1B — (0-6 points) — Project addresses noncompliance with water quality standards, a public health issue or effluent limits related to surface waters

1C — (0-6 points) — Project addresses noncompliance with water quality standards or a public health issue related to groundwater

1D — (0-12 points) — Project ensures that a source already in compliance maintains that compliance.

1E — (0-8 points) — Project improves or sustains aquatic habitat supporting state or federally threatened or endangered species

1F — (0-12 points) — Project incorporates wastewater reuse or a water quality-related conservation process

ADMINISTRATIVE RULES

1G — (0–7 points) — Project improves water quality by mitigating any of the following pollutants: temperature, dissolved oxygen, contaminated sediments, toxics on the EPA Priority Pollutants List, bacteria or nutrients

1H — (0–5 points) — Project supports the implementation of a Total Maximum Daily Load (TMDL) allocation or action plan for a Ground Water Management Area

1I — (0–6 points) — Project addresses a water quality or public health issue involving “Persistent Bioaccumulative Toxics” (PBT’s)

Category 2: Potential water quality or public health consequences of not funding the proposed project

2A — (0–5 points) — If the proposed project is not implemented, water quality standards are likely to be exceeded or existing exceedances are likely to worsen

2B — (0–5 points) — If the proposed project is not implemented, the resulting impact is likely to cause a public health problem

2C — (0–5 points) — A unique opportunity to implement the proposed project currently exists due to timing, finances or other limitations that would not allow this project to be implemented in the future

Category 3: Other considerations

3A — (0–3 points) — Project has significant educational or outreach component

3B — (0–3 points) — Project demonstrates innovative technology which is transferable

3C — (0–3 points) — Project is a partnership with other group(s), incorporating self-help, financial or in-kind support

3D — (0–5 points) — Project incorporates monitoring, reporting or adaptive management

3E — (0 or 1 point) — Project addresses or includes risk management, safety or security measures

3F — (0–minus 5 points) — Applicant’s past performance with previous Department loans or grants such as, but not limited to, failure to satisfy match requirements of a grant, failure to complete the project or failure to submit any other required deliverable in a timely manner.

(5) Draft Intended Use Plan, Public Notice and Review:

(a) The Department will update the IUP whenever changes are made to the PPL.

(b) With each update the Department will notify all applicants whose projects are included within the draft IUP of their ranking on the PPL.

(c) The Department will provide notice and an opportunity for the public to comment on proposed changes to the IUP, and will make the draft IUP available to the public.

(d) Except for revisions to the IUP resulting from applications for expedited loans, the Department will provide at least 30 days for public comments on the draft IUP. The Department will provide at least 5 days for comment on changes to the IUP resulting from new applications for expedited loans.

(e) During the comment period, any Applicant may request the Department to reevaluate a project’s rank on the proposed project priority list or to make other changes to the IUP.

(f) The Department will consider all comments submitted during the comment period before finalizing the IUP.

(6) Allocation of Funds:

(a) During any Department program year (July 1 through June 30), no Borrower on the project priority list (including either loan increases or new project loans) may be allocated more than the greater of \$2.5 million or 15% of the total available funds as reported in the initial IUP for that program year. If CWSRF moneys are available after allocating this limit to each eligible Applicant, additional funds may be allocated above this limit.

(b) The Department will establish the following funding categories within the CWSRF: Expedited Loan Reserve, Small Community Reserve, Planning Reserve, Green Project Reserve and general fund. The Department will first allocate annual funds to the four reserves in accordance with the criteria in sections (6)(c)(A), (6)(c)(B), (6)(c)(C) and (6)(c)(D). Funds not allocated to one of the reserves will be allocated to the CWSRF general fund.

(c) The Department will assign projects on the priority list to an appropriate reserve or to the CWSRF general fund. Requests for increases to existing loans will be awarded first. Increases will be awarded from the appropriate reserve or the general fund. Following any allocations for increases, the Department will award loans to projects within each reserve and the general fund for new projects as described in sections (6)(c)(A), (6)(c)(B), (6)(c)(C), (6)(c)(D) and (6)(c)(E).

(A) Expedited Loans Reserve. A reserve of \$2 million will be established to fund expedited loans. The Director may increase the cap on this reserve. Individual urgent repair loans are limited to \$150,000. The maximum amount available for a single emergency loan is \$1.85 million. Emergency loans and urgent repair loans will be awarded in rank order. Unused funds still remaining in the expedited loan reserve on May 31 of the program year can be reallocated to the CWSRF general fund.

(B) Small Community Reserve. A maximum of 15% of the total CWSRF monies will be available in each program year for allocation to small community loans. Local community, design or construction projects eligible within this reserve will be awarded loans in rank order.

(i) Each project allocation from this reserve will be for not more than the greater of \$750,000 or 25% of the reserve, until all eligible small community requests have been allocated funds. If reserve funds still remain on March 1st of the program year, these remaining funds may be allocated to any unfunded portions of a small community loan request in the order the loan agreements were executed;

(ii) After reallocating as directed in OAR 340-054-0025(6)(c)(B)(i) above, any funds still remaining in the small community reserve can be moved to the CWSRF general fund.

(C) Planning Loan Reserve. A maximum of \$3 million of the total CWSRF will be available in each program year for allocation to planning loans. Projects will be selected from the project priority list in rank order for this reserve.

(i) Each individual allocation from the planning loan reserve will initially not exceed \$150,000. If reserve funds still remain on March 1st of the program year, these remaining funds may be reallocated to any unfunded portions of planning loan requests in the order the loan agreements were executed;

(ii) After reallocating as directed in OAR 340-054-0025(6)(c)(C)(i) above, any funds still remaining in the planning reserve can be moved to the CWSRF general fund.

(D) Green Project Reserve. The department will establish a green project reserve to ensure funding of green projects as required by the current fiscal year capitalization grant. This reserve will be maintained to specifically fund green infrastructure, water or energy efficiency improvements, and other environmentally innovative activities.

(E) General Fund. All new design or construction project loans not funded from a reserve will be allocated from the general fund. Any remaining emergency or urgent repair, small community or planning projects not already allocated funds from their respective reserves, or allocated less than the total loan amount requested, may be awarded funding in rank order subject to available funds and the maximum loan amount for the program year.

(F) Loan Increases. Upon request, the Department may increase the funding for previously financed projects up to the maximum loan amount defined for each borrower in section (6)(a) of this rule. These loan increases may be offered by either providing an additional loan at the current interest rate or increasing the amount of the existing loan. Awards for loan increases will be awarded in rank order.

(7) Project Priority List Modification: The following conditions apply to projects on the project priority list.

(a) Ranked projects may remain on the project priority list for up to 36 months while pursuing funding. After 36 months, the Department will notify the Applicant in writing that the project is being removed from the list.

(b) Applicants whose projects are removed from the project priority list because they have exceeded the 36 month limit may resubmit their projects to the program for ranking and incorporation into the next update of the IUP.

(c) The Department may provide one six-month extension to applicants requesting to remain on the list beyond the 36 month limit. Applicants requesting an extension must submit a progress report indicating the status of their effort in pursuing CWSRF financing and an updated time frame indicating when they expect to have completed all requirements necessary to be awarded funding.

(d) The Department may remove a project from the project priority list upon written notice to the applicant at any time the Department determines that the project does not meet eligibility requirements, the Borrower no longer requires CWSRF financing or the Applicant requests removal.

Stat. Auth.: ORS 468.423 - 468.440

Stats. Implemented: ORS 468.433 & 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03; DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09; DEQ 7-2009, f. & cert. ef. 10-28-09; DEQ 3-2010(Temp), f. & cert. ef. 5-4-10 thru 10-29-10

340-054-0065

Loan Terms and Interest Rates

As required by ORS 468.440, the following loan terms and interest rates are established:

(1) Types of Loans. A CWSRF loan must be one of the following types of loans:

(a) A loan secured by a general obligation bond or other full faith and credit obligation of the Borrower, which is supported by the Borrower’s unlimited ad valorem taxing power.

(b) A loan secured by a bond or other obligation of the Borrower that is not subject to appropriation and has been rated Investment Grade by

ADMINISTRATIVE RULES

Moody's Investor Services, Standard and Poor's Corporation or another national rating service acceptable to the Department.

(c) A Revenue Secured Loan that complies with section (2) of this rule.

(d) An Alternative Loan that complies with section (3) of this rule.

(e) A Discretionary Loan that complies with section (4) of this rule.

(2) Revenue Secured Loans. These loans must:

(a) Be represented by a properly executed loan agreement, bonds or other unconditional obligations to pay from specified revenues that are pledged to the Borrower; the obligation to pay may not be subject to the appropriation of funds.

(b) Include a rate provision that requires the Borrower to impose and collect revenues sufficient to pay:

(A) All expenses of operation, maintenance and replacement of a sewage facility, nonpoint source control or estuary management projects.

(B) All debt service.

(C) All other financial obligations (such as contributions to reserve accounts) imposed in connection with prior lien obligations.

(D) An amount equal to the coverage requirements of the loan. This requirement is the product of the coverage factor times the debt service due in that year on the CWSRF loan. The coverage factor used must correspond to the coverage factor and reserve percentage set selected by the Borrower from subsection (d) of this section.

(E) Amounts required to provide coverage on prior lien obligations or new lien obligations the Borrower may incur that the Department determines are inadequately secured or otherwise may adversely affect the ability of the Borrower to repay the CWSRF loan.

(c) Contain a reserve provision requiring the Borrower to maintain a pledged reserve that is dedicated to the payment of the CWSRF loan and meets the following requirements:

(A) The loan reserve must be maintained in an amount that is at least equal to the product of the reserve percentage shown in subsection (d) of this section times one half the average annual debt service during the repayment period based on the repayment schedule or revised repayment schedule in the loan agreement. The reserve percentage selected from subsection (d) of this section must correspond to the coverage factor selected for the CWSRF loan.

(B) Loan reserves may be funded with cash of the Borrower, a letter of credit, repayment guaranty or other third party commitment to advance funds that is satisfactory to the Department. If the Department determines that funding of the reserve as described above imposes an undue hardship on the Borrower, the Department may allow reserves to be funded with CWSRF loan proceeds.

(d) Comply with the one of the following sets of coverage factors and reserve percentages:

Coverage Factor*--Reserve Percentage**.

Option 1: 1.05:1--100%.

Option 2: 1.15:1--75%.

Option 3: 1.25:1--50%.

Option 4: 1.35:1--25%.

*Net Income to Debt Service.

**Percentage of 1/2 the Average Annual Debt Service.

(e) Include a requirement for periodic rate review and adjustment of rates, if necessary, to ensure estimated revenues in subsequent years are sufficient.

(f) Include a requirement that if revenues fail to achieve the required rate level, the Borrower must promptly adjust rates and charges to assure future compliance with the rate requirements. The Department may determine that failure to adjust rates does not constitute a default if the Borrower transfers unencumbered resources in an amount equal to the revenue deficiency to the utility system that produces the revenues.

(g) Include a requirement that if the reserve account is depleted for any reason, the Borrower must take prompt action to restore the reserve to the required minimum amount.

(h) Include a requirement restricting additional debt appropriate to the financial condition of the Borrower.

(i) Prohibit the Borrower from selling, transferring or encumbering any financial or fixed asset of the utility system that produces the pledged revenues if the Borrower is in violation of any CWSRF loan requirements, or if such sale, transfer or encumbrance may cause a violation of any CWSRF loan requirements.

(3) Alternative Loans. The Department may authorize Alternative Loans for reasonable alternative methods of financing if the Borrower demonstrates to the satisfaction of the Department that:

(a) It may be unduly burdensome or costly to the Borrower to borrow money from the CWSRF through general obligation bonds, revenue bonds

or a revenue-secured loan, as described in subsection (1)(a), (b) or (c) of this rule.

(b) The Alternative Loan has a credit quality that is substantially equal to, or better than, the credit quality of a Revenue Secured Loan to that Borrower. In determining whether an Alternative Loan meets the requirement, the Department may consult with a financial advisor and may charge the Applicant the reasonable costs of such consultation.

(4) Discretionary Loan. The Department will make a Discretionary Loan only to a small community that the Department determines cannot practically comply with the requirements of subsection (1)(a), (b), (c) or (d) of this rule. Discretionary Loans must comply with section (5) of this rule and otherwise be on terms approved by the Department. No new Discretionary Loans may be made at any time that the total principal amount of Discretionary Loans outstanding exceeds 5% of the total assets of the Fund.

(5) Interest Rates:

(a) Base rate. The base rate used in computing the interest rates on all direct loans for a quarter will be based on the average of the weekly state and local government bond interest rates for the preceding quarter. This base rate will be the "state and local bonds" entry reported in "Federal Statistical Release, H.15." This entry is quoted by the Federal Reserve from the "Bond Buyer Index" for general obligation bonds (20 years to maturity, mixed quality).

(b) Planning Loans. The interest rate for planning loans will be equal to 25% of the base rate.

(c) Local Community Loans. The interest rate for local community loans will be equal to 50% of the base rate.

(d) Urgent Repair Loans. The interest rate for urgent repair loans will be equal to the base rate.

(e) Discretionary Loans. The interest rate for discretionary loans funded under section (4) of this rule will be equal to 50% of the base rate.

(f) Proactive Design and Construction Loans (including qualifying wastewater reuse projects). Loans for proactive design or construction projects will be made at one of the following interest rates:

(A) 45% of the base rate (with a maximum repayment period of 10 years);

(B) 55% of the base rate (with a maximum repayment period of 20 years);

(g) All Other Direct Loans. Except as provided in OAR 340-54-0065(12), all other CWSRF Loans will be made at one of the following interest rates:

(A) 25% of the base rate (with a maximum repayment period of 5 years);

(B) 55% of the base rate (with a maximum repayment period of 10 years);

(C) 60% of the base rate (with a maximum repayment period of 15 years);

(D) 65% of the base rate (with a maximum repayment period of 20 years).

(h) Sponsorship option. When the sponsorship option is implemented in conjunction with a construction loan, the resulting reduced interest rate is defined as a rate calculated to approximate the semi-annual payment for a loan obtained to construct the sewage collection system or sewage treatment facility by itself, or a one percent interest rate, whichever is higher.

(i) Bond proceeds that are matching funds for federal capitalization grants may be used to fund direct loans at the interest rates listed in this section. This subsection will not be affected by any change in the source of repayment for matching bonds.

(6) Interest Accrual and Payment Periods. Interest accrual begins at the time of each loan disbursement from the CWSRF to the Borrower. All outstanding accrued interest will be included with each loan repayment.

(7) Annual Fee. The Borrower must pay the necessary and reasonable costs of administering the fund through the loan's Annual Fee. An annual fee of 0.5% of the unpaid balance will be charged on each loan, except planning loans, during the repayment period. This fee is due and payable in addition to the payments identified in the loan agreement's payment schedule.

(8) Review of interest rates and fees. The interest rates on CWSRF loans described in OAR 340-054-0065(5) of this rule will be effective for all loan agreements executed on or after June 1, 2003.

(9) Commencement of Loan Repayment. Principal and interest repayments on loans will begin within one year of the date of Initiation of Operations or project completion, as determined by the Department.

(10) Loan Term. All loans must be fully repaid within 20 years of the date of Initiation of Operations or project completion, in accordance with a

ADMINISTRATIVE RULES

schedule determined by the Department. Generally, the loan repayment term will be no longer than the useful life of the assets financed and will be based on the Borrower's ability to pay.

- (a) The loan term for planning loans will not exceed five years.
- (b) The loan term for local community loans will not exceed ten years.
- (c) The loan term for urgent repair loans will not exceed ten years.
- (d) The loan term for discretionary loans will not exceed twenty years
- (e) Loan terms for emergency loans, design loans or construction loans are described in OAR 340-054-0065(5)(g).

(f) Loan terms for proactive design loans or construction loans are described in OAR 340-054-0065(5)(f). Prepayments will be allowed at any time without penalty on all CWSRF loans except as provided for in 340-054-0065(12) of this rule.

(11) Minor Variations in Loan Terms. The Department may allow minor variations in the financial terms of loans described in this section to facilitate administration and repayment of loans.

(12) Leveraged Loans. The Department may:

(a) Increase the size of the fund by selling state bonds to be repaid and secured by CWSRF loan repayments, reserves and reserve interest earnings.

(b) Fund loans with bond proceeds as a part of a leveraged loan program with the following terms and conditions:

(A) Selling bonds to leverage the CWSRF program will increase the Department's ability to provide loan assistance to help public agencies comply with the Department's mandates.

(B) Interest rates on leveraged loans will be less than the interest rate paid by the state on bonds sold to fund the leveraged loans. Rates will be fixed at 65% of the base rate.

(C) Loan fees for leveraged loans will not exceed the amount charged for direct loans of the same size and repayment period.

(D) Costs of bond issuance and related transaction costs will be paid out of bond proceeds to the extent permitted by law.

(E) Notwithstanding other provisions of this rule, the Department may make changes to the terms and conditions of leveraged CWSRF loans to make them marketable. To the maximum extent practicable, the terms and conditions will be the same as for direct loans.

(13) Additional subsidization. The department must provide additional subsidization to the minimum extent required by the current fiscal year capitalization grant. This additional subsidization will be in the form of principal forgiveness in accordance with the criteria established in this rule. Loans with additional subsidization in the form of principal forgiveness are subject to standard interest rates, fees, and loan terms as defined in the rules of this division.

(a) Principal forgiveness for a point source project. Eligibility and the amount of principal forgiveness for a point source project are based on the community's median household income (MHI). The MHI used to calculate the level of principal forgiveness is based on the most recent and available income data provided by the U.S. Census Bureau. When an applicant is not a jurisdiction whose MHI is reported directly by the U. S. Census Bureau, sub-data such as census tract or block tract data will be used as a basis for calculating the applicant's MHI. In lieu of U.S. Census Bureau data, an income survey approved by the department may also be used to determine a community's MHI.

(A) Principal forgiveness threshold. An applicant whose MHI, as calculated in subsection (a) of this section, is equal to or greater than the statewide MHI is not eligible for principal forgiveness.

(B) Calculating the amount of principal forgiveness. For an applicant whose MHI is less than the statewide MHI, the applicant's MHI is multiplied by an affordability index and then the result is divided by twelve. The result of this calculation yields an affordability rate expressed in dollars per month. The department will use the affordability rate to determine the maximum amount of additional subsidization for which the applicant is eligible. A projected sewer rate, reflecting the additional costs of the proposed project, must be submitted by the applicant and approved in writing by the department. The affordability index is used to calculate the affordability rate. The affordability index of 1.25 percent is the department's standard factor representing the percentage of a household's income necessary to cover the cost of sewer service. This factor is adjusted semi-annually for inflation based on the Portland, Oregon consumer price index as listed by the Oregon Employment Department.

[Calculating the affordability rate (AR): $AR = (\text{Applicant's MHI} \times \text{affordability index})/12$]

If the affordability rate (in cost per month) is less than the projected sewer rate (in cost per month), then the applicant is eligible for principal forgiveness.

(C) Principal forgiveness amount. The maximum amount of principal forgiveness is the amount required to reduce the projected sewer rate to a level equal to the calculated affordability rate. The total amount of principal forgiveness will not exceed 75 percent of the loan amount or \$1 million, whichever is less.

(b) Principal forgiveness for a nonpoint source control or an estuary management project. A nonpoint source control or an estuary management project is eligible for principal forgiveness. The amount of principal forgiveness offered to any one project may not exceed 30 percent of the loan amount or \$1 million, whichever is less.

(c) Principal forgiveness for a planning project. A planning project is eligible for principal forgiveness. The amount of principal forgiveness offered to any one planning project may not exceed 30 percent of the loan amount.

Stat. Auth.: ORS 468.423 - 468.440

Stats. Implemented: ORS 468.433 & 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 31-1989(Temp), f. & cert. ef. 12-14-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03; DEQ 3-2010(Temp), f. & cert. ef. 5-4-10 thru 10-29-10

Rule Caption: Beneficial Use of Solid Waste – DEQ approval of proposals to beneficially use solid wastes rather than dispose of them.

Adm. Order No.: DEQ 4-2010

Filed with Sec. of State: 5-14-2010

Certified to be Effective: 5-14-10

Notice Publication Date: 11-1-2009

Rules Adopted: 340-093-0260, 340-093-0270, 340-093-0280, 340-093-0290

Rules Amended: 340-093-0030, 340-097-0120

Subject: The purpose of these rules is to establish a process for Oregon Department of Environmental Quality (DEQ) review of proposals to use solid wastes beneficially as an alternative to disposal. Currently, DEQ does not have an appropriate process or funding mechanism for evaluating requests by generators to use wastes beneficially. The rules will allow DEQ to issue beneficial use determinations (BUDs) rather than disposal permits for appropriate uses. Examples of solid waste uses are:

- Spent foundry sand from the steel industry used as a substitute for virgin sand in making concrete;
- Scrap asphalt roofing shingles used as a component of asphalt pavement;
- Dredged sediments used for upland construction fill.

Beneficial use of solid waste conserves energy, reduces the need to extract resource, reduces the demand for disposal facilities, and promotes sustainability. Requests for approval of beneficial uses have increased in Oregon as awareness of the potential opportunities to convert wastes to resources increases.

Rules Coordinator: Maggie Vandehey — (503) 229-6878

340-093-0030

Definitions

As used in OAR chapter 340, divisions 93, 94, 95, 96 and 97 unless otherwise specified:

(1) "Acceptable Risk Level" means a risk level defined in OAR 340-122-0115(1) of the Hazardous Substance Remedial Action Rules.

(2) "Access Road" means any road owned or controlled by the disposal site owner that terminates at the disposal site and that provides access for users between the disposal site entrance and a public road.

(3) "Agricultural Waste" means waste on farms resulting from the raising or growing of plants and animals including but not limited to crop residue, manure, animal bedding, and carcasses of dead animals.

(4) "Agricultural Composting" means composting conducted by an agricultural operation (as defined in ORS 467.120(2)(a) on lands used for farming (as defined in ORS 215.203).

(5) "Agronomic Application Rate" means land application of no more than the optimum quantity per acre of compost, sludge or other materials. In no case may such application adversely impact the waters of the state. Such application must be designed to:

- (a) Provide the amount of nutrient, usually nitrogen, needed by crops or other plantings, to prevent controllable loss of nutrients to the environment;

ADMINISTRATIVE RULES

(b) Condition and improve the soil comparable to that attained by commonly used soil amendments; or

(c) Adjust soil pH to desired levels.

(6) "Airport" means any area recognized by the Oregon Department of Transportation, Aeronautics Division, for the landing and taking-off of aircraft which is normally open to the public for such use without prior permission.

(7) "Aquifer" means a geologic formation, group of formations or portion of a formation capable of yielding usable quantities of groundwater to wells or springs.

(8) "Asphalt paving" means asphalt which has been applied to the land to form a street, road, path, parking lot, highway, or similar paved surface and that is weathered, consolidated, and does not contain visual evidence of fresh oil.

(9) "Assets" means all existing and probable future economic benefits obtained or controlled by a particular entity.

(10) "Baling" means a volume reduction technique whereby solid waste is compressed into bales for final disposal.

(11) "Base Flood" means a flood that has a one percent or greater chance of recurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on the average of a significantly long period.

(12) "Beneficial Use" means the productive use of solid waste in a manner that will not create an adverse impact to public health, safety, welfare, or the environment.

(13) "Beneficial Use Determination" means the approval of a beneficial use of a solid waste pursuant to OAR 340-093-0260 through 340-093-0290 either as a standing beneficial use or as a case-specific authorization.

(14) "Biological Waste" means blood and blood products, excretions, exudates, secretions, suctionings and other body fluids that cannot be directly discarded into a municipal sewer system, and waste materials saturated with blood or body fluids, but does not include diapers soiled with urine or feces.

(15) "Biosolids" means solids derived from primary, secondary or advanced treatment of domestic wastewater which have been treated through one or more controlled processes that significantly reduce pathogens and reduce volatile solids or chemically stabilize solids to the extent that they do not attract vectors.

(16) "Clean Fill" means material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving, which do not contain contaminants which could adversely impact the waters of the State or public health. This term does not include putrescible wastes, construction and demolition wastes and industrial solid wastes.

(17) "Cleanup Materials Contaminated by Hazardous Substances" means contaminated materials from the cleanup of releases of hazardous substances into the environment, and which are not hazardous wastes as defined by ORS 466.005.

(18) "Closure Permit" means a document issued by the department bearing the signature of the Director or his/her authorized representative which by its conditions authorizes the permittee to complete active operations and requires the permittee to properly close a land disposal site and maintain and monitor the site after closure for a period of time specified by the department.

(19) "Commercial Solid Waste" means solid waste generated by stores, offices, including manufacturing and industry offices, restaurants, warehouses, schools, colleges, universities, hospitals, and other non-manufacturing entities, but does not include solid waste from manufacturing activities. Solid waste from business, manufacturing or processing activities in residential dwellings is also not included.

(20) "Commission" means the Environmental Quality Commission or the Commission's authorized designee.

(21) "Composted material" is the product resulting from the composting process.

(22) "Composting" means the managed process of controlled biological decomposition of feedstocks. A managed process includes but is not limited to reducing particle size, adding moisture, manipulating piles, and performing procedures to achieve human pathogen reduction.

(23) "Composting Facility" means a site or facility composting feedstocks to produce a useful product through a managed process of controlled biological decomposition. Sites and facilities that use methods such as vermiculture, vermicomposting and agricultural composting to produce a useful product are also considered composting facilities.

(24) "Construction and Demolition Waste" means solid waste resulting from the construction, repair, or demolition of buildings, roads and other structures, and debris from the clearing of land, but does not include clean fill when separated from other construction and demolition wastes and used

as fill materials or otherwise land disposed. Such waste typically consists of materials including concrete, bricks, bituminous concrete, asphalt paving, untreated or chemically treated wood, glass, masonry, roofing, siding, plaster; and soils, rock, stumps, boulders, brush and other similar material. This term does not include industrial solid waste and municipal solid waste generated in residential or commercial activities associated with construction and demolition activities.

(25) "Construction and Demolition Landfill" means a landfill that receives only construction and demolition waste.

(26) "Corrective Action" means action required by the department to remediate a release of constituents above the levels specified in 40 CFR§258.56 or OAR chapter 340 division 40, whichever is more stringent.

(27) "Cover Material" means soil or other suitable material approved by the department that is placed over the top and side slopes of solid wastes in a landfill.

(28) "Cultures and Stocks" means etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and discarded live and attenuated vaccines. "Culture" does not include throat and urine cultures.

(29) "Current Assets" means cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(30) "Current Liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(31) "Department" means the Department of Environmental Quality.

(32) "Digested Sewage Sludge" means the concentrated sewage sludge that has decomposed under controlled conditions of pH, temperature and mixing in a digester tank.

(33) "Director" means the Director of the Department of Environmental Quality or the Director's authorized designee.

(34) "Disposal Site" means land and facilities used for the disposal, handling, treatment or transfer of or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, land application units (except as exempted by subsection (81)(b) of this rule), transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting facilities and land and facilities previously used for solid waste disposal at a land disposal site; but the term does not include a facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste; a facility subject to the permit requirements of ORS 468B.050; a site that is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable material, unless the site is used by the public either directly or through a collection service; or a site operated by a wrecker issued a certificate under ORS 822.110.

(35) "Domestic Solid Waste" includes, but is not limited to, residential (including single and multiple residences), commercial and institutional wastes, as defined in ORS 459A.100; but the term does not include:

(a) Sewage sludge or septic tank and cesspool pumpings;

(b) Building demolition or construction wastes and land clearing debris, if delivered to a disposal site that is limited to those purposes and does not receive other domestic or industrial solid wastes;

(c) Industrial waste going to an industrial waste facility; or

(d) Waste received at an ash monofill from an energy recovery facility.

(36) "Endangered or Threatened Species" means any species listed as such pursuant to Section 4 of the federal Endangered Species Act and any other species so listed by the Oregon Department of Fish and Wildlife.

(37) "Energy Recovery" means recovery in which all or a part of the solid waste materials are processed to use the heat content, or other forms of energy, of or from the material.

(38) "Feedstock" means organic and other solid wastes used in a composting process to produce composted material:

(a) Type 1 feedstocks include source-separated yard and garden wastes, wood wastes, agricultural crop residues, wax-coated cardboard, vegetative food wastes including department approved industrially produced vegetative food waste, and other materials the department determines pose a low level of risk from hazardous substances, physical contaminants and human pathogens.

(b) Type 2 feedstocks include manure and bedding and other materials the department determines pose a low level of risk from hazardous substances and physical contaminants and a higher level of risk from human pathogens compared to type 1 feedstock.

ADMINISTRATIVE RULES

(c) Type 3 feedstocks include dead animals, meat and source-separated mixed food waste and industrially produced non-vegetative food waste. They also include other materials the department determines pose a low level of risk from hazardous substances and a higher level of risk from physical contaminants and human pathogens compared to type 1 and 2 feedstocks.

(39) "Financial Assurance" means a plan for setting aside financial resources or otherwise assuring that adequate funds are available to properly close and to maintain and monitor a disposal site after the site is closed according to the requirements of a permit issued by the department.

(40) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters that are inundated by the base flood.

(41) "Gravel Pit" means an excavation in an alluvial area from which sand or gravel has been or is being mined.

(42) "Groundwater" means water that occurs beneath the land surface in the zone(s) of saturation.

(43) "Hazardous Substance" means any substance defined as a hazardous substance pursuant to Section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601 et seq.; oil, as defined in ORS 465.200; and any substance designated by the Commission under ORS 465.400.

(44) "Hazardous Waste" means discarded, useless or unwanted materials or residues and other wastes that are defined as hazardous waste pursuant to ORS 466.005.

(45) "Heat-Treated" means a process of drying or treating sewage sludge where there is an exposure of all portions of the sludge to high temperatures for a sufficient time to kill all pathogenic organisms.

(46) "Home composting" means composting operated and controlled by the owner or person in control of a single or multiple family dwelling unit and used to compost residential food waste produced within the dwelling unit and yard debris produced on the property.

(47) "Incinerator" means any device used for the reduction of combustible solid wastes by burning under conditions of controlled airflow and temperature.

(48) "Industrial Solid Waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under ORS chapters 465 and 466 or under Subtitle C of the federal Resource Conservation and Recovery Act. Such waste may include, but is not limited to, waste resulting from the following processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; water treatment; and timber products manufacturing. This term does not include construction/demolition waste; municipal solid waste from manufacturing or industrial facilities such as office or "lunch room" waste; or packaging material for products delivered to the generator.

(49) "Industrial Waste Landfill" means a landfill that receives only a specific type or combination of industrial waste.

(50) "Inert" means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.

(51) "Infectious Waste" means biological waste, cultures and stocks, pathological waste, and sharps; as defined in ORS 459.386.

(52) "Land Application Unit" means a disposal site where sludges or other solid wastes are applied onto or incorporated into the soil surface for agricultural purposes or for treatment and disposal.

(53) "Land Disposal Site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, waste pile, pit, pond, lagoon or land application.

(54) "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

(55) "Leachate" means liquid that has come into direct contact with solid waste and contains dissolved, miscible and/or suspended contaminants as a result of such contact.

(56) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(57) "Local Government Unit" means a city, county, Metropolitan Service District formed under ORS Chapter 268, sanitary district or sanitary authority formed under ORS Chapter 450, county service district formed under ORS Chapter 451, regional air quality control authority formed under

ORS 468A.100 to 468A.130 and 468A.140 to 468A.175 or any other local government unit responsible for solid waste management.

(58) "Low-Risk Disposal Site" means a disposal site which, based upon its size, site location, and waste characteristics, the department determines to be unlikely to adversely impact the waters of the State or public health.

(59) "Material Recovery" means any process of obtaining from solid waste, by pre-segregation or otherwise, materials which still have useful physical or chemical properties and can be reused, recycled or composted for some purpose.

(60) "Material Recovery Facility" means a solid waste management facility that separates materials for the purposes of recycling from an incoming mixed solid waste stream by using manual and/or mechanical methods, or a facility at which previously separated recyclables are collected.

(61) "Medical Waste" means solid waste that is generated as a result of patient diagnosis, treatment, or immunization of human beings or animals.

(62) "Monofill" means a landfill or landfill cell into which only one type of waste may be placed.

(63) "Municipal Solid Waste Landfill" means a discrete area of land or an excavation that receives domestic solid waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under §257.2 of 40 CFR, Part 257. It may also receive other types of wastes such as nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction and demolition waste and industrial solid waste.

(64) "Net Working Capital" means current assets minus current liabilities.

(65) "Net Worth" means total assets minus total liabilities and is equivalent to owner's equity.

(66) "Pathological Waste" means biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological waste" does not include teeth or formaldehyde or other preservative agents.

(67) "Permit" means a document issued by the department which by its conditions may authorize the permittee to construct, install, modify, operate or close a disposal site in accordance with specified limitations.

(68) "Permit Action" means the issuance, modification, renewal or revocation by the department of a permit.

(69) "Person" means the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(70) "Processing of Wastes" means any technology designed to change the physical form or chemical content of solid waste including, but not limited to, baling, composting, classifying, hydropulping, incinerating and shredding.

(71) "Public Waters" or "Waters of the State" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(72) "Putrescible Waste" means solid waste containing organic material that can be rapidly decomposed by microorganisms, and which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(73) "Recycling" means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.

(74) "Regional Disposal Site" means a disposal site that receives, or a proposed disposal site that is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located. As used in this section, "immediate service area" means the county boundary of all counties except a county that is within the boundary of the Metropolitan Service District. For a county within the Metropolitan Service District, "immediate service area" means that Metropolitan Service District boundary.

(75) "Release" has the meaning given in ORS 465.200(14).

(76) "Resource Recovery" means the process of obtaining useful material or energy from solid waste and includes energy recovery, material recovery and recycling.

ADMINISTRATIVE RULES

(77) "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(78) "Salvage" means the controlled removal of reusable, recyclable or otherwise recoverable materials from solid wastes at a solid waste disposal site.

(79) "Sensitive Aquifer" means any unconfined or semiconfined aquifer that is hydraulically connected to a water table aquifer, and where flow could occur between the aquifers due to either natural gradients or induced gradients resulting from pumpage.

(80) "Sensitive Environment" means a sensitive environment defined in OAR 340-122-0115(50) of the Hazardous Substance Remedial Action Rules.

(81) "Septage" means the pumpings from septic tanks, cesspools, holding tanks, chemical toilets and other sewage sludges not derived at sewage treatment plants.

(82) "Sharps" means needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.

(83) "Sludge" means any solid or semi-solid waste and associated supernatant generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effects.

(84) "Sole Source Aquifer" means the only available aquifer, in any given geographic area, containing potable groundwater with sufficient yields to supply domestic or municipal water wells.

(85) "Solid Waste" means all useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid materials, dead animals and infectious waste. The term does not include:

(a) Hazardous waste as defined in ORS 466.005;

(b) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates.

(86) "Solid Waste Boundary" means the outermost perimeter (on the horizontal plane) of the solid waste at a landfill as it would exist at completion of the disposal activity.

(87) "Source Separate" means that the person who last uses recyclable materials separates the recyclable material from solid waste.

(88) "Tangible Net Worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(89) "Third Party Costs" mean the costs of hiring a third party to conduct required closure, post-closure or corrective action activities.

(90) "Transfer Station" means a fixed or mobile facility other than a collection vehicle where solid waste is taken from a smaller collection vehicle and placed in a larger transportation unit for transport to a final disposal location.

(91) "Treatment" or "Treatment Facility" means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid waste. It includes but is not limited to soil remediation facilities. It does not include "composting" as defined in section (18) of this rule, "material recovery" as defined in section (56) of this rule, nor does it apply to a "material recovery facility" as defined in section (57) of this rule.

(92) "Underground Drinking Water Source" means an aquifer supplying or likely to supply drinking water for human consumption.

(93) "Vector" means any insect, rodent or other animal capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.

(94) "Vegetative" means feedstocks used for composting that are derived from plants including but not limited to: fruit and vegetable peelings or parts, grains, coffee grounds, crop residue, waxed cardboard and uncoated paper products. Vegetative material does not include oil, grease, or dairy products such as milk, mayonnaise or ice cream.

(95) "Vermicomposting" means the controlled and managed process by which live worms convert solid waste into dark, fertile, granular excrement.

(96) "Vermiculture" means the raising of earth worms for the purpose of collecting castings for composting or enhancement of a growing medium.

(97) "Water Table Aquifer" means an unconfined aquifer in which the water table forms the upper boundary of the aquifer. The water table is typically below the upper boundary of the geologic strata containing the water, the pressure head in the aquifer is zero and elevation head equals the total head.

(98) "Wellhead protection area" means the surface and subsurface area surrounding a water well, spring or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach that water well, spring, or wellfield. A public water system is a system supplying water for human consumption that has four or more service connections or supplies water to a public or commercial establishment which operates a total of at least 60 days per year, and which is used by 10 or more individuals per day.

(99) "Wood waste" means chemically untreated wood pieces or particles generated from processes commonly used in the timber products industry. Such materials include but are not limited to sawdust, chips, shavings, stumps, bark, hog-fuel and log sort yard waste, but do not include wood pieces or particles containing or treated with chemical additives, glue resin, or chemical preservatives.

(100) "Wood waste Landfill" means a landfill that receives primarily wood waste.

(101) "Zone of Saturation" means a three-dimensional section of the soil or rock in which all open spaces are filled with groundwater. The thickness and extent of a saturated zone may vary seasonally or periodically in response to changes in the rate or amount of groundwater recharge, discharge or withdrawal.

NOTE: Definition updated to be consistent with current Hazardous Waste statute.

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

Stat. Auth.: ORS 459.045 & 468.020

Stats. Implemented: ORS 459 & 459A

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 26-1981, f. & ef. 9-8-81; DEQ 2-1984, f. & ef. 1-16-84; DEQ 18-1988, f. & cert. ef. 7-13-88 (and corrected 2-3-89); DEQ 14-1990, f. & cert. ef. 3-22-90; DEQ 24-1990, f. & cert. ef. 7-6-90; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0010; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 6-2009, f. & cert. ef. 9-14-09; DEQ 4-2010, f. & cert. ef. 5-14-10

340-093-0260

Beneficial Use of Solid Waste

OAR 340-093-0260 through 340-093-0290 establish criteria and procedures for determining if the use of a solid waste is a beneficial use. OAR 340-093-0270 lists approved standing beneficial uses of solid waste. The Department may approve case-specific beneficial uses of solid waste according to the criteria and procedures in OAR 340-093-0280 and 340-093-0290.

(1) A beneficial use determination is not needed for the:

(a) Disposal of solid waste that is exempt from permit requirements under OAR, chapter 340, divisions 93 or 96; or

(b) Recycling of a recyclable material under the Recycling and Waste Reduction Rules, OAR chapter 340, divisions 90 and 91.

(2) The Department will review and approve the beneficial use of a solid waste at a permitted solid waste or hazardous waste disposal site through the applicable permit.

(3) The Department may consider the policy and waste management hierarchy in ORS 459.015(2)(a) in making case-specific beneficial use determinations under OAR 340-093-0290.

(4) A solid waste managed according to a standing beneficial use determination under OAR 340-093-0270 or a case-specific beneficial use determination under OAR 340-093-0280 and 340-093-0290 is not regulated as solid waste.

(5) The Department may review solid waste uses authorized before the effective date of this rule and may require the recipient of a prior authorization to apply for and obtain a case-specific beneficial use determination to continue implementing the earlier approved use, if the use is not a standing beneficial use under OAR 340-093-0270.

(6) OAR 340-093-0260 through 340-093-0290 do not supersede any city or county authority under ORS chapter 268, 459, or 459A.

Stat. Auth.: ORS 459.045, 459.215, 459.235, 459.A025 & 468.065

Stats. Implemented: ORS 459.045, 459.215 & 459.235

Hist.: DEQ 4-2010, f. & cert. ef. 5-14-10

340-093-0270

Standing Beneficial Use Determinations

A person may manage solid waste according to a standing beneficial use determination listed in section (5) without contacting the Department's

ADMINISTRATIVE RULES

Solid Waste Program for approval if the person complies with the requirements of this rule.

(1) A person managing solid waste as a standing beneficial use must:

(a) Manage the material until the time it is used for its approved beneficial use, including any storage, transportation, or processing, so as to prevent releases to the environment or nuisance conditions;

(b) Use the material consistent with applicable engineering standards, commercial standards, and agricultural or horticultural practices;

(c) Ensure that hazardous substances in the material meet one of the criteria in this subsection,

(i) Do not significantly exceed the concentration in a comparable raw material or commercial product,

(ii) Do not exceed naturally occurring background concentrations, or

(iii) Will not exceed acceptable risk levels, including evaluation of persistence and potential bioaccumulation, when managed according to a beneficial use determination;

(d) Ensure the use does not result in the increase of a hazardous substance in a sensitive environment; and

(e) Use the material in compliance with applicable federal, state, and local regulations.

(2) A person who supplies a solid waste to another person for a beneficial use must provide information to the recipient of the material through written documentation, labeling, or other means that identifies the:

(a) Type of material;

(b) Type and concentration of hazardous substances if known;

(c) Approved beneficial uses; and

(d) Any conditions that apply under this rule.

(3) At the request of the Department, a person managing a solid waste according to a standing beneficial use determination must provide information sufficient to demonstrate the material and use comply with this rule.

(4) A person beneficially using a solid waste must submit a report to the Department for any material managed within a calendar year for those solid wastes listed in section (5), subsections (c), (d), (f), and (g), which involve the direct land application of solid wastes that contain hazardous substances exceeding clean fill criteria. Reports must include: material characterization, the type and concentration of hazardous substances, the beneficial use, volume used, and location of land application.

(5) Standing beneficial use determinations: Solid Waste — Beneficial Use — Conditions on Use

(a) Asphalt pavement or asphalt grindings from road projects — As asphalt and aggregate in new asphalt pavement or as fill within road prisms — Asphalt grindings must be compacted when used within road prisms

(b) Asphalt shingle waste from roof tear-offs and manufacturer scrap — As asphalt binder in asphalt mixtures — The waste does not contain asbestos or other non-asphalt shingle materials from roof tear-offs, such as nails, metal flashing, paper, or wood waste

(c) Dredged sediment approved by the department's water quality program for unconfined in-water placement based on chemical screening — Non-residential construction fill, surcharge, utility trench fill, or roadbase; habitat improvement, beach nourishment or other similar uses — A person using the material must submit a report to the Department in accordance with section (4) of this rule

(d) Dredged sediment not approved by the department's water quality program for in-water placement — Non-residential construction fill, utility trench fill, or roadbase — Concentrations of hazardous substances are below the higher of Department-approved human health occupational risk-based screening levels or naturally occurring background; placed where it will not be in contact with or adversely impact waters of the state; covered in a manner that minimizes exposure to ecological receptors; and a person using the material must submit a report to the Department in accordance with section (4) of this rule

(e) Foundry sand produced by iron, steel, or aluminum foundries — As aggregate in asphalt mixtures, concrete, Portland cement, or masonry mortar — None specified beyond the requirements of this rule

(f) Foundry sand produced by iron, steel, or aluminum foundries — Non-residential construction fill, utility trench fill, or roadbase — Concentrations of hazardous substances are below the higher of Department-approved human health occupational risk-based screening levels or naturally occurring background; placed where it will not be in contact with or adversely impact waters of the state; covered in a manner that minimizes exposure to ecological receptors; and a person using the material must submit a report to the Department in accordance with section (4) of this rule

(g) Soil from cleanup sites — Non-residential construction fill, utility trench fill, or roadbase — Concentrations of hazardous substances are below the higher of Department-approved human health occupational risk-based screening levels or naturally occurring background; placed where it

will not be in contact with or adversely impact waters of the state; covered in a manner that minimizes exposure to ecological receptors; the use is approved through Department Cleanup or Tanks Program cost recovery oversight; and a person using the material must submit a report to the Department in accordance with section (4) of this rule

(h) Soil from petroleum cleanup sites — As aggregate in asphalt mixtures — Petroleum contamination from releases of heating oil or motor fuel only

(i) Steel slag — As aggregate in asphalt mixtures, concrete, or Portland cement — None specified beyond the requirements of this rule

(j) Street sweeping fines — Spill response absorbent — After use of the waste a hazardous waste determination must be conducted and the material disposed at an appropriate permitted disposal site

(k) Street sweeping sand from winter storm applications — Road sanding — Swept up within 6 months of application or being re-exposed on the road after snowmelt; and the sand is separated from the street sweepings

(l) Wood-derived bottom ash, boiler rock, or clinkers, including rock, sand, dirt, and fused wood ash, from wood and wood waste fired boilers — As aggregate in asphalt mixtures, concrete, or Portland cement — None specified beyond the requirements of this rule

Stat. Auth.: ORS 459.045, 459.215, 459.235, 459.A025 & 468.065

Stats. Implemented: ORS 459.045, 459.215 & 459.235

Hist.: DEQ 4-2010, f. & cert. ef. 5-14-10

340-093-0280

Case-Specific Beneficial Use Performance Criteria

The Department may approve a beneficial use of a solid waste that meets the criteria of this rule.

(1) The applicant has characterized the solid waste and use sufficient to demonstrate compliance with this rule.

(2) The use is productive, including:

(a) There is an identified or reasonably likely use for the material that is not speculative;

(b) The use is a valuable part of a manufacturing process, an effective substitute for a valuable raw material or commercial product, or otherwise authorized by the Department and does not constitute disposal; and

(c) The use is in accordance with applicable engineering standards, commercial standards, and agricultural or horticultural practices.

(3) The use will not create an adverse impact to public health, safety, welfare, or the environment, including:

(a) The material is not a hazardous waste under ORS 466.005;

(b) Until the time a material is used according to a beneficial use determination, the material must be managed, including any storage, transportation, or processing, to prevent releases to the environment or nuisance conditions;

(c) Hazardous substances in the material meet one of the criteria in this subsection,

(A) Do not significantly exceed the concentration in a comparable raw material or commercial product,

(B) Do not exceed naturally occurring background concentrations; or

(C) Will not exceed acceptable risk levels, including evaluation of persistence and potential bioaccumulation, when the material is managed according to a beneficial use determination;

(d) The use will not result in the increase of a hazardous substance in a sensitive environment;

(e) The use will not create objectionable odors, dust, unsightliness, fire, or other nuisance conditions; and

(f) The use must comply with applicable federal, state, and local regulations.

Stat. Auth.: ORS 459.045, 459.215, 459.235, 459.A025 & 468.065

Stats. Implemented: ORS 459.045, 459.215 & 459.235

Hist.: DEQ 4-2010, f. & cert. ef. 5-14-10

340-093-0290

Case-Specific Beneficial Use Review Procedures

Any person may apply to the Department for case-specific approval for the beneficial use of a solid waste that is not a standing beneficial use under OAR 340-093-0270. A written application must include the information required under the tier in sections (1), (2), or (3) of this rule that is most appropriate for the level of Department review necessary to make a determination.

(1) Tier One, an application for the beneficial use of a solid waste that does not contain hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product and that will be used in a manufactured product, must include:

ADMINISTRATIVE RULES

(a) Name, address, and telephone number of the applicant and the generator;

(b) Description of the material, manner of generation, and estimated quantity to be used each year;

(c) A description of the proposed use;

(d) A comparison of the chemical and physical characteristics of the material proposed for use with the material it will replace;

(e) A demonstration of compliance with the performance criteria in OAR 340-093-0280 based on knowledge of the process that generated the material, properties of the finished product, or testing; and

(f) Any other information the Department may require to evaluate the proposal.

(2) Tier Two, an application for the beneficial use of a solid waste that contains hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product, or involves application on the land must include:

(a) The information required in section (1) of this rule;

(b) Sampling and analysis that provides chemical, physical, and where appropriate, biological characterization of the material and potential contaminants in the material or the end product, if applicable;

(c) A risk screening comparing the concentration of hazardous substances in the material to existing, Department approved, risk-based screening level values and demonstrating compliance with acceptable risk levels;

(d) Location or type of land use where the material will be applied, consistent with the risk scenarios used to evaluate risk; and

(e) A description of how the material will be managed to minimize potential adverse impacts to public health, safety, welfare, or the environment.

(3) Tier Three, an application for the beneficial use of a solid waste that requires research, such as a literature review or risk assessment, or for a demonstration project to demonstrate compliance with this rule, must include:

(a) The information required in section (2) of this rule;

(b) A discussion of the justification for the proposal;

(c) The expected length of time that will be required to complete a demonstration; and

(d) The methods proposed to ensure safe and proper management of the material during a demonstration.

(4) Upon receipt of an application, the Department:

(a) May request additional information necessary to determine whether the application meets the criteria for approval under this rule, and

(b) Will determine the tier in sections (1), (2), or (3) of this rule that applies to the application and require payment of the associated fee in OAR 340-097-0120(2)(f).

(5) Upon completing review of the information submitted, the Department will:

(a) Notify the applicant in writing that a beneficial use determination has been made including any conditions for the determination;

(b) Deny the request for a case-specific beneficial use determination; or

(c) Authorize a demonstration project for an innovative process or technology that is a proposed beneficial use.

(6) The Department will issue demonstration project authorizations for a period of up to one year to determine whether the proposed use meets the criteria for a beneficial use determination. Within one year, the applicant must submit a progress report to the Department. Upon completing review of the report, the Department will:

(a) Issue a case-specific beneficial use determination for the proposed use;

(b) Extend the demonstration authorization for up to an additional year; or

(c) Deny the request for a beneficial use determination if the proposed use is not likely to meet the criteria for a beneficial use determination within an additional one-year period.

(7) At the request of the Department, a person managing solid waste under this rule must:

(a) Submit a material management plan that specifies pre-use management requirements for department review and approval;

(b) Document the current and reasonably likely future land use, where the beneficial use involves land application at a specific location;

(c) Allow the Department at any reasonable time to inspect the location where the material is stored, used, or otherwise located to ensure compliance with this rule; and

(d) Submit a report that confirms that the material characterization and operating practices continue to comply with the beneficial use as approved.

(8) The Department will publish a list of all case-specific beneficial use determinations.

(9) The Department may modify or revoke a case-specific beneficial use determination or a demonstration project authorization if it determines that:

(a) The application includes a material misrepresentation or false statement;

(b) The material has not been used in accordance with the performance criteria listed in OAR 340-093-0280 and all specified conditions of approval;

(c) A violation of any statute, rule, order, permit, ordinance, judgment or decree regarding the use has occurred; or

(d) Based on new information or changed conditions, the proposed beneficial use has the potential to cause an adverse impact to public health, safety, welfare, or the environment.

(10) Upon denial or revocation of a case-specific beneficial use determination or a demonstration project authorization, the material is subject to regulation as a solid waste in accordance with applicable provisions of ORS 459 and OAR chapter 340, divisions 93 through 97. In such a case, failure to comply with these provisions may be cause for the assessment of civil penalties as provided in OAR chapter 340, division 12 or for any other enforcement action provided by law.

Stat. Auth.: ORS 459.045, 459.215, 459.235, 459.A025 & 468.065

Stats. Implemented: ORS 459.045, 459.215 & 459.235

Hist.: DEQ 4-2010, f. & cert. ef. 5-14-10

340-097-0120

Permit/Registration Categories and Fee Schedule

(1) For purposes of OAR chapter 340, division 97:

(a) A “new facility” means a facility at a location not previously used or permitted, and does not include an expansion to an existing permitted site;

(b) An “off-site industrial facility” means all industrial solid waste disposal sites other than a “captive industrial facility”;

(c) A “captive industrial facility” means an industrial solid waste disposal site where the permittee is the owner and operator of the site and is the generator of all the solid waste received at the site.

(2) Application Processing Fee. Except as provided in sections (3), (4), and (5) of this rule with respect to composting facilities, an application processing fee must be submitted with each application for a new facility, including application for preliminary approval pursuant to OAR 340-093-0090. The amount of the fee will depend on the type of facility and the required action as follows:

(a) A new municipal solid waste landfill facility, construction and demolition landfill, incinerator, energy recovery facility, solid waste treatment facility, off-site industrial facility or sludge disposal facility:

(A) Designed to receive over 7,500 tons of solid waste per year: \$10,000;

(B) Designed to receive less than 7,500 tons of solid waste per year: \$5,000.

(b) A new captive industrial facility (other than a transfer station or material recovery facility): \$1,000;

(c) A new transfer station or material recovery facility:

(A) Receiving over 50,000 tons of solid waste per year: \$500;

(B) Receiving between 10,000 and 50,000 tons of solid waste per year: \$200;

(C) Receiving less than 10,000 tons of solid waste per year: \$100.

(d) Letter Authorization (pursuant to OAR 340-093-0060):

(A) New site: \$500;

(B) Renewal: \$500.

(e) Permit Exemption Determination (pursuant to OAR 340-093-0080(2)): \$500.

(f) Beneficial use of solid waste application and reporting fees (pursuant to OAR 340-093-0260 through 340-093-0290):

(A) The review of an annual or other report required under a beneficial use determination: \$250;

(B) A Tier One beneficial use determination: \$1,000;

(C) A Tier Two beneficial use determination: \$2,000;

(D) A Tier Three beneficial use determination: \$5,000;

(E) Annual extension to a demonstration project authorization: \$1,000.

(3) Composting Facility Screening Fee. Every composting facility that is required to comply with OAR 340-096-0080: Screening must pay a

ADMINISTRATIVE RULES

screening fee of \$150. The fee must be submitted with the application for screening, as provided in OAR 340-096-0080(1).

(4) Composting Facility Plan Review and Approval Fee. Every composting facility that is required to comply with OAR 340-096-0090: Operations Plan Approval must pay a fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0090(1). Agricultural composting facilities for which the Oregon Department of Agriculture is providing facility plan review and approval are not required to pay this fee.

(a) For facilities composting over 100 tons and less than or equal to 3,500 tons of feedstocks per year: \$500;

(b) For facilities composting over 3,500 tons and less than or equal to 7,500 tons of feedstocks per year: \$750;

(c) For facilities composting over 7,500 tons and less than or equal to 10,000 tons per year: \$1000;

(d) For facilities composting over 10,000 tons and less than or equal to 50,000 tons per year: \$2,000;

(e) For facilities composting over 50,000 tons per year: \$5,000.

(5) Composting Facility Engineering Review Fee. Every composting facility that requires department review of engineering plans and specifications under OAR 340-096-0130 must pay a fee of \$500. This fee is in addition to the fee required by (4) of this rule. Agricultural composting facilities for which the Oregon Department of Agriculture provides review of engineering plans and specifications are not required to pay this fee.

(6) Solid Waste Permit Compliance Fee. The Commission establishes the following fee schedule including base per-ton rates to be used to determine the solid waste permit compliance fee beginning with fiscal year 1993. The per-ton rates are based on the estimated solid waste to be received at all permitted solid waste disposal sites and on the department's Legislatively Approved Budget. The department will review annually the amount of revenue generated by this fee schedule. To determine the solid waste permit compliance fee, the department may use the base per-ton rates or any lower rates if the rates would generate more revenue than provided in the department's Legislatively Approved Budget. Any increase in the base rates must be fixed by rule by the Commission. (In any case where a facility fits into more than one category, the permittee must pay only the highest fee):

(a) All facilities accepting or permitted to accept solid waste except transfer stations, material recovery facilities and composting facilities:

(A) \$200, if the facility receives less than 1,000 tons of solid waste a year; or

(B) A solid waste permit compliance fee based on the total amount of solid waste received at the facility in the previous calendar quarter or year, as applicable, at the following rate:

(i) All municipal landfills, construction and demolition landfills, off-site industrial facilities, sludge disposal facilities, incinerators and solid waste treatment facilities: \$.21 per ton;

(ii) Captive industrial facilities: \$.21 per ton;

(iii) Energy recovery facilities: \$.13 per ton.

(C) If a disposal site (other than a municipal solid waste facility) is not required by the department to monitor and report volumes of solid waste collected, the solid waste permit compliance fee may be based on the estimated tonnage received in the previous quarter or year.

(b) Transfer stations and material recovery facilities:

(A) Facilities accepting over 50,000 tons of solid waste per year: \$1,000;

(B) Facilities accepting between 10,000 and 50,000 tons of solid waste per year: \$500;

(C) Facilities accepting less than 10,000 tons of solid waste per year: \$50.

(c) Composting facilities with a Composting Permit, except agricultural composting facilities for which the Oregon Department of Agriculture is providing facility oversight:

(A) Utilizing over 50,000 tons of feedstocks for composting per year: \$5,000;

(B) Utilizing over 7,500 and less than or equal to 50,000 tons of feedstocks for composting per year: \$1,000

(C) Utilizing over 3,500 and less than or equal to 7,500 tons of feedstocks for composting per year: \$500.

(D) Utilizing over 100 tons and less than or equal to 3,500 tons of feedstocks for composting per year: \$100.

(d) Closed Disposal Sites:

(A) Year of closure. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, the department will determine a pro-rated permit compliance fee for

those quarters of the fiscal year not covered by the permit compliance fee paid on solid waste received at the site. The pro-rated fee for the quarters the site was closed shall be based on the calculation in paragraph (B) of this subsection;

(B) Each land disposal site which closes after July 1, 1984: \$150; or the average tonnage of solid waste received in the three most active years of site operation multiplied by \$.025 per ton, whichever is greater; but the maximum permit compliance fee shall not exceed \$2,500.

(7) 1991 Recycling Act permit fee:

(a) A 1991 Recycling Act permit fee must be submitted by each solid waste permittee which received solid waste in the previous calendar quarter or year, as applicable, except transfer stations, material recovery facilities, composting facilities and captive industrial facilities. The Commission establishes the 1991 Recycling Act permit fee as \$.09 per ton for each ton of solid waste received in the subject calendar quarter or year;

(b) The \$.09 per-ton rate is based on the estimated solid waste received at all permitted solid waste disposal sites subject to this fee and on the department's Legislatively Approved Budget. The department will review annually the amount of revenue generated by this rate. To determine the 1991 Recycling Act permit fee, the department may use this rate or any lower rate if the rate would generate more revenue than provided in the department's Legislatively Approved Budget. Any increase in the rate must be fixed by rule by the Commission;

(c) This fee is in addition to any other permit fee and per-ton fee which may be assessed by the department.

(8) Per-ton solid waste disposal fees on domestic solid waste. Each solid waste disposal site that receives domestic solid waste (except transfer stations, material recovery facilities, solid waste treatment facilities and composting facilities), and each person transporting solid waste out of Oregon for disposal at a disposal site that receives domestic solid waste except as excluded under OAR 340-097-0110(4)(c), must submit to the department the following fees for each ton of domestic solid waste received at the disposal site:

(a) A per-ton fee of 50 cents;

(b) An additional per-ton fee of 31 cents;

(c) Beginning January 1, 1993, an additional per-ton fee of 13 cents for the Orphan Site Account;

(d) Submittal schedule:

(A) These per-ton fees must be submitted to the department quarterly. Quarterly remittals shall be due on the 30th day of the month following the end of the calendar quarter;

(B) Disposal sites receiving less than 1,000 tons of solid waste per year must submit the fees annually on January 31. If the disposal site is not required by the department to monitor and report volumes of solid waste collected, the fees must be accompanied by an estimate of the population served by the disposal site;

(C) For solid waste transported out of state for disposal, the per-ton fees must be paid to the department quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter in which the disposal occurred. If the transportation is not on-going, the fee must be paid to the department within 60 days after the disposal occurs.

(e) As used in this rule and in OAR 340-097-0110, the term "domestic solid waste" does not include source separated recyclable material, or material recovered at the disposal site;

(f) Solid waste that is used as daily cover at a landfill in place of virgin soil will not be subject to the per-ton solid waste fees in this section, provided that:

(A) The amount of solid waste used as daily cover does not exceed the amount needed to provide the equivalent of six inches of soil used as daily cover;

(B) If disposed of in Oregon, the solid waste is not being used on a trial basis, but instead has received final approval from the department for use as daily cover; and

(C) If disposed of in a landfill outside of Oregon, the solid waste has received final approval from the appropriate state or local regulatory agency that regulates the landfill.

(g) For solid waste delivered to disposal facilities owned or operated by a Metropolitan Service District, the fees established in this section will be levied on the district, not on the disposal site.

Stat. Auth.: ORS 459.045, 459.235 & 468.065

Stats. Implemented: ORS 459.235, 459.236, 459A.110 & 459A.115

Hist.: DEQ 3-1984, f. & ef. 3-7-84; DEQ 12-1988, f. & cert. ef. 6-14-88; DEQ 14-1990, f. & cert. ef. 3-22-90; DEQ 45-1990, f. & cert. ef. 12-26-90; DEQ 12-1991(Temp), f. & cert. ef. 8-2-91; DEQ 28-1991, f. & cert. ef. 12-18-91; DEQ 8-1992, f. & cert. ef. 4-30-92; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0120; DEQ 23-1993, f. 12-16-93, cert. ef. 1-1-94; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 6-2009, f. & cert. ef. 9-14-09; DEQ 4-2010, f. & cert. ef. 5-14-10

ADMINISTRATIVE RULES

Department of Fish and Wildlife Chapter 635

67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10

Rule Caption: Additional Harvest Opportunity During Shortened Fishing Season on Hebo Lake.

Adm. Order No.: DFW 44-2010(Temp)

Filed with Sec. of State: 4-20-2010

Certified to be Effective: 4-21-10 thru 9-30-10

Notice Publication Date:

Rules Amended: 635-014-0090

Subject: These rule modifications remove daily catch or possession limits and harvest length restrictions for trout in Hebo Lake during the period from April 25 through 6:00 p.m. Sunday, May 2, 2010 when the US Forest Service will close access to the lake. This is earlier than previously published in the 2010 Oregon Sport Fishing Regulations. Hebo Lake will be drained and dredged as part of a US Forest Service (USFS) project to make improvements to the lake. The Department and USFS will be cooperatively salvaging fish from the lake as it drains. Access to the lake by the public will be closed until the project is complete, sometime in September 2010.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-014-0090

Inclusions and Modifications

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Northwest 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 US Forest Service is scheduled to close access to Hebo Lake at 6:00 p.m. on Sunday May 2, 2010, so the lake may be drained and deepened as part of a project to make improvements to the lake. Access to the Lake is expected to re-open sometime in September 2010.

(a) Beginning Sunday, April 25 through Sunday, May 2, 2010 there are no length requirements or daily possession limits for trout in Hebo Lake.

(b) All other General Statewide and Northwest Zone regulations, as provided in the **2010 Oregon Sport Fishing Regulations**, remain in effect.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; 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 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; 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 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; 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 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW

Rule Caption: Recreational Spring Chinook Season in Select Areas of the Columbia River Closed.

Adm. Order No.: DFW 45-2010(Temp)

Filed with Sec. of State: 4-21-2010

Certified to be Effective: 4-24-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: This amended rule closes the recreational spring Chinook season in the Select Areas of the Columbia River beginning Saturday, April 24 through Tuesday, June 15, 2010. The recreational fishery downstream of Bonneville Dam, including Select Areas, have met the management guideline. Revisions are consistent with action taken April 20, 2010 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0125

Spring Sport Fishery

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River 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 Columbia River is open:

(a) From January 1 through April 18 except closed to salmon and steelhead angling on Tuesdays: March 9, 16, 23 and 30, from the mouth at Buoy 10 upstream to the I-5 Bridge;

(b) From March 1 through March 14, angling from a boat is allowed from the I-5 Bridge upstream to the I 205 Bridge and bank angling is allowed from the I-5 Bridge upstream to Bonneville Dam, except closed to salmon and steelhead angling on Tuesday, March 9.

(c) From March 18 to April 3, angling from a boat is allowed from the I-5 Bridge upstream to the I-205 Bridge and bank angling is allowed from the I-5 Bridge upstream to Bonneville Dam, three days per week (Thursday to Saturday); and

(d) From March 16 through May 31, from the Tower Island power lines upstream to McNary Dam plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines, 7 days per week.

(3) The following restrictions apply to the seasons described in section (2)(a) through (2)(d) above:

(a) Adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead may be retained.

(b) Effective March 1 to May 15, the mainstem Columbia River, downstream of Bonneville Dam, will be open for retention of adipose fin-clipped steelhead and shad only during days and seasons open for retention of adipose fin-clipped spring Chinook.

(c) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(d) Effective March 1, for the area downstream of Bonneville Dam, catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead may be retained per day, only one of which may be a Chinook. Catch limits for jacks and all other permanent regulations remain in effect as per the **2010 Oregon Sport Fishing Regulations**.

(e) Effective March 1 through April 23, 2010 the daily bag limit in Oregon's Select Areas may not include more than one adipose fin-clipped Chinook when the recreational fishery in the mainstem Columbia River below the I-5 Bridge is open to retention of Chinook.

(f) Effective April 24 through June 15, 2010 the Youngs Bay and Blind Slough/Knappa Slough Select Area fishing areas as described in the 2010 Oregon port Fishing Regulations pamphlet will be closed to angling for salmon and steelhead.

(4) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line to McNary Dam from February 15 through June 15 it is *unlawful* when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

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

ADMINISTRATIVE RULES

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; 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 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10

Rule Caption: Rescind Previously Authorized Fishing Periods for the Columbia River Select Area Spring Fisheries.

Adm. Order No.: DFW 46-2010(Temp)

Filed with Sec. of State: 4-21-2010

Certified to be Effective: 4-21-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

Rules Suspended: 635-042-0145(T), 635-042-0160(T), 635-042-0170(T), 635-042-0180(T)

Subject: Amended rules rescind previously authorized fishing periods in the spring non-Indian commercial seasons for Chinook salmon, white sturgeon and shad in the Deep River, Tongue Point/South Channel, Blind Slough/Knappa Slough, and Youngs Bay Select Areas of the Columbia River. Rescinded fishing periods were previously scheduled from April 21 through June 11, 2010. Modifications are consistent with the action taken April 20, 2010 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A); the spring fishery, paragraph (B); and summer fishery, paragraph (C), as follows:

(A) Winter Season:

(i) Entire Youngs Bay: Sunday, Tuesday, Wednesday and Thursday nights from February 21 through February 26, 2010 (4 nights) starting at 6:00 p.m. to 6:00 a.m. (12 hours); from 12:00 noon Sunday February 28 through 6:00 a.m. Monday March 1, 2010 (18 hours); from 12:00 noon Tuesday March 2 through 6:00 a.m. Wednesday March 3, 2010 (18 hours); from 12:00 noon Thursday March 4 through 6:00 a.m. Friday March 5, 2010 (18 hours); from 12:00 noon Sunday March 7 through 6:00 a.m. Monday March 8, 2010 (18 hours); 6:00 p.m. Wednesday March 10 through 6:00 a.m. Thursday March 11, 2010 (12 hours); and 6:00 p.m. Sunday March 14 to 6:00 a.m. Monday March 15, 2010 (12 hours).

(ii) Upstream of old Youngs Bay Bridge: 6:00 p.m. Sunday March 21 to 6:00 a.m. Monday March 22, 2010 (12 hours); 6:00 p.m. Thursday March 25 to 6:00 a.m. Friday March 26, 2010 (12 hours); 6:00 a.m. to 10:00 a.m. Monday March 29, 2010 (4 hours).

(iii) Walluski Area: None.

(B) Spring Season: Entire Youngs Bay: 6:00 p.m. Thursday April 15 to 6:00 a.m. Friday April 16, 2010 (12 hours); 6:00 p.m. Monday April 19 to 6:00 a.m. Tuesday April 20, 2010 (12 hours).

(C) Summer Season: Entire Youngs Bay: 6:00 a.m. Wednesdays to 6:00 a.m. Fridays (48 hours) beginning Wednesday June 16 through Friday July 30, 2010 (14 fishing days).

(b) The fishing areas for the winter, spring and summer fisheries are:

(A) From February 21 through March 15 and from April 15 through July 30, 2010, the fishing area is identified as the waters of Youngs Bay with the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(B) From March 21 through March 29, 2010, the fishing area extends from the old Youngs Bay Bridge upstream to the confluence of the Youngs and Klaskanine rivers.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is *unlawful* to use a gill net having a mesh size that is less than 7-inches during the winter season. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches during the spring and summer seasons.

(b) The use of additional weights or anchors attached directly to the headline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(3) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. During the fishing periods identified in (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & cert. ef. 8-22-79; FWC 28-1980, f. & cert. ef. 6-23-80; FWC 42-1980(Temp), f. & cert. ef. 8-22-80; FWC 30-1981, f. & cert. ef. 8-14-81; FWC 42-1981(Temp), f. & cert. ef. 11-5-81; FWC 54-1982, f. & cert. ef. 8-17-82; FWC 37-1983, f. & cert. ef. 8-18-83; FWC 61-1983(Temp), f. & cert. ef. 10-19-83; FWC 42-1984, f. & cert. ef. 8-20-84; FWC 39-1985, f. & cert. ef. 8-15-85; FWC 37-1986, f. & cert. ef. 8-11-86; FWC 72-1986(Temp), f. & cert. ef. 10-31-86; FWC 64-1987, f. & cert. ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; 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 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp),

ADMINISTRATIVE RULES

f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the spring fishery in paragraphs (1)(a)(A) or (1)(a)(B) of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in Blind Slough and Knappa Slough in paragraph (B). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough Only: Sunday nights beginning Sunday, February 21 through Sunday, March 1, 2010 (2 nights); Wednesday and Sunday nights from March 3 through March 29, 2010 (8 nights); and Sunday night April 4 (1 night).

(B) Blind and Knappa Sloughs: Monday and Thursday nights beginning Thursday, April 15 through Monday, April 19, 2010 (2 nights).

(b) The fishing areas for the winter and springs seasons are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the period from May 3 through June 11, 2010, the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) Gear restrictions are as follows:

(A) During the winter fishery, outlined above in (1)(a)(A), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is less than 7-inches.

(B) During the spring fishery, outlined above in (1)(a)(B), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches.

(2) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (1)(a)(A) and (1)(a)(B) the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-

04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; 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 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10

635-042-0170

Tongue Point Basin and South Channel

(1) Tongue Point includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facility through navigation marker #6 to Mott Island (new spring lower dead-line), a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the Oregon shore.

(2) South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker "10" thence northwesterly to a marker on Burnside Island defining the terminus of South Channel.

(3) Salmon, shad and white sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are: Spring Season: From 7:00 p.m. to 7:00 a.m. (12 hours) on Monday, April 19, 2010 (1 night).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored on boats.

(5) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in section (3)(a) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-

ADMINISTRATIVE RULES

2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. & cert. ef. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & cert. ef. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. & cert. ef. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. & cert. ef. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. & cert. ef. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. & cert. ef. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 29-2010(Temp), f. & cert. ef. 3-9-10, cert. ef. 4-19-10 thru 6-12-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10

cert. ef. 9-13-09 thru 10-30-09; DFW 121-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; Administrative correction 11-19-09; DFW 16-2010(Temp), f. & cert. ef. 2-22-10 thru 6-10-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10

Rule Caption: Allow Commercial Sales of Dressed Salmon and Steelhead from Tribal Members to Commercial Wholesale Dealers.

Adm. Order No.: DFW 47-2010(Temp)

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-27-10 thru 10-23-10

Notice Publication Date:

Rules Amended: 635-006-0212, 635-006-0215, 635-006-0225

Rules Suspended: 635-006-0215(T)

Subject: These amended rules allow Tribal fishers to sell gutted and gilled Columbia River salmon and steelhead to licensed commercial wholesale fish dealers, cannerys, and buyers. The wholesale fish dealers, cannerys, and buyers must report in round weight on the Fish Receiving Ticket using the conversion factor 1.17 to one.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon, shad, and white sturgeon may be taken for commercial purposes from the US Coast Guard navigation marker #16 upstream to the Highway 4 Bridge.

(2) The fishing seasons are open:

(a) Winter season: Monday and Wednesday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning February 22 through April 1, 2010 (12 nights).

(b) Spring season: Sunday and Wednesday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning April 14 through April 19, 2010 (2 nights).

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(a) During the winter season, outlined above in (2)(a), it is *unlawful* to use a gill net having a mesh size that is less than 7-inches;

(b) During the spring season, outlined above in (2)(b) it is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches.

(4) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (2)(a) and (2)(b) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. & cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. & cert. ef. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & cert. ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. & cert. ef. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. & cert. ef. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. & cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & cert. ef. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. & cert. ef. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. & cert. ef. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. & cert. ef. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. & cert. ef. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. & cert. ef. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. & cert. ef. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. & cert. ef. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. & cert. ef. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; DFW 112-2009(Temp), f. & cert. ef. 9-11-09,

635-006-0212

Fish Receiving Ticket — Salmon

For all salmon, the following requirements apply in addition to those listed in OAR 635-006-0210:

(1) Fish receiving tickets shall be completed at time of landing and the original copy forwarded within four consecutive days following the landing to the Oregon Department of Fish and Wildlife.

(2) For troll-caught salmon, fish receiving tickets shall show the number of days fished during the trip in which the salmon were caught.

(3) It is lawful for licensed wholesale fish dealers, cannerys, or buyers to purchase from tribal fishers, referred to in OAR 635-041-0005, gilled and gutted Columbia River salmon lawfully taken during commercial Treaty Indian fishing seasons. The licensed wholesale dealer must submit round weights on the Fish Receiving Ticket by multiplying the weights of gilled and gutted salmon by the conversion factor listed in OAR 635-006-0215 for tribal Columbia River salmon and steelhead.

Stat. Auth.: ORS 506.119, 506.129, 508.530 & 508.535

Stats. Implemented: ORS 506.129, 508.025, 508.040 & 508.550

Hist.: FWC 142-1991, f. & cert. ef. 1-1-92; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 31-2004, f. & cert. ef. 4-22-04, cert. ef. 5-1-04; DFW 44-2006(Temp), f. & cert. ef. 6-19-06 thru 12-15-06; Administrative correction 12-16-06; DFW 79-2008(Temp), f. & cert. ef. 7-10-08 thru 12-31-08; Administrative correction 1-23-09; DFW 70-2009(Temp), f. & cert. ef. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; DFW 47-2010(Temp), f. & cert. ef. 4-27-10 thru 10-23-10

635-006-0215

Monthly Remittance Report

(1) A monthly report is required of all licensed:

(a) Wholesale fish dealers, wholesale fish bait dealers, food fish cannerys, or shellfish cannerys receiving food fish or shellfish from licensed commercial fishers or bait fishers;

(b) Limited Fish Sellers selling food fish or shellfish.

(2) Except as provided in OAR 635-006-0220, the report is required even though no food fish or shellfish are received or sold during the calendar month covered by the report.

(3) The following information shall be included on the report:

(a) Fish dealer's name, license number, and address;

(b) Calendar month of the report;

(c) Serial numbers of all Fish Receiving Tickets issued during the month;

(d) Total pounds of all salmon and steelhead received or sold during the calendar month on which poundage fees are due. Salmon and steelhead may be reported as round weight, dressed head on or dressed head off;

(e) Total value of salmon and steelhead received or sold during the calendar month including fish eggs and parts;

(f) Total value of all other food fish and shellfish including eggs and parts;

(g) Total pounds in the round of all other species of food fish or shellfish received or sold during the calendar month on which taxes are due. The following listed species may be converted to round weight for the purposes of completing monthly reports, by multiplying the below-listed factor by the dressed weight of that species:

(A) Troll salmon:

(i) Gilled and gutted — 1.15.

(ii) Gilled, gutted, and headed — 1.30.

ADMINISTRATIVE RULES

(B) Tribal Columbia River salmon and steelhead trout: Gilled and gutted — 1.17.

(C) Halibut:

(i) Gilled and gutted — 1.15.

(ii) Gilled, gutted, and headed — 1.35.

(D) Sablefish:

(i) Gutted and headed — 1.60.

(ii) Glazed — 0.95.

(E) Pacific whiting:

(i) Fillet — 2.86.

(ii) Headed and gutted — 1.56.

(iii) Surimi — 6.25.

(F) Razor Clams, shelled and cleaned — 2.0.

(G) Scallops, shelled and cleaned — 12.2.

(H) Thresher shark — 2.0.

(I) Skates — 2.6.

(J) Lingcod:

(i) Gilled and gutted — 1.1.

(ii) Gilled, gutted and headed — 1.5.

(K) Spot prawn, tails — 2.24.

(h) Total value of food fish landed in another state but not taxed by that state;

(i) Total pounds in the round of all food fish landed in another state but not taxed by that state;

(j) Total fees due — in accordance with ORS 508.505 the fees are the value of the food fish at the point of landing multiplied by the following rates:

(A) All salmon and steelhead, 3.15 percent;

(B) Effective January 1, 2005, all black rockfish, blue rockfish and nearshore fish (as defined by ORS 506.011), 5 percent.

(C) All other food fish and shellfish, 1.09 percent until the first Emergency Board hearing of 1993 and 1.25 percent, thereafter.

(k) Signature of the individual completing the report.

(4) The monthly report and all landing fees due shall be sent to the Department on or before the 20th of each month for the preceding calendar month. Landing fees are delinquent if not received or postmarked within 20 days after the end of the calendar month. A penalty charge of \$5 or five percent of the landing fees due, whichever is larger, shall be assessed along with a one percent per month interest charge on any delinquent landing fee payments.

Stat. Auth.: ORS 506.119 & 508.530

Stats. Implemented: ORS 506.129, 508.535 & 508.550

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0140; FWC 48-1978, f. & ef. 9-27-78, Renumbered from 635-036-0585; FWC 17-1981(Temp), f. & ef. 5-22-81; FWC 25-1981(Temp), f. 7-8-81, ef. 7-15-81; FWC 27-1981, f. & ef. 8-14-81; FWC 1-1986, f. & ef. 1-10-86; FWC 4-1987, f. & ef. 2-6-87; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-92, FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; FWC 5-1993, f. 1-22-93, cert. ef. 1-25-93; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 118-2005(Temp), f. & cert. ef. 10-10-05 thru 12-31-05; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2008(Temp), f. & cert. ef. 7-10-08 thru 12-31-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 70-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; DFW 73-2009(Temp), f. 6-24-09, cert. ef. 6-25-09 thru 12-21-09; Administrative correction 12-23-09; DFW 39-2010(Temp), f. 3-30-10, cert. ef. 4-1-10 thru 9-27-10; DFW 47-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 10-23-10

635-006-0225

Purchase, Record, Report, and Sale of Steelhead Trout and Walleye from Treaty Indian Fisheries

(1) Steelhead trout and walleye lawfully taken by treaty Indians during commercial fishing seasons may be purchased by licensed wholesale fish dealers, canners, or buyers pursuant to restrictions set forth in sections (2) through (5) of this rule. In addition, steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased and/or possessed by any individual pursuant to restrictions set forth in section (6) of this rule.

(2) The wholesale fish dealer, canner, or buyer, shall at the time of purchase, enter the purchase of steelhead trout and walleye on a Department Columbia River Fish Receiving Ticket. Information required to be entered on the Fish Receiving Ticket shall be the same as required by OAR 635-006-0210 and 635-006-0212 for each purchase of food fish.

(3) The record keeping and reporting requirements for food fish as set forth in OAR 635-006-0200 through 635-006-0215 shall apply to all steelhead trout and walleye purchases. The round weights of all gilled and gutted steelhead trout must be converted by the licensed wholesale fish dealer, canner, or buyer by using the conversion factor listed in OAR 635-006-0215 for Tribal Columbia River salmon and steelhead trout.

(4) In addition to the records required in connection with the purchase of steelhead trout, and walleye, a record of all sales of steelhead trout and walleye shall be maintained by licensed wholesale fish dealers, canners, or buyers for a period of three years and shall be subject to inspection by the Department, the Director's authorized agent or the Oregon State Police. Such record of sales shall include as a minimum:

(a) Name and address of each person to whom either steelhead or walleye are sold;

(b) Quantity in pounds of each sale identified as whole or round weight or dressed weight;

(c) Date of each delivery.

(5) It is *unlawful* for any wholesale fish dealer, canner, or buyer in possession of legally purchased steelhead trout or walleye from treaty Indians to sell or distribute such fish in Oregon except to another wholesale fish dealer, canner, or buyer.

(6) Steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased from a treaty Indian and/or possessed by any individual so long as said fish are accompanied by a written document listing treaty Indian taker's name, tribal enrollment number, number of fish, approximate weight of each fish, date and location where taken, date of sale, and purchaser's name. It is *unlawful* for any individual other than a treaty Indian to sell steelhead trout or walleye. The provisions in this section (6) apply to individuals other than licensed wholesale fish dealers, canners and buyers.

Stat. Auth.: ORS 506.119, 508.530 & 509.031

Stats. Implemented: ORS 498.022, 506.129, 508.535 & 508.550

Hist.: FWC 39, f. & ef. 1-23-76, Renumbered from 625-040-0150, Renumbered from 635-036-0595; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 41-1995, f. 5-23-95, cert. ef. 5-24-95; FWC 51-1997(Temp), f. & cert. ef. 8-27-97; DFW 73-1998, f. & cert. ef. 8-28-98; DFW 32-2008(Temp), f. & cert. ef. 4-1-08 thru 9-27-08; DFW 79-2008(Temp), f. & cert. ef. 7-10-08 thru 12-31-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 70-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; Administrative correction 12-23-09; DFW 47-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 10-23-10

Rule Caption: Allow Sales of Fish Caught During Columbia River Treaty Tribal Spring-Summer Salmon Fisheries.

Adm. Order No.: DFW 48-2010(Temp)

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-27-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-041-0076

Subject: This amended rule allows the sales of fish caught in the Treaty Tribal spring Chinook salmon fisheries in the Columbia River mainstem and tributaries beginning at 6:00 a.m. Tuesday, April 27, 2010.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0076

Spring-Summer Salmon Season

(1) Commercial sales of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River and the Yakama, Warm Springs and Umatilla tribal subsistence fisheries below Bonneville Dam (bank fishing only) are allowed beginning 6:00 a.m. Tuesday, April 27, 2010 until further notice.

(a) Allowable sales include Chinook, steelhead, sockeye, coho, walleye, shad, yellow perch, bass and carp. Sturgeon may not be retained in the tribal fisheries below Bonneville Dam. Fish may NOT be sold on USACE Property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(b) Gear is restricted to subsistence fishing gear:

(A) In Zone 6: hoopnets, dipnets and rod and reel with hook-and-line are allowed; and

(B) Below Bonneville Dam: hoopnets, dipnets, spears, gaffs, clubs, fouling hooks and rod and reel with hook-and-line are allowed.

(c) Sturgeon caught below Bonneville Dam may not be sold or retained. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(d) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect. Closed areas downstream of Bonneville Dam, are as set forth in OAR 635-041-0015 and remain in effect.

(2) Commercial sales of gill net caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 6:00 a.m. Tuesday, April 27 through 6:00 p.m. Thursday, April 29, 2010 (60 hours).

ADMINISTRATIVE RULES

- (a) No minimum mesh size restriction is in effect.
- (b) Allowable sales include Chinook, steelhead, walleye, shad, yellow perch, bass and carp.

(c) Sturgeon may not be sold. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(d) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect.

(3) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; and Big White Salmon River are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods and concurrent with periods when sales from Zone 6 platform and hook-and-line fisheries are allowed.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10

Rule Caption: All Recreational Fishing Closed Between Upper and Lower Ends of Sand Island and Oregon Shoreline.

Adm. Order No.: DFW 49-2010(Temp)

Filed with Sec. of State: 4-27-2010

Certified to be Effective: 4-29-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-023-0095, 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: This amended rule closes the area between the upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline to all fishing. This shallow slough at Rooster Rock State Park has attracted hundreds of anglers in the past few weeks and high catch rates at this site were putting the rest of the Wauna to Bonneville sturgeon season at risk. Revisions are consistent with action taken April 26, 2010 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0095

Sturgeon Season

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River 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 mainstem Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam, excluding the lower Willamette River upstream to Willamette Falls and Multnomah Channel, is open to the retention of white sturgeon with a fork length of 38-54 inches, three days per week, Thursdays through Saturdays, during the following periods:

- (a) January 1 through July 31; and
- (b) October 1 through December 31.

(3) The retention of white sturgeon in the area identified in section (2) of this rule is prohibited August 1 through September 30.

(4) The Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of white sturgeon seven days per week during the following periods:

- (a) January 1 through April 30; and
- (b) May 22 through June 26 (or until guideline is met).

(5) The retention of white sturgeon in the area identified in section (4) of this rule is prohibited May 1 through May 21, and from June 27 through December 31.

(6) During the fishing period as identified in subsection (4)(a) of this rule, only white sturgeon with a fork length of 38-54 inches may be retained.

(7) During the fishing period as identified in subsection (4)(b) of this rule, only white sturgeon with a fork length of 41-54 inches may be retained.

(8) Angling for sturgeon is prohibited from:

(a) Between the upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline (slough at Rooster Rock State Park) from April 29 through July 31, 2010;

(b) Bonneville Dam downstream to a line crossing the Columbia River from Navigation Marker 82 on the Oregon shore through the upstream exposed end of Skamania Island, continuing in a straight line to Washington shore during May 1 through August 31;

(c) From Highway 395 Bridge upstream to McNary Dam; and

(d) From the west end of the grain silo at Rufus upstream to John Day Dam during May 1 through July 31.

(9) Retention of green sturgeon is prohibited all year in all areas.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; 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 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10

635-023-0125

Spring Sport Fishery

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River 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 Columbia River is open: From March 16 through May 31, from the Tower Island power lines upstream to McNary Dam plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines, 7 days per week.

(3) The following restrictions apply to the season(s) described in section 2(a):

(a) Adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead may be retained.

(b) Effective March 1 to May 15, the mainstem Columbia River, downstream of Bonneville Dam, will be open for retention of adipose fin-clipped steelhead and shad only during days and seasons open for retention of adipose fin-clipped spring Chinook.

(c) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(d) Effective March 1, for the area downstream of Bonneville Dam, catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead may be retained per day, only one of which may be a Chinook. Catch limits for jacks and all other permanent regulations remain in effect as per the **2010 Oregon Sport Fishing Regulations**.

(e) Effective April 29 through July 31, 2010 the area between the upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline is closed to angling for all species.

(f) Effective April 24 through June 15, 2010 the Youngs Bay and Blind Slough/Knappa Slough Select Area fishing areas as described in the

ADMINISTRATIVE RULES

2010 Oregon Sport Fishing Regulations pamphlet will be closed to angling for salmon and steelhead.

(4) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line to McNary Dam from February 15 through June 15 it is *unlawful* when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; 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 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10

Rule Caption: The Dalles Pool Recreational Sturgeon Fishery Closes May 6, 2010.

Adm. Order No.: DFW 50-2010(Temp)

Filed with Sec. of State: 4-29-2010

Certified to be Effective: 5-6-10 thru 11-1-10

Notice Publication Date:

Rules Amended: 635-023-0095

Rules Suspended: 635-023-0095(T)

Subject: Amended rule closes the non-Indian white sturgeon recreational retention fishery in The Dalles Pool effective 12:01 a.m. Thursday May 6, 2010. Attainment of the pre-season harvest guideline for white sturgeon in The Dalles Pool is expected to occur by the closure date and time. Rule revisions are consistent with action taken April 28, 2010 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0095

Sturgeon Season

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River 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 mainstem Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam, excluding the lower Willamette River upstream to Willamette Falls and Multnomah Channel, is open to the retention of white sturgeon with a fork length of 38-54 inches, three days per week, Thursdays through Saturdays, during the following periods:

(a) January 1 through July 31; and

(b) October 1 through December 31.

(3) The retention of white sturgeon in the area identified in section (2) of this rule is prohibited August 1 through September 30.

(4) The Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of white sturgeon seven days per week during the following periods:

(a) January 1 through April 30; and

(b) May 22 through June 26 (or until guideline is met).

(5) The retention of white sturgeon in the area identified in section (4) of this rule is prohibited May 1 through May 21, and from June 27 through December 31.

(6) During the fishing period as identified in subsection (4)(a) of this rule, only white sturgeon with a fork length of 38-54 inches may be retained.

(7) During the fishing period as identified in subsection (4)(b) of this rule, only white sturgeon with a fork length of 41-54 inches may be retained.

(8) The Columbia River upstream from Bonneville Dam:

(a) Effective 12:01 a.m. Sunday, February 21, 2010 the retention of white sturgeon in the Bonneville Pool is prohibited.

(b) Effective 12:01 a.m. Monday, March 1, 2010 the retention of white sturgeon in John Day Pool is prohibited.

(c) Effective 12:01 a.m. Thursday, May 6, 2010 the retention of white sturgeon in The Dalles Pool is prohibited.

(9) Angling for sturgeon is prohibited from:

(a) Between the upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline (slough at Rooster Rock State Park) from April 29 through July 31, 2010;

(b) Bonneville Dam downstream to a line crossing the Columbia River from Navigation Marker 82 on the Oregon shore through the upstream exposed end of Skamania Island, continuing in a straight line to the Washington shore during May 1 through August 31;

(c) From Highway 395 Bridge upstream to McNary Dam May 1 through July 31; and

(d) From the west end of the grain silo at Rufus upstream to John Day Dam during May 1 through July 31.

(10) Retention of green sturgeon is prohibited all year in all areas.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; 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 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 50-2010(Temp), f. 4-29-10, cert. ef. 5-6-10 thru 11-1-10

Rule Caption: Allow Sales of Fish Caught During Columbia River Treaty Tribal Spring-Summer Salmon Fisheries Extended.

Adm. Order No.: DFW 51-2010(Temp)

Filed with Sec. of State: 4-29-2010

Certified to be Effective: 4-29-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-041-0076

Rules Suspended: 635-041-0076(T)

Subject: This amended rule allows the sales of fish caught in the Treaty Tribal spring Chinook salmon fisheries in the Columbia River mainstem and tributaries to be extended by an additional 18 hours beginning at 6:00 p.m. Thursday, April 29, 2010. Due to high wind conditions, tribal fishermen requested an additional 18-hour period for retrieval of their gillnets from the Columbia River. Revisions are consistent with action taken April 29, 2010 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

Rules Coordinator: Therese Kucera—(503) 947-6033

ADMINISTRATIVE RULES

635-041-0076

Spring–Summer Salmon Season

(1) Commercial sales of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River and the Yakama, Warm Springs and Umatilla tribal subsistence fisheries below Bonneville Dam (bank fishing only) are allowed beginning 6:00 a.m. Tuesday, April 27, 2010 until further notice.

(a) Allowable sales include Chinook, steelhead, sockeye, coho, wall-eye, shad, yellow perch, bass and carp. Sturgeon may not be retained in the tribal fisheries below Bonneville Dam. Fish may NOT be sold on USACE Property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(b) Gear is restricted to subsistence fishing gear:

(A) In Zone 6: hoopnets, dipnets and rod and reel with hook-and-line are allowed; and

(B) Below Bonneville Dam: hoopnets, dipnets, spears, gaffs, clubs, fouling hooks and rod and reel with hook-and-line are allowed.

(c) Sturgeon caught below Bonneville Dam may not be sold or retained. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(d) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect. Closed areas downstream of Bonneville Dam, are as set forth in 635-041-0015 and remain in effect.

(2) Commercial sales of gill net caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 6:00 a.m. Tuesday, April 27 through 12:00 noon Friday, April 30, 2010 (78 hours).

(a) No minimum mesh size restriction is in effect.

(b) Allowable sales include Chinook, steelhead, walleye, shad, yellow perch, bass and carp.

(c) Sturgeon may not be sold. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(d) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect.

(3) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; and Big White Salmon River are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods and concurrent with periods when sales from Zone 6 platform and hook-and-line fisheries are allowed.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10

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Rule Caption: Thief Valley Reservoir Sport Game Fish Harvest Opportunity.

Adm. Order No.: DFW 52-2010(Temp)

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-1-10 thru 9-30-10

Notice Publication Date:

Rules Amended: 635-021-0090

Subject: This amended rule liberalizes trout catch limits and removes all length requirements for trout in Thief Valley Reservoir. Due to low winter precipitation, it is anticipated the reservoir will be drained of storage water sometime this summer. When the reservoir is drained or reduced to very low storage levels, many trout in the reservoir will die due to lack of water, high water temperatures and/or

low dissolved oxygen. These amendments provide anglers the opportunity to harvest many of these trout before they are lost.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-021-0090

Inclusions and Modifications

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Southeast 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) Thief Valley Reservoir is open to angling for all game fish species from May 1 through September 30, 2010 with the following restrictions:

(a) The daily limit for trout is 15 fish;

(b) There are no minimum length requirements for trout; and

(c) All other General Statewide and Southeast Zone regulations, as provided in the **2010 Oregon Sport Fishing Regulations**, remain in effect.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 183.325, 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; 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 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; 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 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09; Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10

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Rule Caption: Authorized Commercial Fishing Periods for the Columbia River Select Area Spring Fisheries.

Adm. Order No.: DFW 53-2010(Temp)

Filed with Sec. of State: 5-4-2010

Certified to be Effective: 5-4-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

Rules Suspended: 635-042-0145(T), 635-042-0160(T), 635-042-0170(T), 635-042-0180(T)

Subject: These amended rules authorize fishing periods in the spring non-Indian commercial Select Areas of the Columbia River. Modifications are consistent with the action taken May 4, 2010 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A); the spring fishery, paragraph (B); and summer fishery, paragraph (C), as follows:

(A) Winter Season:

(i) Entire Youngs Bay: Sunday, Tuesday, Wednesday and Thursday nights from February 21 through February 26, 2010 (4 nights) starting at 6:00 p.m. to 6:00 a.m. (12 hours); from 12:00 noon Sunday February 28 through 6:00 a.m. Monday March 1, 2010 (18 hours); from 12:00 noon Tuesday March 2 through 6:00 a.m. Wednesday March 3, 2010 (18 hours); from 12:00 noon Thursday March 4 through 6:00 a.m. Friday March 5, 2010 (18 Hours); from 12:00 noon Sunday March 7 through 6:00 a.m. Monday March 8, 2010 (18 hours); 6:00 p.m. Wednesday March 10

ADMINISTRATIVE RULES

through 6:00 a.m. Thursday March 11, 2010 (12 hours); and 6:00 p.m. Sunday March 14 to 6:00 a.m. Monday March 15, 2010 (12 hours).

(ii) Upstream of old Youngs Bay Bridge: 6:00 p.m. Sunday March 21 to 6:00 a.m. Monday March 22, 2010 (12 hours); 6:00 p.m. Thursday March 25 to 6:00 a.m. Friday March 26, 2010 (12 hours); 6:00 a.m. to 10:00 a.m. Monday March 29, 2010 (4 hours).

(iii) Walluski Area: None.

(B) Spring Season: Entire Youngs Bay: 11:30 a.m. to 3:30 p.m. Wednesday, May 5, 2010 (4 hours); and 1:00 p.m. to 5:00 p.m. Friday, May 7, 2010 (4 hours).

(b) The fishing areas for the winter, spring and summer fisheries are:

(A) From February 21 through March 15 and from April 15 through July 30, 2010, the fishing area is identified as the waters of Youngs Bay with the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(B) From May 4 through May 7, 2010, the fishing area extends to the upper boundary at a line from the posted sign on the shore of the Youngs River to the point of land at the confluence of the Youngs and Klaskanine rivers to the posted sign on the shore of the Klaskanine River.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is *unlawful* to use a gill net having a mesh size that is less than 7-inches during the winter season. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches during the spring and summer seasons.

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(3) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. During the fishing periods identified in (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & cert. ef. 8-22-79; FWC 28-1980, f. & cert. ef. 6-23-80; FWC 42-1980(Temp), f. & cert. ef. 8-22-80; FWC 30-1981, f. & cert. ef. 8-14-81; FWC 42-1981(Temp), f. & cert. ef. 11-5-81; FWC 54-1982, f. & cert. ef. 8-17-82; FWC 37-1983, f. & cert. ef. 8-18-83; FWC 61-1983(Temp), f. & cert. ef. 10-19-83; FWC 42-1984, f. & cert. ef. 8-20-84; FWC 39-1985, f. & cert. ef. 8-15-85; FWC 37-1986, f. & cert. ef. 8-11-86; FWC 72-1986(Temp), f. & cert. ef. 10-31-86; FWC 64-1987, f. & cert. ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. & cert. ef. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. & cert. ef. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. & cert. ef. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. & cert. ef. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. & cert. ef. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. & cert. ef. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. & cert. ef. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. & cert. ef. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. & cert. ef. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. & cert. ef. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. & cert. ef. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. & cert. ef. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. & cert. ef. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. & cert. ef. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. & cert. ef. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; FWC 18-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. & cert. ef. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. & cert. ef. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. & cert. ef. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. & cert. ef. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. & cert. ef. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. & cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. & cert. ef. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. & cert. ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-15-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. & cert. ef. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. & cert. ef. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. & cert. ef. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; FWC 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef.

10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. & cert. ef. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. & cert. ef. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. & cert. ef. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. & cert. ef. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. & cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. & cert. ef. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. & cert. ef. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & cert. ef. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. & cert. ef. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. & cert. ef. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. & cert. ef. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; FWC 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. & cert. ef. 9-9-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. & cert. ef. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. & cert. ef. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. & cert. ef. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. & cert. ef. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. & cert. ef. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. & cert. ef. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the spring fishery in paragraphs (1)(a)(A) or (1)(a)(B) of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in Blind Slough and Knappa Slough in paragraph (B). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough Only: Sunday nights beginning Sunday, February 21 through Sunday, March 1, 2010 (2 nights); Wednesday and Sunday nights from March 3 through March 29, 2010 (8 nights); and Sunday night April 4 (1 night).

(B) Blind and Knappa Sloughs: Tuesday and Thursday nights from 9:00 p.m. until 5:00 a.m. the following morning (8 hours), beginning Tuesday, May 4 through Friday, May 7, 2010 (2 nights).

(b) The fishing areas for the winter and springs seasons are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the periods from May 4 through May 7, 2010 identified above in (1)(a)(B), the Knappa Slough fishing area extends from a line between the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore (fall boundary).

(c) Gear restrictions are as follows:

(A) During the winter fishery, outlined above in (1)(a)(A), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is less than 7-inches.

(B) During the spring fishery, outlined above in (1)(a)(B), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches.

(2) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (1)(a)(A) and (1)(a)(B) the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

ADMINISTRATIVE RULES

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06, cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; 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 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10

635-042-0170

Tongue Point Basin and South Channel

(1) Tongue Point includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facility through navigation marker #6 to Mott Island (new spring lower dead-line), a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the Oregon shore.

(2) South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker "10" thence northwesterly to a marker on Burnside Island defining the terminus of South Channel.

(3)(a) Salmon, shad and white sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are:

(b) Spring Season: From 9:00 p.m. Thursday, May 6 to 5:00 a.m. Friday, May 7, 2010 (8 hours).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is

more than 9.75-inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored on boats.

(5) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in section (3)(a) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 29-2010(Temp), f. 3-9-10, cert. ef. 4-19-10 thru 6-12-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon, shad, and white sturgeon may be taken for commercial purposes from the US Coast Guard navigation marker #16 upstream to the Highway 4 Bridge.

(2) The fishing seasons are open:

(a) Winter season: Monday and Wednesday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning February 22 through April 1, 2010 (12 nights).

(b) Spring season: Tuesday and Thursday nights from 9:00 p.m. to 5:00 a.m. (8 hours) beginning May 4 through May 7, 2010 (2 nights).

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(a) During the winter season, outlined above in (2)(a), it is *unlawful* to use a gill net having a mesh size that is less than 2-inches;

(b) During the spring season, outlined above in (2)(b) it is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches.

(4) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (2)(a) and (2)(b) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW

ADMINISTRATIVE RULES

124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; 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 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; DFW 112-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 10-30-09; DFW 121-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; Administrative correction 11-19-09; DFW 16-2010(Temp), f. 2-19-10, cert. ef. 2-22-10 thru 6-10-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10

Rule Caption: Sport Chinook Fisheries on the Imnaha and Wallowa Rivers.

Adm. Order No.: DFW 54-2010(Temp)

Filed with Sec. of State: 5-6-2010

Certified to be Effective: 5-22-10 thru 9-1-10

Notice Publication Date:

Rules Amended: 635-019-0090

Subject: This amended rule allows recreational anglers opportunity to harvest adipose fin-clipped adult and jack Chinook salmon, which are in excess of the Department's hatchery production needs, in the Imnaha and Wallowa rivers. These fisheries are scheduled for the period from Saturday, May 22 through Sunday, July 11, 2010.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-019-0090

Inclusions and Modifications

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Northeast 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 Imnaha River from the mouth to Summit Creek Bridge (River Mile 45) is open to angling for adipose fin-clipped adult Chinook salmon from May 22 to July 11, 2010.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the **2010 Oregon Sport Fishing Regulations**, remain in effect.

(3) The Wallowa River from a deadline at the lower end of Minam State Park upstream to the confluence with the Lostine River is open to angling for adipose fin-clipped adult Chinook salmon from May 22 to July 11, 2010.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the **2010 Oregon Sport Fishing Regulations**, remain in effect.

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

Stat. Auth.: ORS 183.325, 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; 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 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp), f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-

2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; 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 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp), f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-11-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10

Rule Caption: Recreational Fishing for Salmon and Steelhead In Columbia River Mainstem Re-Opens.

Adm. Order No.: DFW 55-2010(Temp)

Filed with Sec. of State: 5-7-2010

Certified to be Effective: 5-8-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: This amended rule re-opens the Youngs Bay, Blind and Knappa sloughs, and Deep River Select Area fishing areas of the Columbia River to recreational fishers, effective May 8, 2010. Rule modifications also close the mainstem Columbia River to recreational fishing for salmon and steelhead in the area from the Tower Island power lines upstream to McNary Dam, plus the Oregon and Washington banks from Bonneville Dam upstream to the Tower Island power lines, effective May 10, 2010. Revisions are consistent with action taken May 7, 2010 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0125

Spring Sport Fishery

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River 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 Columbia River is open: From March 16 through May 9, 2010, from the Tower Island power lines upstream to McNary Dam, plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines, 7 days per week.

(3) The following restrictions apply to the season(s) described in section 2(a):

(a) Adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead may be retained.

(b) Effective March 1 to May 15, the mainstem Columbia River, downstream of Bonneville Dam, will be open for retention of adipose fin-clipped steelhead and shad only during days and seasons open for retention of adipose fin-clipped spring Chinook.

(c) Effective 12:01 a.m. Monday May 10, 2010 the retention of salmon and steelhead in the Columbia River from the Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to McNary Dam plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines will be prohibited.

(d) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(e) Effective March 1, for the area downstream of Bonneville Dam, catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead may be retained per day, only one of which may be a Chinook. Catch limits for jacks and all other permanent regulations remain in effect as per the **2010 Oregon Sport Fishing Regulations**.

(f) Effective April 29 through July 31, 2010 the area between the upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline is closed to angling for all species.

ADMINISTRATIVE RULES

(g) Effective April 24 through May 7, 2010 the Youngs Bay, Deep River, and Blind Slough/Knapka Slough Select Area fishing areas, as described in the **2010 Oregon Sport Fishing Regulations** pamphlet, will be closed to angling for salmon and steelhead.

(h) Effective 12:01 a.m. Saturday, May 8, 2010, the Youngs Bay, Deep River, and Blind Slough/Knapka Slough Select Area fishing areas, as described in the **2010 Oregon Sport Fishing Regulations** pamphlet, will re-open to angling for salmon and steelhead.

(4) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line to McNary Dam from February 15 through June 15 it is *unlawful* when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; 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 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10

Rule Caption: Columbia River Treaty Indian Spring-Summer Salmon Commercial Gillnet Season Adopted.

Adm. Order No.: DFW 56-2010(Temp)

Filed with Sec. of State: 5-10-2010

Certified to be Effective: 5-11-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-041-0076

Rules Suspended: 635-041-0076(T)

Subject: This amended rule allows the sales of fish caught in the Treaty Indian spring Chinook salmon commercial gill net fisheries in the Columbia River mainstem and tributaries beginning at 6:00 a.m. Tuesday, May 11 through 6:00 p.m. Friday, May 14, 2010 (3.5 days). Revisions are consistent with action taken May 10, 2010 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0076

Spring-Summer Salmon Season

(1) Commercial sales of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River and the Yakama, Warm Springs and Umatilla tribal subsistence fisheries below Bonneville Dam (bank fishing only) are allowed beginning 6:00 a.m. Tuesday, April 27, 2010 until further notice.

(a) Allowable sales include Chinook, steelhead, sockeye, coho, walleye, shad, yellow perch, bass and carp. Sturgeon may not be retained in the tribal fisheries below Bonneville Dam. Fish may NOT be sold on USACE Property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(b) Gear is restricted to subsistence fishing gear:

(A) In Zone 6: hoopnets, dipnets and rod and reel with hook-and-line are allowed; and

(B) Below Bonneville Dam: hoopnets, dipnets, spears, gaffs, clubs, fouling hooks and rod and reel with hook-and-line are allowed.

(c) Sturgeon caught below Bonneville Dam may not be sold or retained. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(d) Salmon, steelhead, walleye, shad, carp, bass and yellow perch landed during an open commercial fishing period may be sold at any time.

(e) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect. Closed areas downstream of Bonneville Dam, are as set forth in OAR 635-041-0015 and remain in effect.

(2) Commercial sales of gill net caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 6:00 a.m. Tuesday, May 11 through 6:00 p.m. Friday, May 14, 2010 (3.5 days).

(a) No minimum mesh size restriction is in effect.

(b) Allowable sales include Chinook, steelhead, walleye, shad, yellow perch, bass and carp.

(c) Sturgeon may not be sold. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(d) Salmon, steelhead, walleye, shad, carp, bass and yellow perch landed during an open commercial fishing period may be sold at any time.

(e) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect.

(3) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; and Big White Salmon River are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods and concurrent with periods when sales from Zone 6 platform and hook-and-line fisheries are allowed.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 6-7-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10

Rule Caption: Commercial Gillnet Fishing Periods for Columbia River Select Area Spring Fisheries Authorized

Adm. Order No.: DFW 57-2010(Temp)

Filed with Sec. of State: 5-11-2010

Certified to be Effective: 5-11-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

Rules Suspended: 635-042-0145(T), 635-042-0160(T), 635-042-0170(T), 635-042-0180(T)

Subject: These amended rules authorize additional fishing periods in the spring non-Indian commercial Select Areas of the Columbia River. Modifications are consistent with the action taken May 10, 2010 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A); the spring fishery, paragraph (B); and summer fishery, paragraph (C), as follows:

(A) Winter Season:

ADMINISTRATIVE RULES

- (i) Entire Youngs Bay: None scheduled.
- (ii) Upstream of old Youngs Bay Bridge: None scheduled.
- (iii) Walluski Area: None scheduled.

(B) Spring Season:

(i) Entire Youngs Bay: From 7:00 p.m. Tuesday, May 11 through 12:00 noon Friday May 14, 2010; 12:00 noon Monday May 17 through 12:00 noon Friday May 21, 2010; 12:00 noon Monday May 24 through 12:00 noon Friday May 28, 2010; 12:00 noon Monday May 31 through 12:00 noon Friday June 4, 2010; 12:00 noon Monday June 7, through 12:00 noon Friday June 11, 2010.

(b) The fishing areas for the winter, spring and summer fisheries are:

(A) From February 21 through March 15 and from April 15 through May 10, 2010, the fishing area is identified as the waters of Youngs Bay with the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(B) From May 11 through June 11, 2010, the fishing area extends to the upper boundary at a line from the posted sign on the shore of the Youngs River to the point of land at the confluence of the Youngs and Klaskanine rivers to the posted sign on the shore of the Klaskanine River.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is unlawful to use a gill net having a mesh size that is less than 7-inches during the winter season. It is unlawful to use a gill net having a mesh size that is more than 9.75-inches during the spring and summer seasons.

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(3) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. During the fishing periods identified in (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & cert. ef. 8-22-79; FWC 28-1980, f. & cert. ef. 6-23-80; FWC 42-1980(Temp), f. & cert. ef. 8-22-80; FWC 30-1981, f. & cert. ef. 8-14-81; FWC 42-1981(Temp), f. & cert. ef. 11-5-81; FWC 54-1982, f. & cert. ef. 8-17-82; FWC 37-1983, f. & cert. ef. 8-18-83; FWC 61-1983(Temp), f. & cert. ef. 10-19-83; FWC 42-1984, f. & cert. ef. 8-20-84; FWC 39-1985, f. & cert. ef. 8-15-85; FWC 37-1986, f. & cert. ef. 8-11-86; FWC 72-1986(Temp), f. & cert. ef. 10-31-86; FWC 64-1987, f. & cert. ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. & cert. ef. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. & cert. ef. 8-19-90; FWC 86-1991, f. & cert. ef. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. & cert. ef. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. & cert. ef. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. & cert. ef. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. & cert. ef. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. & cert. ef. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. & cert. ef. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. & cert. ef. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. & cert. ef. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. & cert. ef. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. & cert. ef. 3-1-96; FWC 37-1996(Temp), f. & cert. ef. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. & cert. ef. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 18-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. & cert. ef. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. & cert. ef. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. & cert. ef. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. & cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. & cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & cert. ef. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & cert. ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. & cert. ef. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. & cert. ef. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. & cert. ef. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef.

10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. & cert. ef. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. & cert. ef. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. & cert. ef. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. & cert. ef. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. & cert. ef. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. & cert. ef. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. & cert. ef. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & cert. ef. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. & cert. ef. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. & cert. ef. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. & cert. ef. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. & cert. ef. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. & cert. ef. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. & cert. ef. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. & cert. ef. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. & cert. ef. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. & cert. ef. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. & cert. ef. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the spring fishery in paragraphs (1)(a)(A) or (1)(a)(B) of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in Blind Slough and Knappa Slough in paragraph (B). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough Only: None scheduled.

(B) Blind Slough and Knappa Sloughs: 7:00 p.m. Tuesday, May 11 through 7:00 a.m. Wednesday, May 12, 2010 (12 hours); and Monday and Thursday nights from 7:00 p.m. until 7:00 a.m. the following morning, beginning 7:00 p.m. Thursday, May 13 through 7:00 a.m. Friday, June 11, 2010 (9 nights).

(b) The fishing areas for the winter and springs seasons are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the periods from May 11 through June 11, 2010 identified above in (1)(a)(B), the Knappa Slough fishing area extends from a line between the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore (fall boundary).

(c) Gear restrictions are as follows:

(A) During the winter fishery, outlined above in (1)(a)(A), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is less than 7-inches.

(B) During the spring fishery, outlined above in (1)(a)(B), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 9.75-inches.

(2) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (1)(a)(A) and (1)(a)(B) the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

ADMINISTRATIVE RULES

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; 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 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10

635-042-0170

Tongue Point Basin and South Channel

(1) Tongue Point includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facility through navigation marker #6 to Mott Island (new spring lower dead-line), a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the Oregon shore.

(2) South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker "10" thence northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel.

(3) Salmon, shad and white sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are:

(a) Spring Season: From 7:00 p.m. Tuesday, May 11 through 7:00 a.m. Wednesday, May 12, 2010 (12 hours); and Monday and Thursday nights from 7:00 p.m. until 7:00 a.m. the following morning, beginning 7:00 p.m. Thursday, May 13 through 7:00 a.m. Friday, June 11, 2010 (9 nights)

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 9.75-inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored on boats.

(5) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in section (3)(a) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(6) Through May 14, 2010, transportation or possession of fish outside the fishing area is unlawful until ODFW staff has biologically sampled individual catches at the sampling station established at the MERTS dock. After sampling, fishers will be issued a transportation permit by Department staff. Beginning May 17, 2010, fishers are required to call (503) 428-0518 and leave a message including name, catch, and where and when the fish will be sold.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-9-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 29-2010(Temp), f. 3-9-10, cert. ef. 4-19-10 thru 6-12-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon, shad, and white sturgeon may be taken for commercial purposes from the US Coast Guard navigation marker #16 upstream to the Highway 4 Bridge.

(2) The fishing seasons are open:

(a) Winter season: None scheduled.

(b) Spring season:

Sunday and Wednesday nights from 7:00 p.m. until 7:00 a.m. the following morning (12 hours) beginning 7:00 p.m. Wednesday, May 12 through 7:00 a.m. Thursday, June 10, 2010 (9 nights).

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(a) During the winter season, outlined above in (2)(a), it is unlawful to use a gill net having a mesh size that is less than 7-inches;

(b) During the spring season, outlined above in (2)(b) it is unlawful to use a gill net having a mesh size that is more than 9.75-inches.

(4) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (2)(a) and (2)(b) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. &

ADMINISTRATIVE RULES

cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; 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 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; DFW 112-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 10-30-09; DFW 121-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; Administrative correction 11-19-09; DFW 16-2010(Temp), f. 2-19-10, cert. ef. 2-22-10 thru 6-10-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10

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Rule Caption: Adopt and amend rules related to Mandatory Hunter Reporting Incentive Tags.

Adm. Order No.: DFW 58-2010(Temp)

Filed with Sec. of State: 5-12-2010

Certified to be Effective: 5-12-10 thru 11-8-10

Notice Publication Date:

Rules Amended: 635-060-0030, 635-065-0015

Rules Suspended: 635-065-0015(T)

Subject: Amend rules to govern the issuance and use of Mandatory Hunter Reporting Incentive Tags as additional hunting tags.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-060-0030

Issuing Tags

(1) The department may, except for bighorn sheep and Rocky Mountain goat, issue tags or permits in excess of the quantity authorized by the commission to resolve documented errors made by the department. The quantity shall not exceed an amount consistent with the management goals of the hunt.

(2) The number of controlled deer and controlled elk tags issued to nonresident applicants shall not exceed five percent of the tags authorized for each hunt. Exception: one nonresident tag may be issued for each hunt when the number of authorized tags is fewer than 35. This number does not affect the tags issued under the Landowner Preference Program (OAR chapter 635, division 075).

(3) Tags will not be issued to a party (residents or nonresidents) when, during the drawing process, the party size exceeds the number of remaining tags.

(4) Youths age 12–17 who are unsuccessful in the first controlled hunt drawing for 100, 200, or 600 series hunts may apply for one guaranteed “first time” tag per series, provided that:

(a) Youths are limited to only one “first time” tag per series in a lifetime.

(b) Within the 200 series, only hunts with antlerless only bag limits are available as “first time” tags.

(c) Hunts are only available as “first time” opportunities as follows: 100 series hunts must have had more than 200 tags available in the first drawing; 200 and 600 series hunts must have had more than 50 tags available in the first drawing.

(d) Applicants shall use forms available in the Oregon Big Game Regulations and applications must be received at the department’s Salem headquarters by September 1, each year.

(e) Persons who were successful in any controlled hunt drawing for 100, 200, or 600 series hunts are never again eligible for “first time” tags in the respective hunt series.

(f) Successful “first time” applicants shall purchase tags at POS vendors by the day before the assigned season begins.

(g) Youths may not receive a “First Time” youth hunt tag in a hunt series if they applied for a point saver option in the primary big game drawing.

(5) Incentive tags for compliance with Mandatory Harvest Reporting requirements. The Fish and Wildlife Commission authorizes the Department to issue hunting tags as incentives to encourage hunters to comply with requirements for harvest reporting. Any hunter who complies with harvest reporting requirements by the specified deadline will be automatically entered in a controlled hunt draw for one Mandatory Hunter Reporting Incentive Tag valid for the upcoming hunting season. Obtaining and using such tags is governed by OAR 635-065-0015(7) and (8).

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 18-1991, f. & cert. ef. 3-12-91; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 108-2002(Temp), f. & cert. ef. 9-26-02 thru 12-31-02; DFW 86-2003(Temp), f. & cert. ef. 8-29-03 thru 9-4-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 58-2010(Temp), f. & cert. ef. 5-12-10 thru 11-8-10

635-065-0015

General Tag Requirements and Limits

(1) Big Game Tags: Any person hunting game mammals for which a tag is required must have on their person a valid tag for the dates, area and species being hunted.

(2) Any person 12 years of age or older may purchase game mammal tags if they possess an adult hunting license.

(3) A person may obtain and possess during an annual hunting season only:

(a) One valid general season black bear tag;

(b) One valid additional general black bear tag valid in management units 20–30;

(c) One valid controlled black bear tag in addition to general season bear tags issued under subsection (a) and (b) above;

(d) One valid 700 series “leftover” controlled bear tag;

(e) One valid cougar (mountain lion) tag;

(f) One valid eastern additional general cougar (mountain lion) tag;

(g) One valid pronghorn antelope tag.

(4) Except as provided in OAR chapter 635, division 090, and except as provided in OAR 635-075-0010, a person may obtain and possess only one of the following tags during an annual hunting season:

(a) One valid deer bow tag;

(b) One valid western Oregon deer tag;

(c) One valid 100 series controlled buck hunt tag;

(d) One valid 600 series controlled antlerless deer tag in addition to one of (4)(a)–(c) and (4)(e);

(e) One valid 100 series “left over” controlled deer tag;

(f) One valid 600 series “left over” controlled deer tag;

(5) Except as provided in OAR chapter 635, division 090, a person may obtain and possess only one of the following tags during an annual hunting season:

(a) One valid Cascade elk tag;

(b) One valid Coast First Season elk tag;

(c) One valid Coast Second Season elk tag;

(d) One valid Rocky Mountain elk — first season tag,

(e) One valid Rocky Mountain elk — second season tag;

(f) One valid elk bow tag;

(g) One valid controlled elk hunt tag;

(6) In addition to the tags described in OAR 635-065-0015(5), a person during an annual hunting season may obtain or possess only one valid 200 series “leftover” controlled elk tag.

(7) In addition to the tags described in OAR 635-065-0015(3), (4), and (5), a person during an annual hunting season may obtain or possess only one valid “Mandatory Hunter Reporting Incentive Tag” per annual hunting season. If the Department awards a hunter such a tag through the controlled hunt draw authorized by OAR 635-060-0030(5), the following requirements will apply:

(a) On or before July 15, 2010 the hunter must inform the Department which species the tag is to be issued for (pronghorn antelope, deer, or elk) and purchase the tag. Tags not purchased by July 15 will be offered to an alternate hunter with a tag sale deadline of July 31, 2010.

ADMINISTRATIVE RULES

(b) Hunting hours, hunt dates, bag limit and hunt area for Mandatory Hunter Reporting Incentive Tags will be the same as those listed in OAR 635-090-150(3) for deer or (4) for elk, or 635-067-0028(2) for pronghorn.

(c) Bag limit: one pronghorn antelope or one deer or one elk.

(d) Oregon Department of Fish and Wildlife employees are not eligible for a Mandatory Hunter Reporting Incentive Tag.

(8) Except as provided in OAR 635-067-0032 thru 635-067-0034, a person may obtain and possess only one bighorn sheep ram tag in a lifetime.

(9) A person may obtain and possess only one Rocky Mountain goat tag in a lifetime.

(10) It is unlawful for any person to issue or to possess any game mammal tag which has been backdated.

(11) Any game mammal tag having an issue date subsequent to the last day authorized for issue of such tag as listed in "Oregon Big Game Regulations" for the current season is a void tag. Exception:

(a) Members of the armed forces returning to the state after the deadline shall be permitted to purchase general season tags for themselves at the Salem headquarters and regional offices of the department.

(b) Notwithstanding the deadlines for tag purchases provided by rule and in the hunting regulation synopses, any person who qualifies to purchase a tag but fails to make the purchase by the deadline, may purchase the tag late if the person

(A) Submits a written affidavit certifying that the person has not yet hunted during the season for which the tag is sought to the Department's Licensing Services Office;

(B) The request must be received by the Department before the end of the season for the particular tag; and

(C) Pays the Department the fee for a duplicate tag, in addition to the usual tag fee.

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 13-1988, f. & cert. ef. 3-10-88; FWC 63-1989, f. & cert. ef. 8-15-89, Renumbered from 635-65-780; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 18-1994, f. & cert. ef. 5-1-94; FWC 4-1995, f. & cert. ef. 1-23-95, cert. ef. 7-1-95; FWC 7-1996, f. & cert. ef. 2-12-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 6-17-97, f. & cert. ef. 6-17-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. & cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 54-2000(Temp), f. & cert. ef. 8-28-00 thru 12-31-00; DFW 82-2000, f. & cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 52-2001(Temp), f. & cert. ef. 6-27-01 thru 12-24-01; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. & cert. ef. 1-1-04; DFW 122-2004, f. & cert. ef. 1-1-05; DFW 128-2005, f. & cert. ef. 1-1-05, cert. ef. 1-1-06; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 106-2009(Temp), f. & cert. ef. 9-2-09 thru 3-1-10; DFW 140-2009, f. & cert. ef. 1-1-10; DFW 26-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; DFW 58-2010(Temp), f. & cert. ef. 5-12-10 thru 11-8-10

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Rule Caption: In-season Actions Implemented by the Federal Government for Commercial Groundfish Fisheries.

Adm. Order No.: DFW 59-2010(Temp)

Filed with Sec. of State: 5-12-2010

Certified to be Effective: 5-12-10 thru 11-7-10

Notice Publication Date:

Rules Amended: 635-004-0019

Rules Suspended: 635-004-0019(T)

Subject: The amended rule adopts in-season actions implemented by the federal government for Pacific ocean commercial groundfish fisheries, including changes to cumulative trip limits.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0019

Inclusions and Modifications

(1) OAR chapter 635, division 004, modifies or is in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart G, West Coast Groundfish Fisheries.**

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G,** provides requirements for commercial groundfish fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the **Code of Federal Regulations.**

(3) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Oceanic and Atmospheric Administration (NOAA), by means of National Marine Fisheries Service, Northwest Region, Public Notice NMFS-SEA-10-02, dated February 24, 2010, announced changes to commercial, recreational and tribal management measures for the Pacific Coast

groundfish fishery effective at 0001 hours (local time) February 26, 2010 including, but not limited to, changes to cumulative trip limits.

(4) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Oceanic and Atmospheric Administration (NOAA), by means of Federal Register/Vol. 75, No. 85/Tuesday May 4, 2010, announced inseason management measures effective May 1, 2010, including, but not limited to, changes to cumulative trip limits.

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

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 76-1999(Temp), f. 9-30-99, cert. ef. 10-1-99 thru 12-31-99; DFW 81-1999(Temp), f. & cert. ef. 10-12-99 thru 12-31-99; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 23-2005(Temp), f. & cert. ef. 4-8-05 thru 10-4-05; DFW 30-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 43-2005(Temp), f. & cert. ef. 5-13-05 thru 10-17-05; DFW 68-2005(Temp), 6-30-05, cert. ef. 7-1-05 thru 12-27-05; DFW 114-2005(Temp), f. 9-30-05, cert. ef. 10-1-05 thru 12-31-05; DFW 125-2005(Temp), f. & cert. ef. 10-19-05 thru 12-31-05; DFW 134-2005(Temp), f. & cert. ef. 11-30-05 thru 12-31-05; DFW 147-2005(Temp), f. 12-28-05, cert. ef. 1-1-06 thru 6-28-06; DFW 8-2006(Temp), f. 2-28-06, cert. ef. 3-1-06 thru 8-25-06; DFW 25-2006(Temp), f. 4-28-06, cert. ef. 5-1-06 thru 10-27-06; DFW 55-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-27-06; DFW 110-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; Administrative Correction 1-16-07; DFW 29-2007(Temp), f. & cert. ef. 5-1-07 thru 10-27-07; DFW 58-2007(Temp), f. 7-18-07, cert. ef. 8-1-07 thru 12-31-07; DFW 106-2007(Temp), f. 10-5-07, cert. ef. 10-6-07 thru 12-31-07; DFW 123-2007(Temp), f. 11-26-07, cert. ef. 11-28-07 thru 12-31-07; DFW 126-2007(Temp), f. & cert. ef. 12-11-07 thru 12-31-07; DFW 41-2008(Temp), f. 4-23-08, cert. ef. 5-1-08 thru 10-27-08; DFW 88-2008(Temp), f. & cert. ef. 8-1-08 thru 12-31-08; DFW 146-2008(Temp), f. & cert. ef. 12-4-08 thru 12-31-08; DFW 1-2009(Temp), f. & cert. ef. 1-5-09 thru 5-1-09; DFW 29-2009(Temp), f. & cert. ef. 3-18-09 thru 5-1-09; DFW 41-2009(Temp), f. 4-29-09, cert. ef. 5-1-09 thru 10-27-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 81-2009(Temp), f. & cert. ef. 7-2-09 thru 12-28-09; DFW 136-2009, f. 10-28-09 thru 12-31-09; DFW 138-2009(Temp), f. & cert. ef. 11-2-09 thru 12-31-09; Administrative correction 1-25-10; DFW 25-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; DFW 59-2010(Temp), f. & cert. ef. 5-12-10 thru 11-7-10

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Rule Caption: Powder River Recreational Spring Chinook Fishery.

Adm. Order No.: DFW 60-2010(Temp)

Filed with Sec. of State: 5-13-2010

Certified to be Effective: 5-22-10 thru 9-30-10

Notice Publication Date:

Rules Amended: 635-021-0090

Rules Suspended: 635-021-0090(T)

Subject: These rule modifications allow the recreational harvest of out-planted spring Chinook salmon in the Powder River from Saturday, May 22 through September 1, 2010. These are salmon returning to Hells Canyon Dam, predominantly the result of smolt releases intended to provide fisheries on the Snake River, where they are trapped. Salmon in excess of the number needed to provide sport fisheries on the Snake River are then transported to the Powder River.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-021-0090

Inclusions and Modifications

(1) **2010 Oregon Sport Fishing Regulations** provide requirements for the Southeast 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) Thief Valley Reservoir is open to angling for all game fish species from May 1 through September 30, 2010 with the following restrictions:

(a) The daily limit for trout is 15 fish;

(b) There are no minimum length requirements for trout; and

(c) All other General Statewide and Southeast Zone regulations, as provided in the **2010 Oregon Sport Fishing Regulations,** remain in effect.

(3) The Powder River is open to angling for spring Chinook salmon from Hughes Lane Bridge near Baker City upstream to Mason Dam from May 22 to September 1, 2010:

(a) The daily bag limit is two (2) adipose fin-clipped Chinook; two daily limits in possession.

(b) All other General, Statewide and Southeast Zone Regulations, as provided in the **2010 Oregon Sport Fishing Regulations,** remain in effect.

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

Stat. Auth.: ORS 183.325, 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; 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 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; 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 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert.

ADMINISTRATIVE RULES

ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09; Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10

Rule Caption: Amend 2010 Willamette Zone Sport Fishing Regulations.

Adm. Order No.: DFW 61-2010

Filed with Sec. of State: 5-14-2010

Certified to be Effective: 5-14-10

Notice Publication Date: 7-1-2009

Rules Amended: 635-017-0090

Subject: This amended rule modifies sport fishing regulations for the Willamette Zone, filed with an incorrect version of the text on December 8, 2009, to restore the text originally adopted by the Oregon Fish and Wildlife Commission on August 7, 2009.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-017-0090

Inclusions and Modifications

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Willamette 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) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; 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 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW

46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; 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 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02, cert. ef. 7-12-02 thru 12-31-02; 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 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10

Rule Caption: Reinstate Consumptive Fisheries for Cutthroat Trout In Yamhill and Tualatin Subbasins.

Adm. Order No.: DFW 62-2010(Temp)

Filed with Sec. of State: 5-14-2010

Certified to be Effective: 5-22-10 thru 11-17-10

Notice Publication Date:

Rules Amended: 635-017-0090

Subject: This amended rule re-instates consumptive fisheries for cutthroat trout in streams of both the Yamhill and Tualatin sub-basins from May 22 through October 31, 2010. These modifications will allow for low-impact trout angling in these areas but will also allow anglers the choice to retain up to two 8-inch trout per day. Currently all streams in the Willamette Zone are catch-and-release only unless dictated under Special Regulations within the 2010 Oregon Sport Fishing Regulations pamphlet. These changes will be presented to the Oregon Fish and Wildlife Commission for consideration for permanent adoption at their August 6, 2010 meeting.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-017-0090

Inclusions and Modifications

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Willamette 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) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

ADMINISTRATIVE RULES

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(3) The Tualatin River (Clackamas/Washington Co.):

(a) From the mouth upstream to the Highway 210 Bridge at Scholls: Open for trout May 22 to October 31; 2 trout per day; 8-inch minimum length; use of bait allowed May 22 to October 31. Open for coho salmon August 1 to October 31.

(b) From Highway 210 Bridge at Scholls upstream to Highway 47 Bridge at Gaston: Open for trout May 22 to October 31; 2 trout per day; 8-inch minimum length; angling restricted to artificial flies and lures. Open for coho salmon August 1 to October 31.

(c) Tualatin River and tributaries upstream from Highway 47 Bridge and Tualatin River Basin tributaries not listed in the **2010 Oregon Sport Fishing Regulations**: Open for trout May 22 to October 31; 2 trout per day; 8-inch minimum length; angling restricted to artificial flies and lures.

(d) All other General Statewide and Willamette Zone regulations, as provided in the **2010 Oregon Sport Fishing Regulations**, remain in effect.

(4) Yamhill River (Yamhill Co.):

(a) From the mouth upstream to the confluence of North and South forks of the Yamhill River: Open to angling for warmwater game fish March 1 to October 31; Open for trout May 22 to October 31; 2 trout per day; 8-inch minimum length; Use of bait allowed March 1 to October 31. Open for coho salmon August 1 to October 31.

(b) South Yamhill River from the confluence with North Yamhill River upstream to the mouth of Rock Creek near the town of Grande Ronde: Open for trout May 22 to October 31; limit 5 trout per day, of which no more than 2 may be non fin-clipped trout; 8-inch minimum length for all trout; angling restricted to artificial flies and lures. Open for coho salmon August 1 to October 31.

(c) South Yamhill River above Rock Creek and all Yamhill, South Yamhill, and North Yamhill rivers tributaries not listed in the **2010 Oregon Sport Fishing Regulations**: Open for trout May 22 to October 31; 2 trout per day; 8-inch minimum length; angling restricted to artificial flies and lures.

(d) All other General Statewide and Willamette Zone regulations, as provided in the **2010 Oregon Sport Fishing Regulations**, remain in effect.

(5) Gales Creek (Tualatin River tributary, Washington Co.):

(a) From the mouth upstream to NW Clapshaw Hill Road in Gales Creek: Open for trout May 22 to October 31; 2 trout per day; 8-inch minimum length; angling restricted to artificial flies and lures. Open for coho salmon August 1 to October 31.

(b) Upstream of NW Clapshaw Hill Road and tributaries not listed in the **2010 Oregon Sport Fishing Regulations**: Open for trout May 22 to October 31; 2 trout per day; 8-inch minimum length; angling restricted to artificial flies and lures.

(c) All other General Statewide and Willamette Zone regulations, as provided in the **2010 Oregon Sport Fishing Regulations**, remain in effect.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; 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 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; 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 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02, cert. ef. 7-12-02 thru 12-31-02; 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 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10

Department of Human Services, Addictions and Mental Health Division: Addiction Services Chapter 415

Rule Caption: Prescribe standards for the operation of adult prison-based Alcohol & Other Drug Treatment Programs.

Adm. Order No.: ADS 2-2010

Filed with Sec. of State: 5-6-2010

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Rules Adopted: 415-057-0000, 415-057-0010, 415-057-0020, 415-057-0030, 415-057-0040, 415-057-0050, 415-057-0060, 415-057-0070, 415-057-0080, 415-057-0090, 415-057-0100, 415-057-0110, 415-057-0120, 415-057-0130, 415-057-0140, 415-057-0150

Rules Repealed: 415-051-0005, 415-051-0080

Subject: These all new rules will prescribe standards for the development and operation of adult prison-based Alcohol and other drugs Treatment Programs for the Department of Corrections (DOC) approved by the Addictions and Mental Health Division.

Rules Coordinator: Richard Luthe—(503) 947-1186

415-057-0000

Purpose

These rules prescribe standards for the development and operation of adult prison-based Alcohol and other drugs Treatment Programs for the Department of Corrections (DOC) approved by the Addictions and Mental Health (AMH) Division.

Stat. Auth.: ORS 409.050, 409.410 & ORS 409.420

Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270

Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0010

Definitions

(1) "Assistant Director" means the Assistant Director of the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS), or their designee.

(2) "ASAM PPC-2R" means the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-related Disorders, Second Edition Revised, April 2001, which is a clinical guide used in matching individuals to appropriate levels of care, and incorporated by reference in these rules.

(3) "Care Coordination" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs. Care coordination includes facilitating communication between the Doc institution transition representatives, family, natural supports, community resources, and involved providers and agencies; organizing, facilitating and participating in team meetings; and providing for continuity of care by creating linkages to and managing transitions between the program and the community.

ADMINISTRATIVE RULES

(4) "Client" means a person receiving services in an Oregon prison-based Alcohol and Other Drugs treatment program under these rules and who has signed a written consent that complies with Section 2.35 of the federal confidentiality regulations (42 CFR Part 2).

(5) "Co-occurring Disorders" or "COD" means co-occurring substance use and mental health disorders.

(6) "Comprehensive Diagnostic Assessment" means the process for obtaining all pertinent information, ancillary and causal factors, as identified by the individual, family and collateral sources used to determine a diagnosis and develop the individualized treatment plan.

(7) "Criminal Risk Factor Assessment" of the Oregon Accountability Model (OAM) means the assessment process implemented by the Oregon DOC. The outcome is a corrections plan for every inmate that is tracked throughout an inmate's incarceration and supervision in the community.

(8) "Criminal Risk Factors" means factors that predict criminal behavior. The risk factors are assessed at DOC central intake and integrated in the corrections plan for each inmate.

(9) "Department of Corrections Prison-Based Alcohol and Other Drugs Treatment Program" means a treatment program for adult inmates of state correctional institutions who are within the last six to twelve months of release from incarceration. The program provides Alcohol and Other Drugs treatment and recovery services and collaborates with partners to ensure a seamless re-entry into the community.

(10) "Division" means the Addictions and Mental Health Division (AMH) of the Department of Human Services (DHS).

(11) "DOC" means the Oregon Department of Corrections.

(12) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders", published by the American Psychiatric Association.

(13) "DSM Five-axis Diagnosis" means the multi-axial diagnosis, consistent with the *Diagnostic and Statistical Manual of Mental Disorders*, resulting from the assessment.

(14) "Evidence Based Practice (EBP)" means clinical Alcohol and Other Drugs treatment practices that are based on generally accepted scientific research. Treatment programs document efforts to assure fidelity to a practice and measure the impact of a practice on the clients, participants and communities.

(15) "Intern or student" means an individual who is supervised by a qualified supervisor defined in section 415-057-0120 of this rule, provides a clinical or non-clinical program service, and who is enrolled in a credentialed or accredited educational program.

(16) "Oregon Accountability Model (OAM)" means the simultaneous, coordinated and efficient implementation of DOC initiatives and projects that provide a foundation for inmates to lead productive lives upon re-entry into the community.

(17) "Oregon Corrections Plan" means the specific activities the inmate performs to learn skills in order to mitigate the risk factors identified through the assessment process.

(18) "Permanent client record" means the official clinical written file for each client containing all information required by these rules. The permanent client record is maintained to demonstrate compliance with these rules.

(19) "Primary Counselor" means a program staff person who is assigned to the client and follows the case throughout the treatment process.

(20) "Program" means the Alcohol and Other Drugs Prison-Based Treatment Program.

(21) "Quality assurance" means the process of objectively and systematically monitoring and evaluating the appropriateness of client care to identify and resolve identified problems.

(22) "Qualified Mental Health Associate (QMHA)" means a person delivering services under the direct supervision of a Qualified Mental Health Professional (QMHP) and meeting the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) A bachelor's degree in a behavioral sciences field or a combination of at least three years relevant work, education, training or experience; and

(b) Who has the competencies necessary to:

(A) Communicate effectively;

(B) Understand mental health assessment, treatment and service terminology and to apply these concepts; and

(C) Provide psychosocial skills development and the ability to implement interventions prescribed in a treatment plan within the scope of his or her practice.

(23) "Qualified Mental Health Professional (QMHP)" means a Licensed Medical Practitioner (LMP) or any other person meeting the following minimum qualifications as documented by the LMHA or designee:

(a) A graduate degree in social work, psychology, a behavioral science field or recreational, art or music therapy; or

(b) A bachelor's degree in nursing and licensed by the State of Oregon; or Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(c) Education and experience demonstrating the competencies to identify precipitating events; gather histories of mental and physical disabilities, recognizing and understanding alcohol and drug use, past mental health services and criminal justice contacts; assessing family, social and work relationships; conducting a mental status examination; documenting a multiaxial DSM diagnosis; writing and supervising a treatment plan; conducting a Comprehensive Mental Health Assessment; and providing individual, family, and group therapy within the scope of his or her practice.

(24) "Responsivity factors" means individual factors that facilitate or interfere with learning and are focused on personal characteristics that regulate an individual's ability and motivation to learn and change behavior.

(25) "Substance related disorders" are defined in DSM criteria as disorders related to taking a drug, including alcohol, to the side effects of a medication, and to a toxin exposure. The disorders include substance dependency and substance abuse, alcohol dependence and alcohol abuse, and substance induced disorders and alcohol induced disorders.

(26) "Supportive Persons" means any person approved by the DOC that the client identifies as being supportive to the recovery process of the client, including but not limited to a spouse, domestic partner, parent, child, relative, mentor, recovery coach, elder, or representative from a faith-based organization or self-help community organization.

(27) "Unusual Incidents" means an incident or circumstance involving any DOC inmate participating in the program that constitutes an immediate threat to the life or health of self, staff, another inmate, private citizen, or to the property of the DOC.

(28) "Treatment" means the specific medical and non-medical therapeutic techniques employed to assist the client in recovering from substance related disorders.

(29) "Volunteer" means an individual who provides an Alcohol and Other Drugs treatment program service or who takes part in an Alcohol and Other Drugs treatment program service and who is not an employee of the program and is not paid for services.

Stat. Auth.: ORS 409.050, 409.410 & 409.420

Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270

Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0020

Program Approval and Variances

(1) In order to receive a Letter of Approval or license from the Division, a program will meet the standards of OAR 415-012-0000 to 415-012-0090 and any other administrative rules applicable to the program.

(2) Requirements and standards for requesting and granting variances or exceptions to these rules for programs are found in OAR 415-012-0090.

(3) The denial, revocation, or suspension of a letter of approval or license for the program may be based on any of the grounds set forth in OAR 415-012-0060.

(4) In addition to the grounds set forth in OAR 415-012-0060, the Assistant Director may deny, revoke, refuse to renew, or suspend a letter of approval or license when he or she determines that the issuance or continuation of the letter of approval or license would be inconsistent with the public interest. In determining the public interest, the assistant Director will consider the following factors, or any one of them, which apply to the applicant, licensee, or any person holding a 5 percent or greater financial interest in the program or which apply to the medical director, program manager, clinical supervisor, or program staff:

(a) Any convictions under any federal or state law relating to any controlled substance or related to such person's involvement in the administration of a state- or federally-funded public assistance or treatment program;

(b) Furnishing of false or fraudulent material in any application for a letter of approval; or

(c) Any other factors relevant to, and consistent with, the public health or safety.

Stat. Auth.: ORS 409.050, 409.410 & 409.420

Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270

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ADMINISTRATIVE RULES

415-057-0030

Administrative Requirements for Treatment Programs

(1) The program will implement written policies and procedures to ensure compliance with these administrative rules, including program operations, quality assurance and reporting procedures. The policies and procedures will describe how the program will deliver treatment that ensures desired outcomes. The Quality Assurance Plan must:

(a) Include a measurement of the proportion of full-time equivalent program staff who are licensed and or certified as defined in this rule;

(b) Have and follow a supervision plan for program staff; and

(c) Have an audit process that includes:

(A) Monitoring treatment groups and program activities to evaluate fidelity and effectiveness;

(B) Reviewing clinical charts to ensure permanent records are accurate, legible and meet documentation requirements set forth in these rules;

(C) Providing a formal mechanism for clients to give input into the delivery of treatment services and program structure that at a minimum includes client satisfaction surveys; and

(D) Providing a written policy and procedure for reporting unusual incidents to the designated DOC administrator and AMH that includes a detailed description of the event, the persons involved and the final resolution of the incident.

(2) The program will have and implement the following written personnel policies and procedures, which are applicable to all program staff, volunteers, and interns or students:

(a) Rules of conduct and standards for ethical practices of program staff, including written procedures to report misconduct to the appropriate authority;

(b) Managing incidents of alcohol and drug use by program staff that, at a minimum, comply with Drug Free Workplace Standards; and

(c) Compliance with the federal and state personnel regulations including the Civil Rights Act of 1964 as amended in 1972, Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Title I of the Americans with Disabilities Act, Oregon civil rights laws related to employment practices, and any subsequent amendments to these laws effective on or before the effective date of these rules. The program will give individualized consideration to all applicants who, with or without reasonable accommodation, can perform the essential functions of the job position.

(3) The program will maintain a personnel record for each program staff documenting applicable qualification standards as described in OAR 415-057-0110 to 0130 and 415-057-0150. The program will maintain the record for a period of three years following the departure of a program staff.

(4) The program receiving public funds must comply with Title 2 of the Americans with Disabilities Act of 1990, 42 USC § 1231 et seq. after July 26, 1992.

(5) The program will maintain malpractice and liability insurance and be able to demonstrate evidence of current compliance with this requirement. Programs operated by a public body will demonstrate evidence of insurance or a self-insurance fund pursuant to ORS 30.282.

(6) The program will:

(a) Comply with federal regulations (42 CFR § 2 and 45 CFR § 205.50) and state statutes including ORS 179.505 and 430.399 pertaining to confidentiality of permanent client records;

(b) Accurately record all information about the client as required by these rules in the permanent client record and unless specified otherwise, within seven days of delivering the service or obtaining the information;

(c) Maintain each permanent client record to assure identification, permanency, accessibility, uniform organization, and completeness of all components required by these rules and in a manner to protect against damage or separation from the permanent client or program record;

(d) Keep all documentation legible and current;

(e) Include the date that the service was provided;

(f) Include the signature and credentials of the person providing the service and include the date of the signature;

(g) Not falsify, alter, or destroy any client information required by these rules to be maintained in the permanent client record or program records;

(h) Require that errors in the permanent client record be corrected by lining out the incorrect information with a single line in ink, adding the correct information, dating, and initialing the correction. Errors may not be corrected by removal or obliteration through the use of correction fluid or tape;

(i) Provide written description in the permanent client record of any injury, accident or unusual incident involving any client occurring during program services or on program grounds; and

(j) Permit inspection of permanent client records upon request by the Division to determine compliance with these rules.

(7) Permanent client records will be kept for a minimum of seven years. If a program is acquired by another program, the original program is responsible for assuring compliance with the requirements of 42 CFR § 2.19(a)(1) or (b), whichever is applicable.

(8) If a program discontinues operations, the program is responsible for: Transferring permanent client records to the DOC records administrator; and

(9) When a program discontinues operations, the identified DOC records administrator is responsible for:

(a) Assuring compliance with the requirement of 42 CFR §2.19(a)(1) or (b), whichever is applicable for transferred permanent client records;

(b) Keeping all transferred permanent client records for a minimum of seven years; or

(c) With client consent, transferring permanent client records to another program.

Stat. Auth.: ORS 409.050, 409.410 & 409.420

Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270

Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0040

Client Rights

(1) Participation in the program will be voluntary. Clients will have their rights, responsibilities, and services explained, including expected outcomes and possible risks. The program will document informed consent in writing, assure the document is signed and dated by the client, and placed in the permanent client record prior to the start of services.

(2) The client will have the right to refuse services, including any specific procedure. Any consequence that may result from refusing the service, such as termination from the program or referral to a person having supervisory authority over the client, will be explained verbally and in writing to the client. The document will be signed and dated by both the client and the program representative, and placed in the client's permanent record.

(3) No person will be denied services or discriminated against on the basis of age, ethnicity, gender identity, sexual orientation, religion, disability or diagnostic category unless restricted by predetermined program criteria.

(4) Each client will be assured civil rights as defined by laws that govern DOC and be assured the same human rights as other persons. The program will develop, implement and inform clients of written policies and procedures which protect clients' rights, including:

(a) Protecting client's privacy and dignity;

(b) Assuring confidentiality of records consistent with federal and state laws;

(c) Prohibiting physical punishment or physical abuse;

(d) Protecting clients from sexual activity, sexual assault, sexual coercion, sexual solicitation and sexual harassment; and

(e) Providing adequate treatment or care.

(5) Any client labor performed as part of the client's treatment plan or standard program expectations will be agreed to, in writing, by the client, documented in the client permanent record and must comply with regulations of other agencies sharing oversight of the program.

(6) The client has the right to obtain a copy of the permanent client record defined in OAR 415-057-0010(19) within thirty calendar days of a documented request. The program will have a written procedure for client requests to review the permanent client record. Payment for cost of duplication may be required. The client will have the right to access his or her own permanent record except:

(a) When the clinical supervisor determines that disclosure of permanent client records would be detrimental to the client's treatment;

(b) If confidential information has been provided to the program on the basis that the information not be re-disclosed; or

(c) When collateral records in the permanent client record originated outside the program, the client will make the request for those records directly to the originating source.

(7) The client has the right to include any DOC-approved client-identified supportive persons in the treatment planning process.

(8) The program will develop, implement, and inform clients of policies and procedures regarding grievances specific to the program that provide for:

(a) Specific steps for clients to follow the grievance to conclusion;

ADMINISTRATIVE RULES

(b) An opportunity for discussion of the grievance with their primary counselor;

(c) Receipt of written grievances from clients or persons acting on their behalf;

(d) Investigation of the facts supporting or disproving the written grievance;

(e) Initiating action to resolve substantiated grievances within five working days of documented receipt of grievance for clients currently in the treatment program;

(f) Initiating action to resolve substantiated grievances within thirty calendar days of documented receipt of grievance, for clients released from the DOC;

(g) Documentation in the permanent client record of the receipt, investigation, and any action taken regarding the written grievance; and

(h) Specifying contact information for the Division for further investigation if a satisfactory conclusion is not reached.

(9) Where there are barriers to services due to culture, language, gender, illiteracy, or disability, the program will develop a holistic treatment approach including support services available to address or overcome those barriers including:

(a) Making reasonable modifications in policies, practices, and procedures to avoid discrimination, unless the program can demonstrate that doing so would fundamentally alter the nature of the program, service, or activity, such as:

(A) Providing individuals to assist the program in minimizing barriers, such as interpreters;

(B) Translating of written materials to appropriate language or method of communication;

(C) To the degree possible, providing assistive devices which minimize the impact of the barriers; and

(D) Acknowledging cultural and other values which are important to the client.

(b) Not charging clients for costs of any measure, such as the provision of interpreters, that are required to provide nondiscriminatory treatment to the client; and

(c) Referring the client to the DOC program liaison for re-consideration of treatment placement should the program have a barrier providing appropriate treatment services.

Stat. Auth.: ORS 409.050, 409.410 & 409.420

Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270

Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0050

Admission Policies and Procedures

(1) The program will have a written policy and procedure that describes criteria to admit clients to the program. The policy and procedure will be made available to clients, program staff, and the community. The written procedure will include:

(a) Criteria for accepting or refusing admission based on the DOC individual Oregon Corrections Plan and DSM-IV criteria;

(b) Documentation that all admissions have been found appropriate for services according to the DOC individual Oregon Corrections Plan and DSM-IV criteria; and

(c) Guidelines for making referrals for individuals not admitted to the program.

(2) The program will give orientation materials to the client upon arrival to the program and document client receipt of orientation materials in the permanent client record. Written program orientation materials include:

(a) The program's philosophical approach to treatment;

(b) A description of the treatment services;

(c) Information on clients' rights and responsibilities, including confidentiality; and

(d) Information on the rules governing clients' behavior and those infractions that may result in removal from the program or other actions. At a minimum, the rules will state the consequence of using Alcohol and Other Drugs, absences from appointments, and failure to participate in the planned treatment activities.

Stat. Auth.: ORS 409.050, 409.410 & 409.420

Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270

Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0060

Comprehensive Diagnostic Assessment

(1) Written Procedure: The program will develop and implement a written procedure for assessing each client's treatment needs that includes collection and assessing data obtained through interview, observation, testing, and review of previous treatment or other written records.

(2) Assessment: The diagnostic assessment will be documented in the permanent client record. The assessment will include:

(a) Clinical formulation of presenting problems; the six dimensions of the ASAM PPC 2-R; important biological, psychological and social factors; medical and trauma history; clinical events and course of substance use or mental illness including onset, duration and severity of presenting concerns; consumer or family expectations for recovery; justification for treatment services and prognosis; current medication regime; and data to support a DSM Five-axis Diagnosis;

(b) A Criminal Risk Factor Assessment and the individual Oregon Corrections Plan;

(c) Documentation of the client's self-identified cultural background, including level of acculturation, knowledge of own culture, primary language, spiritual or religious interests, and cultural attitude about Alcohol and Other Drugs use;

(d) The date of the assessment;

(e) The signature, signature date, and credentials of the program staff member completing the assessment; and

(f) If Alcohol and Other Drugs treatment is not appropriate or contraindicated, include a written statement justifying the determination.

Stat. Auth.: ORS 409.050, 409.410 & 409.420

Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270

Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0070

Treatment Planning and Documentation of Treatment Progress

(1) An individualized treatment plan will be developed and placed in the client record no later than 14 days from placement in the program. The treatment plan will include:

(a) The primary client-centered problems and strengths as determined by the client, the DOC individual Oregon Corrections Plan and the comprehensive diagnostic assessment;

(b) Individualized treatment objectives that were developed in collaboration with the client;

(c) Applicable service and support delivery details including frequency and duration of each service;

(d) Documentation of participation of any supportive person involved in the development of the treatment plan or client's refusal to include any supportive person;

(e) The date and signature of the client; and

(f) The signature of the program staff with credentials and date of the signature.

(2) At a minimum of once every seven days, program staff will document in the permanent record a comprehensive summary of the client's progress toward achieving the individualized treatment objectives in the client's treatment plan and any current obstacles to recovery and include documentation of any participation of the supportive person in treatment services or activities, and their input of client's progress toward individualized treatment objectives.

(3) The individual treatment plan will be reviewed and modified with the client, assigned program staff and any supportive person every 30 days, or more often as clinically appropriate.

Stat. Auth.: ORS 409.050, 409.410 & 409.420

Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270

Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0080

Continuing Care Planning

(1) Continuing care planning will begin no less than 45 days prior to the client's anticipated discharge from the program. Continuing care planning will include:

(a) At least one continuing care staffing, in person or by telephone, between the client, treatment program representatives, DOC institution transition representatives, a post-prison community corrections representative, community-based continuing care representatives, and any supportive person (s);

(b) Referrals to continuing care community-based Alcohol and Other Drugs and mental health treatment providers; and

ADMINISTRATIVE RULES

(c) Documentation that contact was made with the community continuing care services provider to schedule an appointment within seven days of the client's anticipated release from the program.

(2) No less than 14 days prior to the client's anticipated discharge from the program, a comprehensive treatment summary will be written and placed in the permanent client record. Copies of the document will be sent to the DOC institution transition staff, continuing care provider and to the community corrections representative. The summary will include:

- (a) A copy of a valid Consent To Release Information form;
- (b) A copy of the comprehensive diagnostic assessment and latest treatment plan;
- (c) A summary of the client's treatment history, progress in meeting individualized treatment objectives and any unresolved problem areas client is continuing to address from the treatment plan;
- (d) A current level of care assessment that is consistent with the six dimensions of the ASAM PPC 2-R adult level of care index and includes documentation of any co-occurring substance related and mental health disorders (COD);

(e) The criminogenic risk level as indicated in the DOC individual Oregon Corrections Plan;

- (f) The legal status of the client;
- (g) The client's current stage of change and recommendations on how best to engage the client;
- (h) Any client responsibility factors that should be considered in treatment planning and community-based continuing care provider staff assignments;

- (i) A relapse prevention plan; and
 - (j) Recommendations for an initial community-based treatment plan.
- Stat. Auth.: ORS 409.050, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0090 Treatment Services

(1) The program will provide to each client clinically appropriate services based on best practices for prison-based Alcohol and Other Drugs programs that facilitate desired service outcomes as identified by the individual, and family, when applicable, and address the objectives identified in the treatment plan.

(2) Treatment services provided for clients in prison-based Alcohol and Other Drugs treatment programs will be evidence-based and at a minimum include:

- (a) Cognitive behavioral interventions;
- (b) Motivational interventions;
- (c) Relapse prevention;
- (d) Gender specific services;
- (e) Cultural relevance;
- (f) Healthy relationship education related to parenting, family, significant others, employers, and the community;
- (g) Services that address special needs such as trauma, domestic violence, sexual or physical abuse, and self sufficiency; and
- (h) Therapeutic community model for residential programs.

(3) Each client admitted to the program will be assigned a primary counselor.

- Stat. Auth.: ORS 409.050, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0100 Clinical Supervision

Persons providing services to program clients in accordance with this rule will receive supervision by a qualified Clinical Supervisor, as defined in these rules, related to the development, implementation and outcome of services.

(1) The objective of clinical supervision is to assist staff, interns, students and volunteers to increase their skills, improve quality of services to individuals, and supervise program staff, interns, students and volunteers' compliance with program policies and procedures.

(2) Clinical Supervision will be specified through a current written agreement, job description, or similar type of binding arrangement between the Clinical Supervisor and the program staff, intern, student or volunteer which describes the Clinical Supervisor's oversight responsibility, including documentation of supervision no less than two hours per month. The two hours will include one hour of face-to-face contact for each person supervised, or a proportional level of supervision for part-time staff.

- Stat. Auth.: ORS 409.050, 409.410 & 409.420

Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0110 Program Staff

(1)(a) Program staff will at the time of hire:

(b) Have documented competence in the following essential job functions in an Alcohol and Other Drugs program including:

(A) Conducting comprehensive diagnostic Alcohol and Other Drugs assessment, developing treatment plans, providing care coordination, providing individual and group counseling, and following documentation policy and procedures set forth in these rules; and

(B) Except as provided in section (4) of this rule, hold a current certification or license in Alcohol and Other Drugs counseling or hold a current license as a health or allied provider issued by a state licensing body.

(2) For program staff holding a certification or license in Alcohol and Other Drugs counseling, qualifications for the certificate or license must have included at least:

- (a) 750 hours of supervised experience in Alcohol and Other Drugs counseling;
- (b) 150 hours of alcohol and drug education and training; and
- (c) Successful completion of a written objective examination or portfolio review by the certifying body.

(3) For program staff holding a health or allied provider license, such license or registration will have been issued by one of the following state bodies and the program staff person will possess documentation of at least 60 contact hours of academic or continuing professional education in the treatment of substance related disorders:

- (a) The Board of Medical Examiners;
- (b) The Board of Psychologist Examiners;
- (c) The Board of Licensed Social Workers;
- (d) The Board of Licensed Professional Counselors and Therapists; or
- (e) The Board of Nursing.

(4) Program staff who do not hold a certificate or license that meets the standards identified in sections (2) or (3) of this rule will apply to a qualified credentialing organization or state licensing board within three months of the date of hire and achieve certification or licensure meeting the standards of sections (2) or (3) of this rule within 24 months of the application date.

(5) Additional Training Requirements:

- (a) Within the first six months of hire, program staff will receive training on evidenced-based practices for clients with criminal behavior; and
- (b) At least 10 hours of professional development toward recertification credits every two years specific to offenders with substance related disorders.

(6) Recovering program staff: Any program staff, clinical supervisor, program manager, student, intern or volunteer applying or hired to provide services who are recovering from substance related disorders must be able to demonstrate continuous sobriety under nonresidential, independent living conditions for the immediate past two years.

- Stat. Auth.: ORS 409.050, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0120 Clinical Supervisor

(1) The program will have an identified clinical supervisor who has:

- (a) A Bachelor's degree in social services and four years of paid full-time experience in direct Alcohol and Other Drugs counseling; or
- (b) A Master's degree in social services and two years of paid full-time experience in direct Alcohol and Other Drugs counseling; or
- (c) Holds a current certification or license in Alcohol and Other Drugs counseling; or
- (d) Holds a current license as a health or allied provider issued by a state licensing body; and
- (e) Has documented training or education in evidence-based treatment interventions for clients with criminal behavior.

(2) For clinical supervisors holding a certification or license in Alcohol and Other Drugs counseling, qualifications for the certificate or license must have included at least:

- (a) 300 alcohol and drug education and training hours;
- (b) 4,000 hours of supervised experience in Alcohol and Other Drugs counseling; and
- (c) Successful completion of a written objective examination or portfolio review by the certifying body.

ADMINISTRATIVE RULES

(3) For clinical supervisors holding a health or allied provider license, such license or registration will have been issued by one of the following state bodies and the supervisor will possess documentation of at least 120 contact hours of academic or continuing professional education in the treatment of substance related disorders:

- (a) The Board of Medical Examiners;
- (b) The Board of Psychologist Examiners;
- (c) The Board of Licensed Social Workers;
- (d) The Board of Licensed Professional Counselors and Therapists; or
- (e) The Board of Nursing.

(4) Any clinical supervisor will have knowledge and experience demonstrating competence in the performance of the following essential job functions for clients with criminal behavior including:

- (a) The process to accept clients into the program;
- (b) Conducting comprehensive diagnostic assessments in coordination with the DOC individual inmate Corrections Plan;
- (c) Providing individual, group, family, and other counseling;
- (d) Providing regular observation and monitoring of program staff and giving feedback to improve service delivery quality and program staff performance;

(e) Coordinating development opportunities for program staff who conduct the comprehensive diagnostic assessment, developing the treatment plans, providing care coordination, and collaborating with community resources including self-help groups; and

(f) Assuring the clinical integrity of all permanent client records assigned to program staff under their supervision, including timely entry of documentation, correctness of information, assuring appropriate clinical rationale for assessment, treatment plans, progress notes, and continuing care planning consistent with policies and procedures in these rules.

(5) If the program's manager meets the qualifications of the Clinical Supervisor, the manager may be the clinical supervisor.

Stat. Auth.: ORS 409.050, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0130

Program Manager

(1) The program will have a program manager who:

- (a) Oversees the day to day program operations;
- (b) Is responsible for compliance with the requirements of these rules;

and

(c) Is located at the site specific to the letter of approval or license.

(2) The program manager will have knowledge and paid full-time experience demonstrating competence in the performance or oversight of the following essential job functions:

- (a) For contracted programs, planning, budgeting, and fiscal management;
- (b) Supervision of program staff;
- (c) Personnel management including employee performance assessment;
- (d) Data collection, program evaluation and quality assurance; and
- (e) Meeting reporting requirements.

(3) The program manager will have paid full-time experience working with offenders for a minimum of three years that includes implementing evidence-based practices for clients with criminal behavior.

Stat. Auth.: ORS 409.050, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0140

Use of Volunteers

Volunteers may provide only non-clinical services unless the individual has the required credentials to provide a clinical service. A Program utilizing volunteers will have the following:

(1) A written policy regarding volunteers that includes:

(a) Specific responsibilities and tasks of volunteers, based on their credentials;

(b) Procedures and criteria used in selecting volunteers, including sobriety requirements for individuals recovering from substance related disorders consistent with DOC policy;

(c) Specific accountability and reporting requirements of volunteers; and

(d) Specific procedure for reviewing the performance of volunteers and providing direct feedback to them by a supervisor.

(2) Volunteers will complete an orientation and training program specific to their responsibilities before they participate in program assignments. The orientation and training for volunteers will:

(a) Include a thorough review of the program's philosophical approach to treatment;

(b) Include information on clients' rights including confidentiality regulations;

(c) Explain procedures for reviewing performance and providing feedback to volunteers;

(d) Explain procedure for discontinuing a volunteer's participation; and

(e) Document each volunteer's completion of orientation in program records.

Stat. Auth.: ORS 409.050, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0150

Co-occurring Substance Related and Mental Health Disorders (COD)

(1)(a) In addition to the general standards for prison-based Alcohol and Other Drugs treatment programs under OAR 415-057-0000 through 415-057-0140, programs approved and designated to primarily provide treatment services for people with COD will meet the following standards:

(b) The program will develop written policies and procedures that include program philosophy, acceptance criteria, program content, and providing concurrent substance related treatment and mental health interventions documented in one integrated client record.

(2) COD Program Content: The program for people with COD will include at a minimum an array of treatment options including:

(a) Individual medication evaluation and treatment;

(b) Motivational strategies;

(c) Symptom and medication management;

(d) Care coordination;

(e) Wellness management; and

(f) Relapse prevention.

(3) COD Program Staffing Patterns: The program that provides services and activities to persons with COD will have at a minimum, one full-time QMHP on staff. Caseloads will average 12 clients for each program staff member. Additional masters level practitioners and QMHAs will be scheduled with the consideration of client mental health needs.

(4) COD Program Staffing Qualifications: Staff demonstrate competency in the treatment of co-occurring mental health and substance related disorders. Competencies will include ability to evaluate:

(a) If there is a chronic condition that creates risk or complicates treatment;

(b) If there is cognitive, emotional or behavioral condition severe enough to warrant specific mental health treatment;

(c) Ability of client to manage activities of daily living; and

(d) Ability of the client to cope with emotional, behavioral and cognitive problems.

(5) Additional Training Requirements: Of the 10 hours required in section 415-057-0130(4)(b), at least 8 hours of professional development toward recertification credits every two years specific to COD.

(6) Program Clinical Supervision Staff Qualifications: Clinical Supervision and case consultation is provided on-site by individuals with both CADC and QMHP credentials.

Stat. Auth.: ORS 409.050, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

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

Rule Caption: Criminal Records Checks – Disqualifying Crimes Under ORS 443.004.

Adm. Order No.: DHSD 3-2010(Temp)

Filed with Sec. of State: 5-5-2010

Certified to be Effective: 5-5-10 thru 10-31-10

Notice Publication Date:

Rules Adopted: 407-007-0275

Subject: The Department of Human Services (Department) is temporarily adopting OAR 407-007-0275 to implement section 6, chapter 837, Oregon Laws 2009 (Enrolled House Bill 2442) and ORS

ADMINISTRATIVE RULES

443.004 by providing a list of disqualifying crimes for those employees and individuals subject to ORS 443.004 and as specified in the relevant program administrative rules; and by prohibiting the use of public funds to support, in whole or in part, the employment of those described above who have been convicted of the crimes listed in ORS 443.004.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-007-0275

Disqualifying Crimes Under ORS 443.004

(1) The crimes listed in section (3) of this rule are disqualifying crimes for those employees and individuals subject to ORS 443.004, and as specified in the relevant program administrative rules. For the purpose of this rule, a subject individual does not include a peer support specialist who:

(a) Is providing peer support services as defined by OAR 309-032-1505;

(b) Is under the supervision of a qualified clinical supervisor;

(c) Has completed training required by the Department; and

(d) Is currently receiving or has formerly received mental health services, or is in recovery from a substance use disorder and meets the abstinence requirements for staff providing services in alcohol or other drug treatment programs.

(2) Individuals who are employees and hired prior to July 28, 2009 are exempt from section (3) of this rule provided that the employee remains in the same position working for the same employer after July 28, 2009. This exemption is not applicable to licensees.

(3) Public funds may not be used to support, in whole or in part, the employment of an individual in any capacity identified in section (1) of this rule who has been convicted:

(a) In the last 10 years, of a crime involving the delivery or manufacture of a controlled substance; or

(b) Of any of the following crimes:

(A) ORS 163.095, Aggravated murder;

(B) ORS 163.115, Murder;

(C) ORS 163.118, Manslaughter I;

(D) ORS 163.125, Manslaughter II;

(E) ORS 163.145, Criminally negligent homicide;

(F) ORS 163.149, Aggravated vehicular homicide;

(G) ORS 163.165, Assault III;

(H) ORS 163.175, Assault II;

(I) ORS 163.185, Assault I;

(J) ORS 163.187, Strangulation;

(K) ORS 163.200, Criminal mistreatment II;

(L) ORS 163.205, Criminal mistreatment I;

(M) ORS 163.225, Kidnapping II;

(N) ORS 163.235, Kidnapping I;

(O) ORS 163.263, Subjecting another person to involuntary servitude

II;

(P) ORS 163.264, Subjecting another person to involuntary servitude

I;

(Q) ORS 163.266, Trafficking in persons;

(R) ORS 163.275, Coercion;

(S) ORS 163.355, Rape III;

(T) ORS 163.365, Rape II;

(U) ORS 163.375, Rape I;

(V) ORS 163.385, Sodomy III;

(W) ORS 163.395, Sodomy II;

(X) ORS 163.405, Sodomy I;

(Y) ORS 163.408, Unlawful sexual penetration II;

(Z) ORS 163.411, Unlawful sexual penetration I;

(AA) ORS 163.415, Sexual Abuse III;

(BB) ORS 163.425, Sexual Abuse II;

(CC) ORS 163.427, Sexual Abuse I;

(DD) ORS 163.432, Online sexual corruption of a child II, if the offender reasonably believed the child to be more than five years younger than the offender;

(EE) ORS 163.433, Online sexual corruption of a child I, if the offender reasonably believed the child to be more than five years younger than the offender;

(FF) ORS 163.435, Contributing to the sexual delinquency of a minor;

(GG) ORS 163.445, Sexual misconduct, if the offender is at least 18 years of age;

(HH) ORS 163.465, Public Indecency;

(II) ORS 163.467, Private Indecency;

(JJ) ORS 181.594, Incest with a child victim;

(KK) ORS 163.535, Abandonment of a child;

(LL) ORS 163.537, Buying or selling a person under 18 years of age;

(MM) ORS 163.670, Using a child in display of sexually explicit conduct;

(NN) ORS 181.594, Paying for viewing a child's sexually explicit conduct;

(OO) ORS 163.684, Encouraging child sexual abuse I;

(PP) ORS 163.686, Encouraging child sexual abuse II;

(QQ) ORS 163.687, Encouraging child sexual abuse III;

(RR) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I;

(SS) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II;

(TT) ORS 163.700, Invasion of personal privacy;

(UU) ORS 164.055, Theft I;

(VV) ORS 164.057, Aggravated theft I;

(WW) ORS 164.098, Organized retail theft;

(XX) ORS 164.125, Theft of services, if charged as a felony;

(YY) ORS 164.215, Burglary II;

(ZZ) ORS 164.225, Burglary I;

(AAA) ORS 164.325, Arson I;

(BBB) ORS 164.377, Computer crime, if charged with a felony;

(CCC) ORS 164.405, Robbery II;

(DDD) ORS 164.415, Robbery I;

(EEE) ORS 165.022, Criminal possession of a forged instrument I;

(FFF) ORS 165.032, Criminal possession of a forgery device;

(GGG) ORS 165.800, Identity theft;

(HHH) ORS 165.803, Aggravated identity theft;

(III) ORS 167.012, Promoting prostitution;

(JJJ) ORS 167.017, Compelling prostitution;

(KKK) ORS 167.054, Furnishing sexually explicit material to a child;

(LLL) ORS 167.057, Luring a minor;

(MMM) ORS 181.594, Sex crimes, including transporting child pornography into the state;

(c) Of an attempt, conspiracy, or solicitation to commit a crime described in section (b) of this rule; or

(d) Of a crime in another jurisdiction that is substantially equivalent to a crime described in section (b) of this rule.

(4) The Department may conduct a weighing test under ORS 181.534 on employees and individuals convicted of any crime in section (3) of this rule. However, the preclusive effect of ORS 443.004 shall outweigh all other factors described in OAR 407-007-0060.

Stat. Auth.: ORS 181.534 & 409.050

Stats. Implemented: ORS 181.534 & 443.004

Hist.: DHS 3-2010(Temp), f. & cert. ef. 5-5-10 thru 10-31-10

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 9-2010(Temp)

Filed with Sec. of State: 4-21-2010

Certified to be Effective: 4-21-10 thru 6-30-10

Notice Publication Date:

Rules Amended: 461-135-1100

Rules Suspended: 461-135-1100(T)

Subject: OAR 461-135-1100 about the specific eligibility requirements for an individual to receive Oregon Health Plan (OHP) program benefits is being amended to state that coverage under the Kaiser Transition Program is not included in the definition of private major medical health insurance.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-1100

Specific Requirements; OHP

In addition to eligibility requirements applicable to the OHP program in other rules in chapter 461 of the Oregon Administrative Rules, this rule sets out specific eligibility requirements for the OHP program.

ADMINISTRATIVE RULES

(1) For purposes of this rule, OAR 461-135-1101, and 461-135-1149, the term *private major medical health insurance* refers to health insurance coverage that provides medical care for physician and hospital services, including major illnesses, with a limit of not less than \$10,000 for each covered individual. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program.

(2) To be eligible for the OHP program, an individual cannot:

(a) Be receiving, or deemed to be receiving, SSI benefits;

(b) Be eligible for Medicare, except that this requirement does not apply to OHP OPP;

(c) Be receiving Medicaid through another program; or

(d) Be enrolled in a health insurance plan subsidized by the Family Health Insurance Assistance program (FHIAP, *see* ORS 735.720 to 735.740).

(3) To be eligible for the OHP-OPU program, an individual must be 19 years of age or older and may not be pregnant. An individual eligible for OHP-OPU is referred to as a health plan new/noncategorical (HPN) client. In addition to all other OHP eligibility requirements, an HPN client:

(a) May not be covered by *private major medical health insurance* and may not have been covered by *private major medical health insurance* during the six months preceding the effective date for starting medical benefits. The six-month waiting period is waived if:

(A) The individual has a condition that, without treatment, would be life-threatening or would cause permanent loss of function or disability;

(B) The individual's private health insurance premium was reimbursed under the provisions of OAR 461-135-0990;

(C) The individual's private health insurance premium was subsidized through FHIAP; or

(D) A member of the individual's filing group was a victim of domestic violence.

(b) Must meet the following eligibility requirements:

(A) The resource limit provided in OAR 461-160-0015.

(B) The higher education student requirements provided in OAR 461 135 1110.

(C) Payment of premiums determined in accordance with OAR 461-155-0235 and paid in accordance with OAR 461-135-1120.

(D) Selection of a medical, dental and mental health managed health care plan (MHCP) or primary care case manager (PCCM) if available, unless the HPN client is exempted by OAR 410-141-0060.

(E) The requirements in OAR 461-120-0345 related to obtaining medical coverage for members of the benefit group through the Family Health Insurance Assistance Program (FHIAP), if applicable.

(4) To be eligible for the OHP-OPC program, an individual must be less than 19 years of age.

(5) To be eligible for the OHP-OP6 program, a child must be less than six years of age and not eligible for OHP-OPC.

(6) To be eligible for the OHP-OPP program, an individual must be pregnant or must be a newborn assumed eligible under OAR 461-135-0010(4).

(7) To be eligible for the OHP-CHP program, an individual must be under 19 years of age and must:

(a) Not be eligible for OHP-OPC, OHP-OPP, or OHP-OP6;

(b) Meet budgeting requirements of OAR 461 160 0700;

(c) Select a medical, dental and mental health managed health care plan (MHCP) or primary care case manager (PCCM) if available, unless the client is exempted by OAR 410-141-0060; and

(d) Not be covered by *private major medical health insurance* or by any *private major medical health insurance* during the preceding two months. The two-month waiting period is waived if:

(A) The individual has a condition that, without treatment, would be life threatening or cause permanent loss of function or disability;

(B) The loss of health insurance was due to the loss of or a change in employment;

(C) The individual's private health insurance premium was reimbursed under OAR 461 135 0990;

(D) The individual's private health insurance premium was subsidized by FHIAP or through the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(E) A member of the individual's filing group was a victim of domestic violence.

(8) A child who becomes ineligible for OHP because of age while receiving in patient medical services remains eligible until the end of the month in which he or she no longer receives those services if he or she is receiving in patient medical services on the last day of the month in which the age requirement is no longer met.

Stat. Auth.: ORS 411.060, 411.404, 414.231, 414.826, 414.831 & 414.839

Stats. Implemented: ORS 411.060, 411.404, 414.231, 414.826, 414.831 & 414.839

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 13-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 36-2009(Temp), f. & cert. ef. 12-1-09 thru 12-31-09; 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 9-2010(Temp), f. & cert. ef. 4-21-10 thru 6-30-10

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 10-2010(Temp)

Filed with Sec. of State: 4-21-2010

Certified to be Effective: 4-21-10 thru 10-18-10

Notice Publication Date:

Rules Amended: 461-135-1102, 461-135-1125

Subject: OAR 461-135-1102 about when the Department classifies an applicant to the Oregon Health Plan - Adults (OHP-OPU) program to be a new applicant is being amended to restate the conditions under which the Department considers an individual not to be a new applicant for OHP-OPU program eligibility determinations.

OAR 461-135-1125 about how the Department determines which individuals included on the Oregon Health Plan - Adults (OHP-OPU) program Standard Reservation List are selected to apply for the OHP-OPU program is being amended to restate the definition of an "OHP Standard Reservation List Applicant".

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-1102

OHP-OPU; Effective Dates for the Program

(1) Effective July 1, 2004, the OHP-OPU program is closed to new applicants other than an *OHP Reservation List Applicant* permitted under OAR 461-135-1125. Except as provided in sections (2) to (3) of this rule, a new applicant is an individual with a *date of request* (see OAR 461-115-0030) after June 30, 2004. A new applicant cannot be found eligible for the OHP-OPU program.

(2) An individual is not a new applicant if the Department determines that the individual is continuously eligible for medical assistance as follows:

(a) The individual is eligible for and receiving benefits under the OHP-OPU program on June 30, 2004, or after that date pursuant to subsections (b) to (e) of this section, and the Department determines that the individual continues after that date to meet the eligibility requirements for OHP-OPU.

(b) The individual is eligible for and receiving benefits under the CAWEM program on June 30, 2004, and is eligible for CAWEM based on the OHP-OPU program, and the Department determines that the individual continues to meet the eligibility requirements for OHP-OPU except for citizenship or alien status requirements.

(c) The eligibility of the individual ends under the BCCM, CEC, CEM, EXT, GAM, HKC, MAA, MAF, OHP-CHP, OHP-OPC, OHP-OPP, OSIPM, REFM, or SAC program, or the related CAWEM program; or because the individual has left the custody of the Oregon Youth Authority (OYA); and at that time the Department determines that the individual meets the eligibility requirements for OHP-OPU.

(d) The individual is a child in the custody of the Department whose eligibility for Medicaid ends because of the child's age and at that time the Department determines that the individual meets the eligibility requirements for OHP-OPU.

(e) The Department determines that the individual was continuously eligible for OHP-OPU on or after June 30, 2004 under subsections (a) to (d) of this section.

(3) An individual who is not continuously eligible under section (2) of this rule is not a new applicant if the individual:

(a) Has eligibility end under the BCCM, CEC, CEM, EXT, GAM, HKC, MAA, MAF, OHP-CHP, OHP-OPP, OHP-OPU, OSIPM, REFM, or SAC program, or the related CAWEM program; because the individual has left the custody of the OYA; or is a child in the custody of the Department whose eligibility for Medicaid ends due to the child's age;

ADMINISTRATIVE RULES

(b) Established a *date of request* prior to the eligibility ending date in subsection (a) of this section; and

(c) Meets the eligibility requirements for OHP-OPU or the related CAWEM program within 45 days of the *date of request*.

(4) Except as provided in section (2) of this rule, an individual who loses eligibility for a medical assistance program and applies or reapplies for medical assistance is treated as a new applicant for purposes of the OHP-OPU program.

(5) The Department intends that effective July 1, 2004, all other rules related to application, certification, recertification, or eligibility for the OHP-OPU program be applied and construed to achieve the purpose of this rule and that in the event of any ambiguity this rule controls.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 414.712, 414.826, 414.831, 414.839, 420.014 & 420.054

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 414.712, 414.826, 414.831, 414.839, 420.014 & 420.054

Hist.: SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 2-2008(Temp), f. & cert. ef. 1-28-08 thru 6-30-08; SSP 13-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 10-2010(Temp), f. & cert. ef. 4-21-10 thru 10-18-10

461-135-1125

Reservation Lists and Eligibility; OHP-OPU

(1) "OHP Standard Reservation List" means the list of individuals who may be considered for the OHP-OPU program as a new applicant at such times as the Department determines that new applicants may be added into the program. This list is used to manage enrollment of new applicants as defined by OAR 461-135-1102 into the program within the limits of program authority and funding.

(2) "OHP Standard Reservation List Applicant" means an individual who has been selected randomly under section (6) of this rule, has been mailed an OHP 7210R Application form as a result of the random selection, and establishes a *date of request* (see OAR 461-115-0030) within 45 days from the date the Department mails the OHP 7210R Application form.

(3) When the Department specifies that the *OHP Standard Reservation List* is open, an individual is placed on the *OHP Standard Reservation List* if all of the following requirements are met:

(a) The individual, or someone acting on behalf of the individual, may request placement on the *OHP Standard Reservation List* by calling the designated telephone number for the *OHP Standard Reservation List* or in writing. A written request must arrive through one of the following methods:

(A) By mail to the designated mailing address for the *OHP Standard Reservation List*.

(B) By fax or hand delivery to a local Department office that receives client applications for the Oregon Health Plan.

(C) By electronic submission from the OHP website or by e-mail to the *OHP Standard Reservation List* e-mail address.

(b) The full name, date of birth, and mailing address of each individual requesting placement on the OHP Standard Reservation List must be provided to the Department and received by the Department as described in subsection (a) of this section before the request is considered complete.

(c) If the address of an individual changes after the individual makes a request, the individual must provide an updated address to the Department using a method described in subsection (a) of this section. If the individual reports an address change to the Department in a way other than that outlined in subsection (a) of this section, the Department cannot guarantee the address change will be reflected in the reservation list, but will make reasonable efforts to incorporate that address change.

(4) The following procedures apply to the *OHP Standard Reservation List*:

(a) Individuals completing a request for placement on the *OHP Standard Reservation List* are assigned a reservation number. All members of an OHP filing group (see OAR 461-110-0400 for filing group composition) requesting placement on the *OHP Standard Reservation List* are assigned the same reservation number.

(b) The Department may request that individuals voluntarily provide their social security number (prior to the *OHP 7210R Application*). The Department may use the social security number for purposes of identification to help prevent duplicate reservations. The Department may not deny placement on the *OHP Standard Reservation List* because an individual does not provide a social security number.

(c) The Department sends confirmation to individuals who are placed on the *OHP Standard Reservation List*. If there is already a reservation established, individuals who have received confirmation from the Department need not make an additional request unless the reservation was removed (see section (8) of this rule), already used, or withdrawn.

(5) Requesting placement on the *OHP Standard Reservation List*, receiving a reservation number, or being placed on the *OHP Standard Reservation List* does not constitute an application for OHP-OPU or any

other medical program administered by the Department. Individuals placed or refused placement on the *OHP Standard Reservation List* are not evaluated for DHS medical program eligibility.

(6) At such times that the Department determines that it has the requisite authority and funding and that new applicants can be added to the OHP-OPU program, and after the Department determines the number of new applicants that can be added, a designated number of individuals on the *OHP Standard Reservation List* are selected randomly and mailed OHP 7210R Application forms. Once an individual has been selected randomly, the reservation number assigned to that individual and its position on the list has been used and is no longer available.

(7) An *OHP Standard Reservation List* Applicant must file a Department application or amend a completed application (see OAR 461-115-0050) as a prerequisite of receiving OHP-OPU program benefits.

(8) When the Department determines that the *OHP Standard Reservation List* should be discontinued, all individuals currently on the list are removed except as provided in section (9) of this rule. If the Department establishes a new *OHP Standard Reservation List*, the Department determines when an individual may again request placement on the list according to sections (3) and (4) of this rule.

(9) The Department may opt to use the reservation number of an individual not selected randomly from a discontinued list to create a new *OHP Standard Reservation List*. To be added to the new *OHP Standard Reservation List*, the Department may require each individual not selected randomly from the discontinued *OHP Standard Reservation List* to request placement on the new *OHP Standard Reservation List* and be assigned a new reservation number.

(10) Nothing in this rule prevents any individual from applying for medical assistance at any time. However, new applicants as defined in OAR 461-135-1102 for OHP-OPU are managed by the *OHP Standard Reservation List*.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 414.025 & 414.706

Stats. Implemented: ORS 409.050, 409.010, 411.060, 411.404, 414.025 & 414.706

Hist.: SSP 2-2008(Temp), f. & cert. ef. 1-28-08 thru 6-30-08; SSP 12-2008(Temp), f. & cert. ef. 4-17-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 2-21-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 10-2010(Temp), f. & cert. ef. 4-21-10 thru 10-18-10

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 11-2010(Temp)

Filed with Sec. of State: 4-22-2010

Certified to be Effective: 4-22-10 thru 10-19-10

Notice Publication Date:

Rules Amended: 461-145-0140

Subject: OAR 461-145-0140 about how the Department treats tax credits received by a client when making eligibility and benefit level determinations is being amended to state an Earned Income tax Credit is excluded from assets (income and resources). This rule also is being amended in response to recent federal legislation (The American Recovery and Reinvestment Act of 2009 (123 Stat. 309-312)) to state when the Department, while making eligibility and benefit level determinations for the client, excludes a Making Work Pay (MWP) tax credit received by a client from the client's assets and when a General Assistance (GA), General Assistance Medical (GAM), Healthy KidsConnect (HKC), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Health Plan (OHP), Oregon Supplemental Income Program Medical (OSIPM), or Qualified Medicare Beneficiaries (QMB) program client who has received an MWP tax credit qualifies for a \$33 earned income exclusion per month.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-145-0140

Earned Income Tax Credit (EITC) and Making Work Pay (MWP) Tax Credit

(1) There are federal and state earned income tax credit (EITC) programs for low-income families.

(a) An EITC may be received in one of two ways:

(A) As one annual payment received at the time of the normal income tax returns.

(B) As an advance in the employee's paycheck.

(b) In all programs, the EITC is excluded from *assets* (see OAR 461-001-0000).

ADMINISTRATIVE RULES

(2) The American Recovery and Reinvestment Act (ARRA) of 2009 created the Making Work Pay (MWP) tax credit. This credit applies to tax years 2009 and 2010.

(a) An MWP tax credit may be received in two ways:

(A) As one annual payment received at the time of the normal income tax returns.

(B) As a monthly earned income exclusion.

(b) In all programs, an MWP tax credit received as a portion of an individual's federal tax return is excluded from *assets*.

(c) In the GA, GAM, HKC, MAA, MAF, OHP, OSIPM, and QMB programs, a client who receives the MWP tax credit as a monthly earned income exclusion, qualifies for a \$33 earned income exclusion per month.

Stat. Auth.: ORS 411.060, 411.083, 411.404, 411.706, 411.816, 412.049 & 414.231
Stats. Implemented: ORS 411.060, 411.083, 411.404, 411.706, 411.816, 412.049 & 414.231
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 6-1991(Temp), f. & cert. ef. 2-8-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2010(Temp), f. & cert. ef. 4-22-10 thru 10-19-10

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 12-2010(Temp)

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-1-10 thru 10-28-10

Notice Publication Date:

Rules Amended: 461-135-0150

Subject: OAR 461-135-0150 about the specific eligibility requirements in the Substitute and Adoptive Care (SAC) program is being amended in response to recent legislation (2010 Or. Laws ch. 73 (HB 3664)) to state the eligibility requirements for extending medical coverage for a child who had been in foster care immediately prior to reaching 18 years of age and who has not yet reached 21 years of age.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-0150

Specific Requirements; SAC

To be eligible for the SAC program, an individual must meet the requirements of one of the following sections:

(1) Live in substitute care covered by Title IV-E of the Social Security Act (42 U.S.C. 670 and following).

(2) Be 20 years of age or younger and meet the requirements of one of the following subsections:

(a) Live in a foster care or private institutional setting for which a public agency of Oregon is assuming at least partial financial responsibility.

(b) Be 18 years of age or older, be eligible for federal financial participation under Title XIX (42 USC 1396-1) or Title XXI (42 USC 1397aa-1397mm) of the Social Security Act, and have lived in a foster care setting for which a public agency of Oregon is assuming at least partial financial responsibility on the individual's eighteenth birthday.

(3) Live in an intermediate care facility, an intermediate care facility for people with mental retardation, or a licensed psychiatric hospital.

(4) Receive payments from the Department under OAR 461-145-0255.

(5) Be a child who is the subject of an adoption assistance agreement and is assumed eligible under OAR 461-135-0010.

Stat. Auth.: ORS 411.060, 411.404, 414.025, 414.706, 414.707 & 2010 OL Ch. 73
Stats. Implemented: ORS 411.060, 411.404, 414.025, 414.706, 414.707 & 2010 OL Ch. 73
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 12-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 10-28-10

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

Rule Caption: April 2010 Technical changes to the January 1, 2009-December 31, 2010 Health Services Commission's Prioritized List of Health Services

Adm. Order No.: DMAP 10-2010

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10

Notice Publication Date: 4-1-2010

Rules Amended: 410-141-0520

Rules Repealed: 410-141-0520(T)

Subject: The Oregon Health Plan (OHP or Managed Care) program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services to certain clients. DMAP permanently amended 410-141-0520 to reference the January 1, 2010 – December 31, 2011 Health Services Commission's Prioritized List with interim modifications and technical changes effective April 1, 2010, including application of 2009 national code to the HSC lines and HSC guideline refinements.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0520

Prioritized List of Health Services

(1) The Prioritized List of Health Services (Prioritized List) is the Oregon Health Services Commission's (HSC) listing of physical health services with "expanded definitions" of Preventive Services and the HSC's practice guidelines, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HSC. The HSC maintains the most current list on the HSC website: www.oregon.gov/DHS/healthplan/priorlist/main, or, for a hardcopy contact the Office for Oregon Health Policy and Research. Effective January 1, 2010, this rule incorporates by reference the CMS approved Biennial January 1, 2010–December 31, 2011 Prioritized List, including technical revisions and interim modifications effective April 1, 2010 which includes expanded definitions, practice guidelines and condition treatment pairs funded through line 502. The January 1, 2010–December 31, 2011 Prioritized List includes 678 lines (down from 680). The change in the funding line number from 503 to 502 does not result in a reduction in covered services

(2) Certain Mental Health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Fully Capitated Health Plan (FCHP) or Physician Care Organization (PCO). These codes are identified on their own Mental Health (MH) section of the appropriate lines on the Prioritized List of Health Services.

(3) Chemical dependency (CD) services are covered for eligible OHP clients when provided by an FCHP, PCO, or by a provider who has a letter of approval from the Office of Addictions and Mental Health and approval to bill Medicaid for CD services.

Stat. Auth.: ORS 192.527, 192.528, 409.050 & 414.065
Stats. Implemented: ORS 192.527, 192.528, 414.010, 414.065 & 414.727
Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-03; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 83-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 54-2005(Temp), f. & cert. ef. 10-14-05 thru 4-1-06; OMAP 62-2005, f. 11-29-05, cert. ef. 12-1-05; OMAP 71-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 6-2006, f. 3-22-06, cert. ef. 4-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 14-2007(Temp), f. & cert. ef. 10-1-07 thru 3-28-08; DMAP 28-2007(Temp), f. & cert. ef. 12-20-07 thru 3-28-08; DMAP 8-2008, f. & cert. ef. 3-27-08; DMAP 10-2008(Temp), f. & cert. ef. 4-1-08 thru 9-15-08; DMAP 23-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 31-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DMAP 40-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 4-2009(Temp), f. & cert. ef. 1-30-09 thru 6-25-09; DMAP 6-2009(Temp), f. 3-26-09, cert. ef. 4-1-09 thru 9-25-09; DMAP 8-2009(Temp), f. & cert. ef. 4-17-09 thru 9-25-09; DMAP 26-2009, f. 8-3-09, cert. ef. 8-5-09; DMAP 30-2009(Temp), f. 9-15-09, cert. ef. 10-1-09 thru 3-29-10; DMAP 36-2009(Temp), f. 12-10-09, f. 1-1-10 thru 3-29-10; DMAP 1-2010(Temp), f. & cert. ef. 1-15-10 thru 3-29-10; DMAP 3-2010, f. 3-5-10, cert. ef. 3-17-10; DMAP 5-2010(Temp), f. 3-26-10, cert. ef. 4-1-10 thru 9-1-10; DMAP 10-2010, f. & cert. ef. 4-26-10

Department of Human Services, Public Health Division Chapter 333

Rule Caption: Public drinking water system compliance and domestic well testing.

Adm. Order No.: PH 7-2010

Filed with Sec. of State: 4-19-2010

Certified to be Effective: 4-19-10

Notice Publication Date: 2-1-2010

ADMINISTRATIVE RULES

Rules Adopted: 333-061-0324

Rules Amended: 333-061-0005, 333-061-0010, 333-061-0015, 333-061-0020, 333-061-0030, 333-061-0032, 333-061-0034, 333-061-0036, 333-061-0040, 333-061-0042, 333-061-0043, 333-061-0045, 333-061-0050, 333-061-0055, 333-061-0057, 333-061-0058, 333-061-0060, 333-061-0061, 333-061-0062, 333-061-0063, 333-061-0064, 333-061-0065, 333-061-0070, 333-061-0071, 333-061-0072, 333-061-0073, 333-061-0076, 333-061-0077, 333-061-0090, 333-061-0228, 333-061-0230, 333-061-0235, 333-061-0245, 333-061-0265, 333-061-0290, 333-061-0305, 333-061-0310, 333-061-0325, 333-061-0330, 333-061-0335

Rules Repealed: 333-061-0215, 333-061-0295, 333-061-0315, 333-061-0320

Subject: The Department of Human Services, Public Health Division is permanently amending Oregon Administrative Rules 333-061-0010 through 333-061-0325 to comply with changes made to ORS 448.271 with the passage of SB 739 during the 2009 legislative session, to amend accredited laboratory and mandatory reporting criteria, and to amend the scope of the public water system definition in response to activity completed during the 2009 legislative session. Amendments also reflect housekeeping changes related to federal regulations published in the January 4, January 5 and November 8, 2006 Federal Registers. These permanent rule amendments are necessary for state primacy requirements relating to surface water treatment requirements, microbiological monitoring requirements for water systems supplied by groundwater sources, monitoring requirements for disinfection byproducts, variances from treatment techniques, and lead and copper monitoring and public education requirements. Some housekeeping changes are also being made for reorganization and clarification of the rules division. Four rules are being permanently repealed because they are redundant and duplicate other rules within the division. One rule change will increase fees for a small number of community water system that provide water on a wholesale basis but do not directly serve individual customers. This rule change also adds a late fee if a water system does not pay its sanitary surveys fee in a timely manner.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-061-0005

Purpose

The purpose of these rules is to provide a basis for implementing the Oregon Drinking Water Quality Act of 1981, enacted to assure safe drinking water at all water systems which serve the public, and to promote coordination between the programs for supervising water systems which are conducted by the Department and the U.S. Environmental Protection Agency.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 448.123 & 448.273
Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0200, HD 2-1983, f. & ef. 2-23-83; HD 9-1989, f. & cert. ef. 11-13-89; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0010

Scope

(1) These rules apply to all public water systems providing piped water for human consumption as defined by the Act.

(2) These rules also apply to all public water systems providing water for human consumption through constructed conveyances other than pipes after Aug. 5, 1998 to at least 15 service connections or that regularly serves at least 25 individuals daily at least 60 days of the year. A water system which meets any of the following "service connection" exclusion criteria and thereby reduces the number of service connections to fewer than 15 and serving fewer than 25 individuals is not a Public Water System:

(a) Water provided by the supplier to the connection is not used for human consumption;

(b) Alternative water (i.e. bottled water, hauled water, or other source) meeting State and Federal water quality standards, as prescribed in OAR 333-061-0030 or 21CFR165, is provided by the supplier to the connection for drinking and cooking;

(c) Treated water meeting State standards, as prescribed in OAR 333-061-0030, applied centrally or at point-of-entry is provided by the supplier, pass-through entity or user to the connection for drinking, cooking and personal hygiene.

(3) These rules do not apply to:

(a) A public water system that:

(A) Consists only of distribution and storage facilities and does not have any source or treatment facilities installed to comply with the maximum contaminant levels covered by these rules; and

(B) Obtains all of its water from, but is not owned or operated by, a public water system to which these rules apply; and

(C) Does not sell water directly to any person; and

(D) Is not a carrier which conveys passengers in interstate commerce.

(b) An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system to at least 15 service connections or serving at least 25 individuals daily at least 60 days of the year with only incidental residential or similar use, and where all of the connections comply with the alternative or treated water exclusions prescribed in subsections (2)(b) or (c) of this rule.

(c) A public water system that distributes water through submeters if that water system:

(A) Receives all of its water from, but is not owned by, another public water system; and

(B) Consists only of distribution and storage facilities and where all such facilities and all submeters are located on a single parcel of property, and the water system does not have any source or treatment facilities installed to comply with the maximum contaminant levels covered by these rules.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.131

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0201, HD 2-1983, f. & ef. 2-23-83; HD 20-1983, f. 10-20-83, ef. 11-1-83; HD 9-1989, f. & cert. ef. 11-13-89; OHD 3-2000, f. 3-8-00, cert. ef. 3-15-00; PH 33-2004, f. & cert. ef. 10-21-04; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0015

Adoption by Reference

All standards, listings and publications referred to in these rules are, by those references, made a part of these rules as though fully set forth. Copies are available from the Department.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.131

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0202, HD 2-1983, f. & ef. 2-23-83; HD 9-1989, f. & cert. ef. 11-13-89; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0020

Definitions

As used in these rules, unless the context indicates otherwise:

(1) "Act" means the Oregon Drinking Water Quality Act of 1981 (ORS 448.115-448.990 as amended).

(2) "Action Level" means the concentration of lead or copper in water which determines, in some cases, the treatment requirements that a water system is required to complete.

(3) "Administrator" means the Director of the Department of Human Services or his/her designee.

(4) "Analytical Run" means the process during which a set of analytical drinking water samples along with an appropriate number of blanks, matrix spikes, or quality control samples are analyzed according to National Environmental Laboratory Accreditation Conference (NELAC) requirements to determine the presence, absence, or concentration of a specific target analyte or analytes. An analytical run is complete when the instrument performing the sample analysis generates a report of the sample analysis.

(5) "Approval" or "Approved" means approved in writing.

(6) "Approved Air Gap (AG)" means a physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressurized receiving vessel. An "Approved Air Gap" shall be at least twice the diameter of the supply pipe measured vertically above the overflow rim of the vessel and in no case less than 1 inch (2.54 cm), and in accord with Oregon Plumbing Specialty Code.

(7) "Approved Backflow Prevention Assembly" means a Reduced Pressure Principle Backflow Prevention Assembly, Reduced Pressure Principle-Detector Backflow Prevention Assembly, Double Check Valve Backflow Prevention Assembly, Double Check-Detector Backflow Prevention Assembly, Pressure Vacuum Breaker Backsiphonage Prevention Assembly, or Spill-Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly, of a make, model, orientation, and size approved by the Department. Assemblies listed in the currently approved backflow prevention assemblies list developed by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, or other

ADMINISTRATIVE RULES

testing laboratories using equivalent testing methods, are considered approved by the Department.

(8) "Aquifer" means a water saturated and permeable geological formation, group of formations, or part of a formation that is capable of transmitting water in sufficient quantity to supply wells or springs.

(9) "Aquifer Parameter" means a characteristic of an aquifer, such as thickness, porosity or hydraulic conductivity.

(10) "Aquifer Test" means pumping a well in a manner that will provide information regarding the hydraulic characteristics of the aquifer.

(11) "Area of public health concern" means an area of the state with a confirmed presence of groundwater contaminants likely to cause adverse human health effects.

(12) "Atmospheric Vacuum Breaker (AVB)" means a non-testable device consisting of an air inlet valve or float check, a check seat and an air inlet port(s). This device is designed to protect against a non-health hazard or a health hazard under a backsiphonage condition only. Product and material approval is under the Oregon Plumbing Specialty Code.

(13) "Auxiliary Water Supply" means any supply of water used to augment the supply obtained from the public water system, which serves the premise in question.

(14) "Average Groundwater Velocity" means the average velocity at which groundwater moves through the aquifer as a function of hydraulic gradient, hydraulic conductivity and porosity.

(15) "AWWA" means the American Water Works Association.

(16) "Backflow" means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any sources other than its intended source, and is caused by backsiphonage or backpressure.

(17) "Backflow Preventer" means a device, assembly or method to prevent backflow into the potable water system.

(18) "Backflow Prevention Assembly" means a backflow prevention assembly such as a Pressure Vacuum Breaker Backsiphonage Prevention Assembly, Spill-Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly, Double Check Valve Backflow Prevention Assembly, Double Check-Detector Backflow Prevention Assembly, Reduced Pressure Principle Backflow Prevention Assembly, or Reduced Pressure Principle-Detector Backflow Prevention Assembly and the attached shutoff valves on the inlet and outlet ends of the assembly, assembled as a complete unit.

(19) "Backpressure" means an elevation of pressure downstream of the distribution system that would cause, or tend to cause, water to flow opposite of its intended direction.

(20) "Backsiphonage" means a drop in distribution system pressure below atmospheric pressure (partial vacuum), that would cause, or tend to cause, water to flow opposite of its intended direction.

(21) "Bag filter" means a pressure-driven separation device that removes particulate matter larger than one micrometer using an engineered porous filtration media. It is typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to the outside.

(22) "Bank Filtration" means a water treatment process that uses a horizontal or vertical well to recover surface water that has naturally infiltrated into groundwater through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply.

(23) "Best Available Technology" or "BAT" means the best technology, treatment techniques, or other means which the EPA finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration).

(24) "Bore-Sighted Drain to Daylight" means an unrestricted straight-line opening in an enclosure that vents to grade, and is sized and constructed to adequately drain the full flow discharge from a reduced pressure principle backflow prevention assembly thus preventing any potential for submersion of the assembly.

(25) "Bottled Water" means potable water from a source approved by the Department for domestic use which is placed in small, easily transportable containers.

(26) "Calculated Fixed Radius" means a technique to delineate a well-head protection area, based on the determination of the volume of the aquifer needed to supply groundwater to a well over a given length of time.

(27) "Cartridge filter" means a pressure-driven separation device that removes particulate matter larger than one micrometer using an engineered porous filtration media. It is typically constructed of rigid or semi-rigid, self-supporting filter elements housed in a pressure vessel in which flow is from the outside of the cartridge to the inside.

(28) "Certificate," for the purposes of OAR 333-061-0210 through 0295, means a certificate of competency issued by the Department stating that the operator meets the requirements for a specific operator classification and level.

(29) "CFR" means the Code of Federal Regulations. Specifically, it refers to those sections of the code which deal with the National Primary and Secondary Drinking Water Regulations.

(30) "Check Valve" means a valve, which allows flow in only one direction.

(31) "Coagulation" means a process using coagulant chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into floc.

(32) "Coliform-Positive" means the presence of coliform bacteria in a water sample.

(33) "Combined distribution system" means the interconnected distribution system consisting of the distribution systems of wholesale water systems and of the purchasing water systems that receive finished water.

(34) "Community Water System" means a public water system that has 15 or more service connections used by year-round residents, or that regularly serves 25 or more year-round residents.

(35) "Compliance Cycle" means the nine-year calendar year cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle begins January 1, 1993 and ends December 31, 2001.

(36) "Compliance Period" means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998; and the third from January 1, 1999 to December 31, 2001.

(37) "Comprehensive performance evaluation (CPE)" means a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: Assessment of plant performance; evaluations of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

(38) "Conceptual Model" means a three-dimensional representation of the groundwater system, including the location and extent of the hydrogeologic units, areas of recharge and discharge, hydrogeologic boundaries and hydraulic gradient.

(39) "Confined Well" means a well completed in a confined aquifer. More specifically, it is a well which produces water from a formation that is overlain by an impermeable material of extensive area. This well shall be constructed according to OAR chapter 690, division 200 "Well Construction and Maintenance" standards.

(40) "Confluent Growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

(41) "Constructed Conveyance" means any human-made conduit such as ditches, culverts, waterways, flumes, mine drains, canals or any human-altered natural water bodies or waterways as determined by the Department.

(42) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water that creates a health hazard.

(43) "Contingency Plan" means a document setting out an organized, planned and coordinated course of action to be followed in the event of a loss of capacity to supply water to the distribution system or in case of a fire, explosion or release of hazardous waste which could threaten human health or the environment.

(44) "Continuing Education Unit (CEU)" means a nationally recognized unit of measurement for assigning credits for education or training that provides the participant with advanced or post high school learning. One CEU is awarded for every ten classroom hours of lecture or the equivalent of participation in an organized education experience, conducted under responsible sponsorship, capable direction and qualified instruction as determined by the Department or its designee.

(45) "Conventional Filtration Treatment Plant" means a water treatment plant using conventional or direct filtration to treat surface water or groundwater under the direct influence of surface water.

(46) "Corrosion Inhibitor" means a substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead and

ADMINISTRATIVE RULES

copper, by forming a protective film on the interior surface of those materials.

(47) "Cross Connection" means any actual or potential unprotected connection or structural arrangement between the public or user's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substances other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel, or change-over devices, and other temporary or permanent devices through which, or because of which, backflow can occur are considered to be cross connections.

(48) "CT" means the product of the residual disinfectant concentration "C" (measured in mg/l) and disinfectant contact time(s), "T" (measured in minutes).

(49) "Degree of Hazard" means either pollution (non-health hazard) or contamination (health hazard) and is determined by an evaluation of hazardous conditions within a system.

(50) "Delineation" means the determination of the extent, orientation and boundaries of a wellhead protection area using factors such as geology, aquifer characteristics, well pumping rates and time of travel.

(51) "Demonstration Study" means a series of tests performed to prove an overall effective removal and/or inactivation rate of a pathogenic organism through a treatment or disinfection process.

(52) "Department" means the Department of Human Services.

(53) "Direct Responsible Charge (DRC)" means an individual designated by the owner or authorized agent to make decisions regarding the daily operational activities of a public water system, water treatment facility and/or distribution system, that will directly impact the quality or quantity of drinking water.

(54) "Discharge" means the volume rate of loss of groundwater from the aquifer through wells, springs or to surface water.

(55) "Disinfectant Contact Time" means the time in minutes that it takes for water to move from the point of disinfectant application or the previous point of disinfection residual measurement to a point before or at the point where residual disinfectant concentration is measured.

(56) "Disinfectant Residual Maintenance" means a process where public water systems add chlorine (or other chemical oxidant) for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination.

(57) "Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

(58) "Disinfection profile" means a summary of *Giardia lamblia* inactivation through the treatment plant.

(59) "Distribution System" means the network of pipes and other facilities, which are used to distribute water from the source, treatment, transmission, or storage facilities to the water user.

(60) "Domestic" means provided for human consumption.

(61) "Domestic or other non-distribution system plumbing problem" means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which the coliform-positive sample was taken.

(62) "Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRU).

(63) "Double Check-Detector Backflow Prevention Assembly (DCDA)" means a specially designed assembly composed of a line size approved double check valve assembly assembled with a bypass containing a specific water meter and an approved double check valve assembly. The meter shall register accurately for only very low rates of flow up to three gallons per minute and shall show a registration for all rates of flow. This assembly is designed to protect against a non-health hazard.

(64) "Double Check Valve Backflow Prevention Assembly (DC)" means an assembly of two independently acting approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. This assembly is designed to protect against a non-health hazard.

(65) "Drawdown" means the difference, measured vertically, between the static water level in the well and the water level during pumping.

(66) "Drinking Water Protection" means implementing strategies within a drinking water protection area to minimize the potential impact of contaminant sources on the quality of water being used as a drinking water source by a Public Water System.

(67) "Drinking Water Protection Area (DWPA)" means the source area supplying drinking water to a Public Water System. For a surface water-supplied drinking water source the DWPA is all or a specifically determined part of a lake's, reservoir's or stream's watershed that has been certified by the Department of Environmental Quality. For a groundwater-supplied drinking water source the DWPA is the area on the surface that directly overlies that part of the aquifer that supplies groundwater to a well, well field or spring that has been certified by the Department.

(68) "Drinking Water Protection Plan" means a plan, certified by the Department of Environmental Quality according to OAR 340-040-0160 to 340-040-0180, which identifies the actions to be taken at the local level to protect a specifically defined and certified drinking water protection area. The plan is developed by the local Responsible Management Authority and/or team and includes a written description of each element, public participation efforts, and an implementation schedule.

(69) "Dual sample set" means a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other for HAA5. Dual sample sets are collected for the purposes of conducting an Initial Distribution System Evaluation (IDSE) as prescribed in 333-061-0036(4)(b) of these rules, and for determining compliance with the maximum contaminant levels for TTHM and HAA5 listed in OAR 333-061-0030(2)(b).

(70) "Effective Corrosion Inhibitor Residual" means a concentration sufficient to form a passivating film on the interior walls of a pipe.

(71) "Effective Porosity" means the ratio of the volume of interconnected voids (openings) in a geological formation to the overall volume of the material.

(72) "Element" means one of seven objectives considered by the U.S. EPA as the minimum required components in any state wellhead protection program: specification of duties, delineation of the wellhead protection area, inventory of potential contaminant sources, specification of management approaches, development of contingency plans, addressing new (future) wells, and ensuring public participation.

(73) "Emergency" means a condition resulting from an unusual calamity such as a flood, storm, earthquake, drought, civil disorder, volcanic eruption, an accidental spill of hazardous material, or other occurrence which disrupts water service at a public water system or endangers the quality of water produced by a public water system.

(74) "Emergency Response Plan" means a written document establishing contacts, operating procedures, and actions taken for a public water system to minimize the impact or potential impact of a natural disaster, accident, or intentional act which disrupts or damages, or potentially disrupts or potentially damages the public water system or drinking water supply, and returns the public water system to normal operating condition.

(75) "Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

(76) "Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

(77) "EPA" means the United States Environmental Protection Agency.

(78) "Filter profile" means a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from start-up to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

(79) "Filtration" means a process for removing particulate matter from water through porous media.

(a) "Conventional Filtration Treatment" means a series of processes including coagulation (requiring the use of a primary coagulant and rapid mix), flocculation, sedimentation, and filtration resulting in substantial particulate removal.

(b) "Direct Filtration Treatment" means a series of processes including coagulation (requiring the use of a primary coagulant and rapid mix) and filtration but excluding sedimentation resulting in substantial particulate removal.

(c) "Slow Sand Filtration" means a treatment process involving passage of raw water through a bed of sand at low velocity (generally less than 235 gallons per square foot per day) resulting in substantial particulate removal by physical and biological mechanisms.

(d) "Diatomaceous Earth Filtration" means a process resulting in substantial particulate removal in which:

(A) A precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum); and

ADMINISTRATIVE RULES

(B) While the water is filtered by passing through the cake on the septum, additional filter media, known as body feed, is continuously added to the feed water, in order to maintain the permeability of the filter cake.

(80) "Filtration Endorsement" means a special provision added to a Water Treatment Operator's certification that includes experience and knowledge of the operational decision making at a Conventional or Direct Filtration Treatment Plant.

(81) "Finished water" means water that is introduced into the distribution system of a public water system and intended for distribution and consumption without further treatment, except as necessary to maintain water quality in the distribution system such as booster disinfection or the addition of corrosion control chemicals.

(82) "First Customer" means the initial service connection or tap on a public water supply after any treatment processes.

(83) "First Draw Sample" means a one-liter sample of tap water that has been standing in plumbing pipes at least 6 hours and is collected without flushing the tap.

(84) "Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

(85) "Flowing stream" means a course of running water flowing in a definite channel.

(86) "Future Groundwater Sources" means wells and/or springs that may be required by the public water system in the future to meet the needs of the system.

(87) "GAC 10" means granular activated carbon filter beds with an empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with OAR 333-061-0030(2)(b) shall be 120 days.

(88) "GAC 20" means granular activated carbon filter beds with an empty-bed contact time of 20 minutes based on average daily flow and a carbon reactivation frequency of every 240 days.

(89) "Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

(90) "Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

(91) "Groundwater" means any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this state, whatever may be the geologic formation or structure in which such water stands, flows, percolates or otherwise moves.

(92) "Groundwater System" means any public water system that uses groundwater, including purchasing water systems that receive finished groundwater, but excluding public water systems that combine all of their groundwater with surface water or groundwater under the direct influence of surface water prior to treatment.

(93) "Groundwater under the direct influence of surface water (GWUDI)" means any water beneath the surface of the ground with significant occurrence of insects or other macro-organisms, algae or large-diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions.

(94) "Haloacetic acids (five) (HAA5)" mean the sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid and dibromoacetic acid), rounded to two significant figures after addition.

(95) "Hauled Water" means water for human consumption transported from a Public Water System in a manner approved by the Department.

(96) "Health Hazard (Contamination)" means an impairment of the quality of the water that could create an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids, waste, or other substances.

(97) "Human Consumption" means water used for drinking, personal hygiene bathing, showering, cooking, dishwashing, and maintaining oral hygiene.

(98) "Hydraulic Conductivity" means the capacity of the medium, e.g., soil, aquifer, or any hydrogeological unit of interest, to transmit water.

(99) "Hydraulic Connection" refers to a well, spring or other groundwater collection system in which it has been determined that part of the water supplied by the collection system is derived, either naturally or induced, from a surface water source.

(100) "Hydraulic Gradient" means the slope of the water table or potentiometric surface, calculated by dividing the change in hydraulic head between two points by the horizontal distance between the points in the direction of groundwater flow.

(101) "Hydraulic Head" means the energy possessed by the water mass at a given point, related to the height above the datum plane that water resides in a well drilled to that point. In a groundwater system, the hydraulic head is composed of elevation head and pressure head.

(102) "Hydrogeologic Boundary" means physical features that bound and control direction of groundwater flow in a groundwater system. Boundaries may be in the form of a constant head, e.g. streams, or represent barriers to flow, e.g. groundwater divides and impermeable geologic barriers.

(103) "Hydrogeologic Mapping" means characterizing hydrogeologic features (e.g. hydrogeologic units, hydrogeologic boundaries, etc.) within an area and determining their location, areal extent and relationship to one another.

(104) "Hydrogeologic Unit" means a geologic formation, group of formations, or part of a formation that has consistent and definable hydraulic properties.

(105) "Impermeable Material" means a material that limits the passage of water.

(106) "Impounding Reservoir" means an uncovered body of water formed behind a dam across a river or stream, and in which water is stored.

(107) "Infiltration Gallery" means a system of perforated pipes laid along the banks or under the bed of a stream or lake installed for the purpose of collecting water from the formation beneath the stream or lake.

(108) "Initial Compliance Period" means the 1993-95 three-year compliance period for systems with 150 or more service connections and the 1996-98 three-year compliance period for systems having fewer than 150 service connections for the contaminants prescribed in OAR 333-061-0036(2)(a)(A)(v), 333-061-0036(3)(a)(K) and (3)(b)(O).

(109) "Interfering Wells" means wells that, because of their proximity and pumping characteristics, and as a result of the aquifer's hydraulic properties, produce drawdown cones that overlap during simultaneous pumping. The result is a lowering of the pumping level in each well below what it would be if that well were pumping by itself.

(110) "Inventory of Potential Contaminant Sources" means the reconnaissance level location of land use activities within the Drinking Water Protection Area that as a category have been associated with groundwater or surface water contamination in Oregon and elsewhere in the United States.

(111) "Lake/reservoir" means a natural or man-made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

(112) "Lead Free" when used with respect to solders and flux shall mean solders and flux containing not more than 0.2 percent lead, and when used with respect to pipes and fittings shall mean pipes and fittings containing not more than 8.0 percent lead. When used with respect to plumbing fittings and fixtures intended for dispensing water for human consumption shall mean in compliance with standards established in accordance with 42 U.S.C. 300g-6(e) and ANSI/NSF standard 61, section 9.

(113) "Lead Service Line" means a service line made of lead, which connects the water main to the building inlet and any pigtail, gooseneck or other fitting, which is connected to such lead line.

(114) "Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

(115) "Local Administrative Authority" means the individual official, board, department or agency established and authorized by a state, county or city to administer and enforce the provisions of the Oregon State Plumbing Specialty Code adopted under OAR 918-750-0110.

(116) "Locational running annual average (LRAA)" means the arithmetic average of analytical results for samples taken at a specific monitoring location during the previous four calendar quarters.

(117) "Major Additions or Modifications" means changes of considerable extent or complexity including, but not limited to, projects involving water sources, treatment facilities, facilities for continuous disinfection, finished water storage, pumping facilities, transmission mains, and distribution mains, except main replacements of the same length and diameter.

(118) "Man-made Beta Particle and Photon Emitters" means all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, NBS Handbook 69, except the daughter products of Thorium-232, Uranium-235 and Uranium-238.

ADMINISTRATIVE RULES

(119) "Master Plan" means an overall plan, which shows the projected development of a distribution system and alternatives for source development.

(120) "Maximum Contaminant Level (MCL)" means the maximum allowable level of a contaminant in water delivered to the user's of a public water system, except in the case of turbidity where the maximum allowable level is measured at the point of entry to the distribution system.

(121) "Maximum Residual Disinfectant Level (MRDL)" means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects.

(122) "Membrane filtration" means a pressure or vacuum driven separation process in which particulate matter larger than one micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

(123) "Multi-purpose Piping System" means a piping system within residential dwellings intended to serve both domestic and fire protection needs. This type of system is considered part of a potable water system.

(124) "New Groundwater Sources" means additional or modified wells and/or springs owned by the Public Water System.

(125) "Non-Health Hazard (Pollution)" means an impairment of the quality of the water to a degree that does not create a hazard to the public health, but does adversely affect the aesthetic qualities of such water for potable use.

(126) "Non-Transient Non-Community Water System (NTNC)" means a public water system that is not a Community Water System and that regularly serves at least 25 of the same persons over 6 months per year.

(127) "Open Interval" means in a cased well, the sum of the length(s) of the screened or perforated zone(s) and in an uncased (open-hole) well, the sum of the thickness(es) of the water-bearing zones or, if undeterminable, 10 percent of the length of the open hole.

(128) "Operating Experience" means the routine performance of duties, tasks, and responsibilities at a drinking water system or in a related field as allowed under OAR 333-061-0245(6)(b).

(129) "Operational Decision Making" means having responsibility for making decisions among the alternatives in the performance of the water treatment plant or the water distribution system regarding water quality or quantity which affect public health.

(130) "Operator," for the purposes of OAR 333-061-0210 through 0295, means an individual with responsibilities that directly impact the quality of drinking water including individuals making process control or system integrity decisions about water quality or quantity that affect public health. This term does not include officials, managers, engineers, directors of public works, or equivalent whose duties do not include the actual "hands-on" operation or supervision on-site of water system facilities or operators.

(131) "Optimal Corrosion Control Treatment" means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while insuring that the treatment does not cause the water system to violate any national primary drinking water regulations.

(132) "Pathogenic" means a specific agent (bacterium, virus or parasite) causing or capable of causing disease.

(133) "Peak Daily Demand" means the maximum rate of water use, expressed in gallons per day, over the 24-hour period of heaviest consumption.

(134) "Permit" means official permission granted by the Department for a public water system which exceeds maximum contaminant levels to delay, because of economic or other compelling factors, the installation of water treatment facilities which are necessary to produce water which does not exceed maximum contaminant levels.

(135) "Person" means any individual, corporation, association, firm, partnership, municipal, state or federal agency, or joint stock company and includes any receiver, special master, trustee, assignee, or other similar representative thereof.

(136) "Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

(137) "Pilot Study" means the construction and operation of a scaled down treatment system during a given period of time to determine the feasibility a full-scale treatment facility.

(138) "Plant intake" means the works or structures at the head of a conduit through which water is diverted from a source, such as a river or lake, into a treatment plant.

(139) "Plug Flow" means movement of water in a pipe such that particles pass through the pipe and are discharged in the same sequence in which they entered.

(140) "Point of Delivery (POD)" means the point of connection between a public water system and the user's water system. Beyond the point of delivery, the Oregon Plumbing Specialty Code applies. See "Service Connection."

(141) "Point of Disinfectant Application" is the point where the disinfectant is applied and water downstream of that point is not subject to recontamination by surface water runoff.

(142) "Point-of-Entry Treatment Device" is a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

(143) "Point-of-Use Treatment Device" is a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

(144) "Pollutant" means a substance that creates an impairment of the quality of the water to a degree which does not create a hazard to the public health, but which does adversely affect the aesthetic qualities of the water.

(145) "Porous Media Assumption" means the assumption that groundwater moves in the aquifer as if the aquifer were granular in character, i.e. moves directly down-gradient, and the velocity of the groundwater can be described by Darcy's Law.

(146) "Post High School Education" means that education acquired through programs such as short schools, bona fide correspondence courses, trade schools, colleges, universities, formalized workshops or seminars that are acceptable to the Department and for which college or continuing education credit is issued by the training sponsor.

(147) "Potable Water" See Safe Drinking Water.

(148) "Potential Contaminant Source Inventory" means the determination of the location within the wellhead protection area of activities known to use or produce materials that can contaminate groundwater.

(149) "Potential Cross Connection" means a cross connection that would most likely occur, but may not be taking place at the time of an inspection.

(150) "Potentiometric Surface" means a surface that denotes the variation of hydraulic head in the given aquifer across an area.

(151) "Premise" means real estate and the structures on it.

(152) "Premise Isolation" means the practice of protecting the public water supply from contamination or pollution by installing backflow prevention assemblies at, or near, the point of delivery where the water supply enters the premise. Premise isolation does not guarantee protection to persons on the premise.

(153) "Presedimentation" means a preliminary treatment process used to remove gravel, sand and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

(154) "Pressure Vacuum Breaker Backsiphonage Prevention Assembly (PVB)" means an assembly consisting of an independently operating, internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. This assembly is to be equipped with properly located resilient seated test cocks and tightly closing resilient seated shutoff valves attached at each end of the assembly. This assembly is designed to protect against a non-health hazard or a health hazard under backsiphonage conditions only.

(155) "Provisional Delineation" means approximating the wellhead protection area for a well by using the wellhead protection area from another well in the same hydrogeologic setting or by using generalized values for the aquifer characteristics to generate an approximate wellhead protection area for the well. Used only for the purpose of evaluating potential siting of new or future groundwater sources. Not an acceptable way to formally delineate a wellhead protection area.

(156) "Public Health Hazard" means a condition, device or practice which is conducive to the introduction of waterborne disease organisms, or harmful chemical, physical, or radioactive substances into a public water system, and which presents an unreasonable risk to health.

(157) "Public Water System" means a system for the provision to the public of piped water for human consumption, if such system has more than three service connections, or supplies water to a public or commercial establishment that operates a total of at least 60 days per year, and that is used by 10 or more individuals per day. Public water system also means a system for the provision to the public of water through constructed conveyances other than pipes to at least 15 service connections or regularly

ADMINISTRATIVE RULES

serves at least 25 individuals daily at least 60 days of the year. A public water system is either a "Community Water System," a "Transient Non-Community Water System," a "Non-Transient Non-Community Water System" or a "State Regulated Water System."

(158) "Purchasing Water System" means a public water system which obtains its water in whole or in part from another public water system. Delivery may be through a direct connection or through the distribution system of one or more purchasing water systems.

(159) "Recharge" means the process by which water is added to a zone of saturation, usually by downward infiltration from the surface.

(160) "Recharge Area" means a land area in which water percolates to the zone of saturation through infiltration from the surface.

(161) "Recovery" means the rise in water level in a well from the pumping level towards the original static water level after pumping has been discontinued.

(162) "Reduced Pressure Principle Backflow Prevention Assembly (RP)" means an assembly containing two independently acting approved check valves, together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. This assembly is designed to protect against a non-health hazard or a health hazard.

(163) "Reduced Pressure Principle-Detector Backflow Prevention Assembly (RPDA)" means a specifically designed assembly composed of a line size approved reduced pressure principle backflow prevention assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter shall register accurately for only very low rates of flow up to three gallons per minute and shall show a registration for all rates of flow. This assembly is designed to protect against a non-health hazard or a health hazard.

(164) "Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem (mrem)" is 1/1000 of a rem.

(165) "Repeat Compliance Period" means any subsequent compliance period after the initial compliance period.

(166) "Residual disinfectant concentration" means the concentration of disinfectant measured in mg/l in a representative sample of water.

(167) "Responsible Management Authority" means the Public Water System whose water supply is being protected and any government entity having management, rule or ordinance-making authority to implement wellhead protection management strategies within the wellhead protection area. The Responsible Management Authority is responsible for implementation of the Wellhead Protection Plan and includes cities, counties, special districts, Indian tribes, state/federal entities as well as public water systems.

(168) "Safe Drinking Water" means water which has sufficiently low concentrations of microbiological, inorganic chemical, organic chemical, radiological or physical substances so that individuals drinking such water at normal levels of consumption, will not be exposed to disease organisms or other substances which may produce harmful physiological effects.

(169) "Sanitary Survey (Water System Survey)" means an on-site review of the water source(s), facilities, equipment, operation, maintenance and monitoring compliance of a public water system to evaluate the adequacy of the water system, its sources and operations in the distribution of safe drinking water. The sanitary survey also identifies sources of contamination by using the results of source water assessments where available.

(170) "Secondary Contaminant" means those contaminants, which, at the levels generally found in drinking water, do not present an unreasonable risk to health, but do:

- (a) Have adverse effects on the taste, odor and color of water;
- (b) Produce undesirable staining of plumbing fixtures; or
- (c) Interfere with treatment processes applied by water suppliers.

(171) "Secondary Maximum Contaminant Level (SMCL)" means the level of a secondary contaminant which when exceeded may adversely affect the aesthetic quality of the drinking water which thereby may deter public acceptance of drinking water provided by public water systems or may interfere with water treatment methods.

(172) "Sedimentation" means a process for removal of solids before filtration by gravity or separation.

(173) "Seller's Designee" means the person assigned by the seller to complete the necessary paperwork and submit the lab results to the Department and can be the seller's attorney, real estate agent or broker, the person conducting the tests or a private party.

(174) "Sensitivity" means the intrinsic characteristics of a drinking water source such as depth to the aquifer for groundwater or highly erodi-

ble soils in a watershed that increase the potential for contamination to take place if a contaminant source is present.

(175) "Service Connection" means the piping connection by means of which water is conveyed from a distribution main of a public water system to a user's premise. For a community water system, the portion of the service connection that conveys water from the distribution main to the user's property line, or to the service meter, where provided, is under the jurisdiction of the water supplier.

(176) "Significant Deficiency" means a defect in design, operation, or maintenance, or a malfunction of the source(s), treatment, storage, or distribution system that has been determined to cause or have the potential for causing the introduction of contamination into the water delivered to consumers.

(177) "Single Connection System" means a public water system serving only one installation, such as a restaurant, campground or place of employment.

(178) "Single Family Structure" means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

(179) "Small Water System," for the purposes of OAR 333-061-0210 through 0295, means a community or non-transient non-community water system serving fewer than 150 connections and either uses groundwater as its only source or purchases its water from another public water system without adding any additional treatment.

(180) "Source Water Assessment" means the information compiled by the Department and the Department of Environmental Quality (DEQ), consisting of the delineation, inventory and susceptibility analyses of the drinking water source, which enable public water systems to develop and implement drinking water protection plans.

(181) "Specific Ultraviolet Absorption (SUVA) at 254 nanometers" means an indicator of the humic content of water as a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nanometers (UV254) by its concentration of dissolved organic carbon (DOC) (in milligrams per liter).

(182) "Spill Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly (SVB)" means an assembly containing an independently operating, internally loaded check valve and independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with a properly located resilient seated test cock, a properly located bleed/vent valve, and tightly closing resilient seated shutoff valves attached at each end of the assembly. This assembly is designed to protect against a non-health hazard or a health hazard under a backsiphonage condition only.

(183) "Spring" means a naturally occurring discharge of flowing water at the ground surface, or into surface water where the flow of water is the result of gravity or artesian pressure. Springs can be derived from groundwater or they can be surface water influenced.

(184) "Stand-alone Fire Suppression System" means a piping system within a premise intended to only serve as a fire protection system separated from the potable water system.

(185) "State Regulated Water System" means a public water system, which serves 4 to 14 service connections or serves 10 to 24 people. Monitoring requirements for these systems are the same as those for Transient Non-Community water systems.

(186) "Static Water Level" means the vertical distance from ground surface to the water level in the well when the well is at rest, i.e., the well has not been pumped recently and the water level is stable. This is the natural level of water in the well.

(187) "Submeter" means a water meter by which a property owner (or association of property owners) meters individual water use after the water passes through a master meter. For the purposes of OAR 333-061-0010, submetering does not constitute applying a direct charge for water or directly selling water to a person.

(188) "Surface Water" means all water, which is open to the atmosphere and subject to surface runoff.

(189) "Susceptibility" means the potential, as a result of the combination of land use activities and source water sensitivity that contamination of the drinking water source may occur.

(190) "Team" means the local Wellhead Protection team, which includes representatives from the Responsible Management Authorities and various interests and stakeholders potentially affected by the Wellhead Protection Plan.

(191) "Thermal Expansion" means the pressure increase due to a rise in water temperature that occurs in water piping systems when such systems become "closed" by the installation of a backflow prevention assem-

ADMINISTRATIVE RULES

bly or other means, and will not allow for expansion beyond that point of installation.

(192) "These Rules" means the Oregon Administrative Rules encompassed by OAR 333-061-0005 through 333-061-0335.

(193) "Time-of-Travel (TOT)" means the amount of time it takes groundwater to flow to a given well. The criterion that effectively determines the radius in the calculated fixed radius method and the up-gradient distance to be used for the analytical and numerical models during delineation of the wellhead protection area.

(194) "Too Numerous To Count (TNTC)" means that the total number of bacterial colonies exceeds 200 on a 47 mm diameter membrane filter used for coliform bacteria detection.

(195) "Total Organic Carbon (TOC)" means total organic carbon in milligrams per liter measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

(196) "Total Trihalomethanes (TTHM)" means the sum of the concentrations in milligrams per liter of the trihalomethane compounds bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane (chloroform), rounded to two significant figures after addition.

(197) "Transient Non-Community Water System (TNC)" means a public water system that serves a transient population of 25 or more persons.

(198) "Turbidity" means a measure of the cloudiness of water caused by suspended particles. The units of measure for turbidity are nephelometric turbidity units (NTU).

(199) "Two-stage lime softening" means a process in which a chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

(200) "Unconfined Well" means a well completed in an unconfined aquifer. More specifically, a well which produces water from a formation that is not overlying by impermeable material. This well shall be constructed according to OAR chapter 690, division 200 "Well Construction and Maintenance" standards.

(201) "Uncovered finished water storage facility" means a tank, reservoir, or other facility used to store water that will undergo no further treatment to reduce microbial pathogens except residual disinfection and is directly open to the atmosphere.

(202) "University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research (USC FCCCHR)" is an agency that conducts laboratory and field tests to evaluate and grant "Certificates of Approval" to backflow prevention assemblies meeting approved standards.

(203) "Vadose Zone" means the zone between the ground surface and the water table where the available open spaces between soil and sediment particles, in rock fractures, etc., are most filled with air.

(204) "Variance" means official permission granted by the Department for public water systems to exceed maximum contaminant levels because the quality of the raw water is such that the best available treatment techniques are not capable of treating the water so that it complies with maximum contaminant levels, and there is no unreasonable risk to health.

(205) "Vault" means an approved enclosure above or below ground to house a backflow prevention assembly that complies with the local administrative authority having jurisdiction.

(206) "Virus" means a virus of fecal origin, which is infectious to humans by waterborne transmission.

(207) "Waiver" means official permission from the Department for a public water system to deviate from the construction standards set forth in these rules.

(208) "Water-bearing Zone" means that part or parts of the aquifer encountered during drilling that yield(s) water to a well.

(209) "Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system which is deficient in treatment, as determined by the Department.

(210) "Water Source" means any lake, stream, spring, groundwater supply, impoundment or other source of water from which water is obtained for a public water system. In some cases, a public water system can be the source of supply for one or more other public water systems.

(211) "Water Supplier" means a person, group of persons, municipality, district, corporation or other entity, which owns or operates a public potable water system.

(212) "Water System" means a system for the provision of piped water for human consumption.

(213) "Water System Operations Manual" means a written document describing the actions and procedures necessary to operate and maintain the entire water system.

(214) "Water Table" means the upper surface of an unconfined aquifer, the surface of which is at atmospheric pressure and fluctuates seasonally. It is defined by the levels at which water stands in wells that penetrate the aquifer.

(215) "Water Treatment" means a process of altering water quality by physical or chemical means and may include domestic, industrial or commercial applications.

(216) "Well" means an artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure or is artificially withdrawn or injected, provided that this definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas.

(217) "Wellfield" means two or more drinking water wells, belonging to the same water system that are within 2,500 feet, or as determined by the Department, and produce from the same and no other aquifer.

(218) "Wellhead Protection." See Drinking Water Protection.

(219) "Wellhead Protection Area (WHPA)." See Drinking Water Protection Area.

(220) "Wellhead Protection Plan." See Drinking Water Protection Plan.

(221) "Wholesale system" means a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more purchasing water systems.

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

Stat. Auth.: ORS 448

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273, 448.279

Hist.: HD 106, f. & ef. 2-6-76; HD 4-1980, f. & ef. 3-21-80; HD 10-1981, f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0205, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 3-1988(Temp), f. & cert. ef. 2-12-88; HD 17-1988, f. & cert. ef. 7-27-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 3-2000, f. 3-8-00, cert. ef. 3-15-00; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0030

Maximum Contaminant Levels and Action Levels

(1) Maximum contaminant levels (MCLs) and Action Levels (ALs) for inorganic chemicals are applicable to all Community and Non-transient Non-community water systems and are listed in Table 1. The MCL for Fluoride is applicable only to Community Water Systems and the MCL for Nitrate is applicable to all water systems. [Table not included. See ED. NOTE.]

(a) Compliance with the maximum contaminant levels for inorganic contaminants is calculated pursuant to OAR 333-061-0036(2)(i).

(b) Violations of secondary contaminant levels for fluoride (2.0 mg/l) require a special public notice. Refer to OAR 333-061-0042(7).

(c) The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with OAR 333-061-0036(2)(c)(A) through (E) is greater than 0.015 mg/L (i.e., if the "90th percentile" lead level is greater than 0.015 mg/L). The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with OAR 333-061-0036(2)(c)(A) through (E) is greater than 1.3 mg/L (i.e., if the "90th percentile" copper level is greater than 1.3 mg/L).

(A) The 90th percentile lead and copper levels shall be computed as follows: The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken. The number of samples taken during the monitoring period shall be multiplied by 0.9. The contaminant concentration in the numbered sample yielded by this calculation is the 90th percentile contaminant level.

ADMINISTRATIVE RULES

(B) For water systems serving fewer than 100 people that collect five samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations. For a water system allowed by the Department to collect fewer than five samples the sample result with the highest concentration is considered the 90th percentile value.

(2) Maximum contaminant levels for organic chemicals:

(a) The maximum contaminant levels for synthetic organic chemicals are shown in Table 2 and apply to all Community and Non-Transient Non-Community water systems. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(3)(a)(G). [Table not included. See ED. NOTE.]

(b) The maximum contaminant levels for disinfection byproducts are shown in Table 3 and apply to all Community and Non-Transient Non-Community water systems that add a disinfectant (oxidant) to the water supply at any point in the treatment process or deliver water in which a disinfectant has been added to the water supply. [Table not included. See ED. NOTE.]

(A) Compliance with the MCLs for TTHM and HAA5 shall be calculated as a running annual arithmetic average as prescribed by OAR 333-061-0036(4)(c) and (4)(p) until the dates specified in Table 4, at which time compliance with the MCLs shall be calculated as a locational running annual arithmetic average pursuant to OAR 333-061-0036(4)(d). [Table not included. See ED. NOTE.]

(B) Compliance with the MCL for Bromate shall be calculated as a running annual arithmetic average pursuant to OAR 333-061-0036(4)(l) and (r).

(C) Compliance with the MCL for Chlorite shall be calculated as a running annual arithmetic average pursuant to OAR 333-061-0036(4)(k) and (s).

(c) The maximum contaminant levels for volatile organic chemicals are indicated in Table 5 and apply to all Community and Non-Transient Non-Community water systems. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(3)(b)(K). [Table not included. See ED. NOTE.]

(d) When the Department has reason to believe that a water supply has been contaminated by a toxic organic chemical, it will determine whether a public health hazard exists and whether control measures must be carried out;

(e) The Department may establish maximum contaminant levels for additional organic chemicals as deemed necessary when there is reason to suspect that the use of those chemicals will impair water quality to an extent that poses an unreasonable risk to the health of the water users;

(f) Persons who apply pesticides on watersheds above surface water intakes of public water systems shall comply with federal and state pesticide application requirements. (Safe Drinking Water Act (EPA), Clean Water Act (EPA), Federal Insecticide, Fungicide and Rodenticide Act (EPA), ORS 536.220 to 536.360 (Water Resources), 468B.005 (DEQ), 527.610 to 527.990 (DOF), 634.016 to 634.992 (Department of Agriculture)). Any person who has reasonable cause to believe that his or her actions have led to organic chemical contamination of a public water system shall report that fact immediately to the water supplier.

(3) Maximum contaminant levels for turbidity are applicable to all public water systems using surface water sources or groundwater sources under the direct influence of surface water in whole or in part. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(5).

(a) Beginning January 1, 1992, the maximum contaminant levels for turbidity for systems which do not provide filtration treatment are as follows:

(A) The turbidity level cannot exceed 5 NTU in representative samples of the source water immediately prior to the first or only point of disinfectant application unless:

(i) The Department determines that any such event was caused by circumstances that were unusual and unpredictable; and

(ii) As a result of any such event, there have not been more than two events in the past 12 months the system served water to the public, or more than five events in the past 120 months the system served water to the public, in which the turbidity level exceeded 5 NTU. An "event" is a series of consecutive days during which at least one turbidity measurement each day exceeds 5 NTU. Turbidity measurements must be collected as required by OAR 333-061-0036(5)(a)(B).

(b) Beginning June 29, 1993 or 18 months after failure to meet the requirements of OAR 333-061-0032(1) through (3) whichever is later, the maximum contaminant levels for turbidity in drinking water measured at a point representing filtered water prior to any storage are as follows:

(A) Conventional filtration treatment or direct filtration treatment.

(i) For systems using conventional filtration or direct filtration treatment the turbidity level of representative samples of a system's filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(5).

(ii) For systems using conventional filtration or direct filtration treatment the turbidity level of representative samples of a system's filtered water, measured as soon after filtration as possible and prior to any storage, must at no time exceed 1 NTU measured as specified in OAR 333-061-0036(5).

(B) Slow sand filtration.

(i) For systems using slow sand filtration, the turbidity level of representative samples of filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(5)(b), except that if the Department determines there is no significant interference with disinfection at a higher turbidity level, the Department may substitute this higher turbidity limit for that system.

(ii) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(5)(b).

(C) Diatomaceous earth filtration.

(i) For systems using diatomaceous earth filtration, the turbidity level of representative samples of filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(5)(b).

(ii) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(5)(b).

(D) Other filtration technologies. Systems using filtration technologies other than those listed in paragraphs (3)(b)(A) through (C) of this rule must meet the maximum contaminant level for turbidity of 1 NTU in at least 95 percent of the measurements taken each month and at no time exceed 5 NTU, as specified in OAR 333-061-0036(5)(b)(A). The Department may substitute a lower turbidity value(s) if it is determined that the above limit(s) cannot achieve the required level of treatment. The water system must demonstrate to the Department that the alternative filtration technology in combination with disinfection treatment as specified in OAR 333-061-0032 and monitored as specified by OAR 333-061-0036 consistently achieves 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts and 99.99 percent removal and/or inactivation of viruses, and for all of those systems serving at least 10,000 people and beginning January 1, 2005 for all of those systems serving less than 10,000 people, 99 percent removal of *Cryptosporidium* oocysts.

(4) Maximum microbiological contaminant levels for all public water systems are as follows:

(a) The MCL is based on the presence or absence of total coliforms in a sample, rather than coliform density.

(A) For a system which collects 40 or more samples per month, total coliform-positive samples shall not exceed 5.0 percent of the samples collected during a month.

(B) For a system which collects fewer than 40 samples per month total coliform-positive samples shall not exceed more than one sample collected during a month.

(b) Any fecal coliform-positive repeat sample or *E. coli*-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or *E. coli*-positive routine sample shall be a violation of the total coliform MCL. Public notification for this potential acute health risk is prescribed in OAR 333-061-0042(2)(a)(A).

(c) All public water systems must determine compliance with the MCL for total coliforms in subsections (4)(a) and (b) of this rule on a monthly basis.

(d) A water system may demonstrate to the Department that a violation of the total coliform MCL is due to a persistent growth of total coliforms in the distribution system rather than fecal or pathogenic contamination, a treatment lapse or deficiency, or a problem in the operation or maintenance of the distribution system. The system making the demonstration may use the health effects language of OAR 333-061-0097(4)(d) in the required public notice in addition to the mandatory language of OAR 333-061-0097(4)(a). This demonstration, made by the system in writing and submitted to the Department for review and approval, shall show to the satisfaction of the Department that the system meets the following conditions:

ADMINISTRATIVE RULES

- (A) No occurrence of *E. coli* in distribution system samples;
 - (B) No occurrence of coliforms at the entry point to the distribution system;
 - (C) The system meets treatment requirements prescribed in OAR 333-061-0032 as applicable;
 - (D) The system meets the turbidity MCL, if surface water sources are used;
 - (E) The system maintains a detectable disinfectant residual in the distribution system;
 - (F) The system has no history of waterborne disease outbreaks;
 - (G) The system has addressed requirements and recommendations of the previous sanitary survey conducted by the Department; and
 - (H) The system fully complies with cross connection control program requirements.
- (5) Maximum contaminant levels for radionuclides are applicable only to Community water systems and are indicated in **Table 6**. [Table not included. See ED. NOTE.]

(a) The average annual concentration of beta particle and photon radioactivity from man-made sources shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem per year according to the criteria listed in the National Bureau of Standards Handbook 69 as amended August, 1963. If two or more radionuclides are present, the sum total of their annual dose equivalent to the total body or to any organ shall not exceed 4 millirem/year.

(A) The average annual concentration of tritium assumed to produce a total body dose of 4 mrem/year is 20,000 pCi/L;

(B) The average annual concentration of strontium-90 assumed to produce a bone marrow dose of 4 mrem/year is 8 pCi/L.

(b) Compliance with the MCLs shall be calculated pursuant to OAR 333-061-0036(7)(c).

(6) Contaminant levels for secondary contaminants are applicable to all public water systems. These are indicated in Table 7. (Also note OAR 333-061-0036(8)). [Table not included. See ED. NOTE.]

(a) Violations of secondary contaminant levels for fluoride require a special public notice. Refer to OAR 333-061-0042(7).

(b) Violations of maximum contaminant levels for fluoride (4.0 mg/l) require public notification as specified in OAR 333-061-0042(2)(b)(A).

(7) Acrylamide and Epichlorohydrin. Each public water system must certify annually to the state in writing, using third party certification approved by the state or manufacturer's certification, that when acrylamide and epichlorohydrin are used in drinking water systems, the combination, or product, of dose and monomer level does not exceed the levels specified as follows:

(a) Acrylamide: 0.05 percent dosed at 1 ppm or equivalent.

(b) Epichlorohydrin: 0.01 percent dosed at 20 ppm or equivalent.

[ED. NOTE: Tables and Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0210, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0032

Treatment Requirements and Performance Standards for Surface Water, Groundwater Under Direct Influence of Surface Water, and Groundwater

(1) General requirements for all public water systems supplied by a surface water source or a groundwater source under the direct influence of surface water.

(a) These regulations establish criteria under which filtration is required and treatment technique requirements in lieu of maximum contaminant levels for the following contaminants: *Giardia lamblia*, viruses, heterotrophic plate count bacteria, *Legionella*, *Cryptosporidium*, and turbidity. Each public water system with a surface water source or a groundwater source under the direct influence of surface water must provide treatment of that source water that complies with these treatment technique requirements. The treatment technique requirements consist of installing and properly operating water treatment processes which reliably achieve:

(A) At least 99.9 percent (3-log) removal and/or inactivation of *Giardia lamblia* cysts between a point where the raw water is not subject to

recontamination by surface water runoff and a point downstream before or at the first customer, and

(B) At least 99.99 percent (4-log) removal and/or inactivation of viruses between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer.

(C) At least 99 percent (2-log) removal of *Cryptosporidium* between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer for filtered systems, or *Cryptosporidium* control under the watershed control plan for unfiltered systems; and

(D) Compliance with any applicable disinfection profiling and benchmark requirements as specified in OAR 333-061-0036(4)(g) and 333-061-0060(1)(e).

(E) Sampling and Bin Classification for *Cryptosporidium*:

(i) All systems must conduct an initial and second round of source water monitoring, as prescribed in subsection 333-061-0036(5)(e) of these rules, for each plant that treats a surface water or GWUDI source to determine what level, if any, of additional *Cryptosporidium* treatment they must provide.

(ii) Filtered systems must determine their *Cryptosporidium* treatment bin classification as prescribed in subsection (4)(f) of this rule and provide additional treatment for *Cryptosporidium*, if required, as prescribed in subsection (4)(g) of this rule. All unfiltered systems must provide treatment for *Cryptosporidium* as prescribed in subsections (3)(e) through (g) of this rule. Filtered and unfiltered systems must implement *Cryptosporidium* treatment according to the schedule in paragraph (1)(a)(F) of this rule.

(iii) Systems required to provide additional treatment for *Cryptosporidium* must implement microbial toolbox options that are designed and operated as prescribed in sections (13) through (17) of this rule and in OAR 333-061-0036(5)(c), 333-061-0050(4) and 333-061-0050(5)(k).

(F) Schedule for compliance with *Cryptosporidium* treatment requirements.

(i) Following initial bin classification as prescribed in subsection (4)(f) of this rule, filtered water systems must provide the level of treatment for *Cryptosporidium* required under subsection (4)(g) of this rule according to the schedule in subparagraph (1)(a)(F)(iii) of this rule.

(ii) Following initial determination of the mean *Cryptosporidium* level as prescribed by subsection (2)(d) of this rule, unfiltered water systems must provide the level of treatment for *Cryptosporidium* required under subsection (3)(e) of this rule according to the schedule in subparagraph (1)(a)(F)(iii) of this rule.

(iii) *Cryptosporidium* treatment compliance dates. The Department may allow up to an additional two years from the date specified below for water systems making capital improvements.

(I) Water systems that serve at least 100,000 people must comply with *Cryptosporidium* treatment by April 1, 2012.

(II) Water systems that serve from 50,000 to 99,999 people must comply with *Cryptosporidium* treatment by October 1, 2012.

(III) Water systems that serve from 10,000 to 49,999 people must comply with *Cryptosporidium* treatment by October 1, 2013.

(IV) Water systems that serve fewer than 10,000 people must comply with *Cryptosporidium* treatment by October 1, 2014.

(V) State-Regulated public water systems must comply with *Cryptosporidium* treatment by October 1, 2015.

(iv) If the bin classification for a filtered water system changes following the second round of source water monitoring as prescribed in subsection (4)(f) of this rule, the water system must provide the level of treatment for *Cryptosporidium* required by subsection (4)(g) of this rule on a schedule approved by the Department.

(v) If the mean *Cryptosporidium* level for an unfiltered water system changes following the second round of monitoring as prescribed by paragraph (2)(d)(A) of this rule, the water system must provide the level of *Cryptosporidium* treatment required by subsection (3)(e) of this rule, due to the change, following a schedule approved by the Department.

(b) A public water system using a surface water source or a groundwater source under the direct influence of surface water is considered to be in compliance with the requirements of this rule if:

(A) The system meets the requirements for avoiding filtration in section (2) of this rule and the disinfection requirements in section (3) of this rule, and the disinfection benchmarking requirements of OAR 333-061-0060(1)(e); or

ADMINISTRATIVE RULES

(B) The system meets the filtration requirements in section (4) of this rule and the disinfection requirements in section (5) of this rule and the disinfection benchmarking requirements of OAR 333-061-0060(1)(e).

(c) Water systems that utilize sources that have been determined to be under the direct influence of surface water according to section (7) of this rule have 18 months to meet the requirements of sections (2) and (3) of this rule, or the requirements of sections (4) and (5) of this rule. During that time, the system must meet the following Interim Standards:

(A) The turbidity of water entering the distribution system must never exceed 5 NTU. Turbidity measurements must be taken a minimum of once per day. If continuous turbidimeters are in place, measurements should be taken every four hours; and

(B) Disinfection must be sufficient to reliably achieve at least 1.0 log inactivation of *Giardia lamblia* cysts prior to the first user. Daily disinfection "CT" values must be calculated and recorded daily, including pH and temperature measurements, and disinfection residuals at the first customer.

(C) Reports must be submitted to the Department monthly as prescribed in OAR 333-061-0040.

(D) If these interim standards are not met, the owner or operator of the water system must notify customers of the failure as required in OAR 333-061-0042(2)(b)(A).

(2) Requirements for systems utilizing surface water or GWUDI sources without filtration:

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water must meet all of the conditions of this section.

(b) Source water quality conditions.

(A) The fecal coliform concentration must be equal to or less than 20/100 ml, or the total coliform concentration must be equal to or less than 100/100 ml in representative samples of the source water immediately prior to the first or only point of disinfectant application in at least 90 percent of the measurements made for the 6 previous months that the system served water to the public on an ongoing basis. If a system measures both fecal and total coliform, the fecal coliform criterion, but not the total coliform criterion, in this paragraph must be met. All samples must be collected as prescribed in OAR 333-061-0036(5)(a)(A).

(B) The turbidity level cannot exceed the maximum contaminant level prescribed in OAR 333-061-0030(3)(a)(A).

(c) Site-specific conditions. The public water supply must:

(A) Meet the disinfection requirements as prescribed in section (3) of this rule at least 11 of the 12 previous months that the system served water to the public, on an ongoing basis, unless the system fails to meet the requirements during 2 of the 12 previous months that the system served water to the public, and the Department determines that at least one of these failures was caused by circumstances that were unusual and unpredictable.

(B) Maintain a comprehensive watershed control program which minimizes the potential for contamination by *Giardia lamblia* cysts, *Cryptosporidium* oocysts, and viruses in the source water. For groundwater systems under the direct influence of surface water, and at the discretion of the Department, a certified drinking water protection plan (OAR 340-040-0160 to 340-040-0180) that addresses both the groundwater- and surface water components of the drinking water supply may be substituted for a watershed control program. Groundwater systems relying on a drinking water protection plan would still be subject to the requirements of subsection (c) of this rule. The watershed control program shall be developed according to guidelines in OAR 333-061-0075. The public water system must demonstrate through ownership and/or written agreements with landowners within the watershed that it can control all human activities which may have an adverse impact on the microbiological quality of the source water. The system must submit an annual report to the Department identifying any special concerns about the watershed, the procedures used to resolve the concern, current activities affecting water quality, and projections of future adverse impacts or activities and the means to address them. At a minimum, the watershed control program must:

(i) Characterize the watershed hydrology and land ownership;

(ii) Identify watershed characteristics and activities which have or may have an adverse effect on source water quality; and

(iii) Monitor the occurrence of activities which may have an adverse effect on source water quality.

(C) Be subject to an annual on-site inspection of the watershed control program and the disinfection treatment process by the Department. The on-site inspection must indicate to the Department's satisfaction that the watershed control program and disinfection treatment process are adequately designed and maintained including the adequacy limiting the poten-

tial contamination by *Cryptosporidium* oocysts. The inspection must include:

(i) A review of the effectiveness of the watershed control program;

(ii) A review of the physical condition of the source intake and how well it is protected;

(iii) A review of the system's equipment maintenance program to ensure there is low probability for failure of the disinfection process;

(iv) An inspection of the disinfection equipment for physical deterioration;

(v) A review of operating procedures;

(vi) A review of data records to ensure that all required tests are being conducted and recorded and disinfection is effectively practiced; and

(vii) Identification of any improvements which are needed in the equipment, system maintenance and operation, or data collection.

(D) Shall not have been identified by the Department as a source of waterborne disease outbreak under the system's current configuration. If such an outbreak occurs, the system must sufficiently modify the treatment process, as determined by the Department, to prevent any future such occurrence.

(E) Comply with the maximum contaminant level (MCL) for total coliform bacteria in OAR 333-061-0030(4) at least 11 months of the 12 previous months that the system served water to the public on an ongoing basis, unless the Department determines that failure to meet this requirement was not caused by a deficiency in treatment of the source water.

(F) Comply with the requirements for total trihalomethanes, haloacetic acids (five), bromate, chlorite, chlorine, chloramines, and chlorine dioxide as specified in OAR 333-061-0036(4).

(d) Determination of mean *Cryptosporidium* level.

(A) Unfiltered water systems must calculate the arithmetic average of all *Cryptosporidium* sample concentrations following completion of the initial and second round of source water monitoring conducted in accordance with OAR 333-061-0036(5)(e). Systems must report this value to the Department for approval no later than 6 months after the date the system was required to complete the required monitoring.

(B) If the frequency of monthly *Cryptosporidium* sampling varies, water systems must calculate a monthly average for each month of sampling. Systems must then use these monthly average concentrations, rather than individual sample concentrations, in the calculation of the mean *Cryptosporidium* level prescribed in paragraph (2)(d)(A) of this rule.

(C) The report to the Department of the mean *Cryptosporidium* levels calculated in accordance with paragraph (2)(d)(A) of this rule must include a summary of the source water monitoring data used for the calculation.

(D) Failure to comply with the conditions of paragraph (5)(d)(A) of this rule is a violation of the treatment technique requirement.

(e) A public water system which fails to meet any of the criteria in section (2) of this rule is in violation of a treatment technique requirement. The Department can require filtration to be installed where it determines necessary.

(3) Disinfection requirements for systems utilizing surface water or GWUDI sources without filtration. Each public water system that does not provide filtration treatment must provide disinfection treatment as follows:

(a) The disinfection treatment must be sufficient to ensure at least 99.9 percent (3-log) inactivation of *Giardia lamblia* cysts and 99.99 percent (4-log) inactivation of viruses, every day the system serves water to the public, except any one day each month. Each day a system serves water to the public, the public water system must calculate the CT value(s) from the system's treatment parameters, using the procedure specified in OAR 333-061-0036(5)(a)(C) and determine whether this value(s) is sufficient to achieve the specified inactivation rates for *Giardia lamblia* cysts and viruses. If a system uses a disinfectant other than chlorine, the system must demonstrate to the Department through the use of an approved protocol for on-site disinfection demonstration studies or other information satisfactory to the Department that the system is achieving the required inactivation rates on a daily basis instead of meeting the "CT" values in this rule.

(b) Systems for chemical disinfection must have either:

(A) Redundant components, including an auxiliary power supply with automatic start-up and alarm to ensure that disinfectant application is maintained continuously while water is being delivered to the distribution system; or

(B) Automatic shut-off of delivery of water to the distribution system whenever there is less than 0.2 mg/l of residual disinfectant concentration in the water, or if the ultraviolet light system fails. If the Department determines that automatic shut-off would cause unreasonable risk to health or interfere with fire protection, the system must comply with paragraph (3)(b)(A) of this rule.

ADMINISTRATIVE RULES

(c) The residual disinfectant concentration in the water entering the distribution system, measured as specified in OAR 333-061-0036(5)(a)(E), cannot be less than 0.2 mg/l for more than four hours.

(d) Disinfectant residuals in the distribution system. The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified in OAR 333-061-0036(4)(a)(F), cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public.

(e) Unfiltered water systems must provide the level of Cryptosporidium inactivation specified in this subsection, based on their mean Cryptosporidium levels, and determined in accordance with subsection (2)(d) of this rule and according to the schedule in subsection (1)(a) of this rule.

(A) Unfiltered systems with a mean Cryptosporidium level of 0.01 oocysts/L or less must provide at least 2-log Cryptosporidium inactivation.

(B) Unfiltered systems with a mean Cryptosporidium level of greater than 0.01 oocysts/L must provide at least 3-log Cryptosporidium inactivation.

(f) Inactivation treatment technology requirements. Unfiltered systems must use chlorine dioxide, ozone, or UV as prescribed by 333-061-0036(5)(c) of these rules to meet the Cryptosporidium inactivation requirements of this section.

(A) Systems that use chlorine dioxide or ozone and fail to achieve the Cryptosporidium inactivation required in subsection (3)(e) of this rule on more than one day in the calendar month are in violation of the treatment technique requirement.

(B) Systems that use UV light and fail to achieve the Cryptosporidium inactivation required in subsection (3)(e) of this rule are in violation of the treatment technique requirement.

(g) Use of two disinfectants. Unfiltered water systems must meet the combined Cryptosporidium inactivation requirements of subsection (3)(e) of this rule, and the *Giardia lamblia* and virus inactivation requirements of subsection (3)(a) of this rule using a minimum of two disinfectants. Each of the two disinfectants must achieve by itself, the total inactivation required for at least one of the following pathogens: Cryptosporidium, *Giardia lamblia*, or viruses.

(4) Requirements for systems utilizing surface water or GWUDI sources that provide filtration:

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water, and does not meet all of the criteria in sections (1), (2), and (3) of this rule for avoiding filtration, violates a treatment technique and must provide treatment consisting of both disinfection, as specified in section (5) of this rule, and filtration treatment which complies with the requirements of either subsection (4)(b), (c), (d), or (e) of this rule by June 29, 1993 or within 18 months of the failure to meet the criteria in section (2) of this rule for avoiding filtration, whichever is later. Failure to install a required treatment by the prescribed dates is a violation of the treatment technique requirements.

(b) Conventional filtration treatment or direct filtration. Systems using conventional filtration treatment or direct filtration treatment shall meet the turbidity requirements as specified in OAR 333-0061-0030(3)(b)(A)(i) and (ii).

(c) Slow sand filtration. Systems using slow sand filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(B).

(d) Diatomaceous earth filtration. Systems using diatomaceous earth filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(C).

(e) Other filtration technologies. Systems using other filtration technologies shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(D).

(A) GWUDI systems using bank filtration as an alternate filtration technology must meet the requirements listed in section (9) of this rule.

(B) Systems using membrane filtration must conduct continuous indirect integrity testing and daily direct integrity testing in accordance with paragraphs 333-061-0050(4)(c)(J) and (K) of these rules.

(f) Cryptosporidium Bin classification for filtered water systems. Following completion of the initial round of source water monitoring required by OAR 333-061-0036(5)(e), filtered water systems must calculate an initial Cryptosporidium bin concentration for each plant for which monitoring was required. Calculation of the bin concentration must be based upon the Cryptosporidium results reported in accordance with OAR 333-061-0036(5)(e), and must comply with paragraphs (4)(f)(A) through (F) of this rule.

(A) For water systems that collect 48 or more samples, the bin concentration is equal to the arithmetic average of all sample concentrations.

(B) For water systems that collect at least 24 samples, but not more than 47 samples, the bin concentration is equal to the highest arithmetic average of all sample concentrations in any 12 consecutive months during which Cryptosporidium samples were collected.

(C) For water systems that serve fewer than 10,000 people and only collect Cryptosporidium samples for 12 months, i.e., collect 24 samples in 12 months, the bin concentration is equal to the arithmetic average of all sample concentrations.

(D) For water systems with plants operating only part of the year, and that monitor fewer than 12 months per year as prescribed by OAR 333-061-0036(5)(e)(E), the bin concentration is equal to the highest arithmetic average of all sample concentrations during any year of Cryptosporidium monitoring.

(E) If the monthly Cryptosporidium sampling frequency varies, water systems must first calculate a monthly average for each month of monitoring. Water systems must then use these monthly average concentrations, rather than individual sample concentrations, in the applicable calculation for bin classification of this subsection.

(F) Bin classification table.

(i) Filtered water systems must determine their initial bin classification from Table 9 as follows and using the Cryptosporidium bin concentration calculated under subsection (4)(f) of this rule: [Table not included. See ED. NOTE.]

(ii) Following completion of the second round of source water monitoring required as prescribed by OAR 333-061-0036(5)(e)(B), filtered water systems must recalculate their Cryptosporidium bin concentration based upon the sample results reported in accordance with OAR 333-061-0036(5)(e)(B) and following the procedures specified in paragraphs (4)(f)(A) through (D) of this rule. Water systems must then re-determine their bin classification using Table 9 in paragraph (4)(f)(F) of this rule.

(G) Filtered water systems must report their bin classification as prescribed by paragraph (4)(f)(F) of this rule to the Department for approval no later than 6 months after the system is required to complete the initial and second round of source water monitoring based on the schedule in OAR 333-061-0036(5)(e)(C).

(H) The bin classification report to the Department must include a summary of source water monitoring data and the calculation procedure used to determine bin classification. Failure to comply with the conditions of this paragraph is a violation of treatment technique requirements.

(g) Additional Cryptosporidium treatment requirements.

(A) Filtered water systems must provide the level of additional treatment for Cryptosporidium specified in Table 10 based on their bin classification as determined under subsection (4)(f) of this rule, and according to the schedule in paragraph (1)(a)(F) of this rule. [Table not included. See ED. NOTE.]

(B) Filtered water systems must use one or more of the treatment and management options listed in section (13) of this rule, termed the microbial toolbox, to comply with the additional Cryptosporidium treatment required by paragraph (4)(g)(A) of this rule.

(C) Systems classified in Bin 3 or Bin 4 must achieve at least 1-log of the additional Cryptosporidium treatment, as required by paragraph (4)(g)(A) of this rule, using either one or a combination of the following: bag filters, bank filtration, cartridge filters, chlorine dioxide, membranes, ozone, or UV, as described in sections (14) through (18) of this rule and in OAR 333-061-0036(5)(c).

(i) Failure by a water system, in any month, to achieve the treatment credit required by sections (14) through (18) of this rule and OAR 333-061-0036(5)(c) that is at least equal to the level of treatment required by paragraph (4)(g)(A) of this rule, is a violation of treatment technique requirements.

(ii) If the Department determines during a sanitary survey or equivalent source water assessment, that after a system completed the monitoring conducted as required by OAR 333-061-0036(5)(e)(A) or (B), significant changes occurred in the system's watershed that could lead to increased contamination of the source water by Cryptosporidium, the system must take action as specified by the Department to address the contamination. These actions may include additional source water monitoring and/or implementing microbial toolbox options specified in section (13) of this rule.

(5) Disinfection requirements for systems utilizing surface water or GWUDI sources with filtration:

(a) The disinfection treatment must be sufficient to ensure that the total treatment processes of that system achieve at least 99.9 percent (3-log)

ADMINISTRATIVE RULES

inactivation and/or removal of *Giardia lamblia* cysts and at least 99.99 percent (4-log) inactivation and/or removal of viruses as determined by the Department.

(b) The residual disinfectant concentration in the water entering the distribution system, measured as specified in OAR 333-061-0036(5)(b)(B), cannot be less than 0.2 mg/l for more than 4 hours.

(c) The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified in OAR 333-061-0036(5)(b)(C) cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public.

(6) Requirements for groundwater systems with significant deficiencies or source water fecal or total coliform contamination. The requirements of subsections (6)(a) through (6)(i) of this rule take effect on December 1, 2009.

(a) Groundwater systems must comply with the treatment technique requirements of this section when a significant deficiency is identified.

(b) Groundwater systems must comply with the treatment technique requirements of this section when a groundwater source sample collected in accordance with OAR 333-061-0036(6)(r) through (t) or (w) is *E. coli* -positive.

(c) When a significant deficiency is identified at a public water system that uses both groundwater and surface water or groundwater under the direct influence of surface water, the system must comply with provisions of this section except in cases where the Department determines that the significant deficiency is in a portion of the distribution system that is served solely by surface water or groundwater under the direct influence of surface water.

(d) Groundwater systems must consult with the Department regarding the appropriate corrective action within 30 days of receiving written notice from the Department of a significant deficiency, written notice from a laboratory that a groundwater source sample collected in accordance with OAR 333-061-0036(6)(s) was found to be *E. coli* -positive, or direction from the Department that an *E. coli* -positive collected in accordance with OAR 333-061-0036(6)(r), (u)(A), or (w) requires corrective action.

(e) Within 120 days (or earlier if directed by the Department) of receiving written notification from the Department of a significant deficiency, written notice from a laboratory that a groundwater source sample collected in accordance with OAR 333-061-0036(6)(s) was found to be *E. coli* -positive, or direction from the Department that a *E. coli* -positive sample collected in accordance with OAR 333-061-036(6)(r), (t), or (w) requires corrective action, the groundwater system must either:

(A) Have completed corrective action in accordance with applicable Department plan review processes or other Department guidance, including any Department-specified interim measures; or

(B) Be in compliance with a Department-approved corrective action plan and schedule subject to the following conditions:

(i) Any subsequent modifications to an approved corrective action plan and schedule must be approved by the Department; and

(ii) If the Department specifies interim measures for protection of the public health pending Department approval of the corrective action plan and schedule, or pending completion of the corrective action plan, the system must comply with these interim measures as well as with any schedule specified by the Department.

(f) Groundwater systems that meet the conditions of subsections (6)(a) or (6)(b) of this rule must implement one or more of the following corrective action alternatives:

(A) Correct all significant deficiencies;

(B) Provide an alternate source of water;

(C) Eliminate the source of contamination; or

(D) Provide treatment that reliably achieves at least 4-log inactivation, removal, or a combination of inactivation and removal of viruses before or at the first customer, for the groundwater source.

(g) A groundwater system with a significant deficiency is in violation of treatment technique requirements if, within 120 days (or earlier if directed by the Department) of receiving written notice from the Department of the significant deficiency, the water system:

(A) Does not complete corrective action in accordance with applicable Department plan review processes or other Department guidance, including Department specified interim actions and measures; or

(B) Is not in compliance with a Department-approved corrective action plan and schedule.

(h) A groundwater system receiving notification of an *E. coli* -positive groundwater source sample (unless the Department invalidates the sample in accordance with OAR 333-061-0036(6)(x)) is in violation of treatment

technique requirements if, within 120 days (or earlier if directed by the Department), the system:

(A) Does not complete corrective action in accordance with any applicable Department plan review processes or other Department guidance, including Department-specified interim actions and measures; or

(B) Is not in compliance with a Department-approved corrective action plan and schedule.

(i) A groundwater system, subject to the requirements of subsection (7)(b) of this rule, that fails to maintain at least 4-log treatment of viruses (using inactivation, removal, or a Department-approved combination of 4-log virus inactivation and removal) before or at the first customer for a groundwater source is in violation of treatment technique requirements if the failure is not corrected within four hours of determining the system is not maintaining at least 4-log treatment of viruses before or at the first customer.

(j) Systems using ground water sources shall provide continuous disinfection as prescribed in OAR 333-061-0050(5) under the following conditions:

(A) When there are consistent violations of the total coliform rule attributed to source water quality;

(B) When a potential health hazard exists as determined by the Department.

(7) Compliance monitoring requirements for groundwater systems that provide at least 4-log treatment of viruses. Water systems must comply with the requirements of (7)(a) through (7)(c) of this rule beginning on December 1, 2009.

(a) A groundwater system that is not required to meet the source water monitoring requirements of 333-061-0036(6)(r) through 333-061-0036(6)(u) of these rules, because it provides at least 4-log treatment of viruses (using inactivation, removal, or a Department-approved combination of 4-log virus inactivation and removal) before or at the first customer for any groundwater source, must comply with the requirements of this subsection by December 1, 2009 or within 30 days of placing the groundwater source in service, whichever is later.

(A) The water system must notify the Department in writing, that it provides at least 4-log treatment of viruses (using inactivation, removal, or a Department-approved combination of 4-log virus inactivation and removal) before or at the first customer for the groundwater source. Notification to the Department must include engineering, operational, or other information that the Department requests to evaluate the submission.

(B) The system must conduct compliance monitoring as required by subsection (7)(b) of this rule.

(C) The system must conduct groundwater source monitoring under OAR 333-061-0036(6) if the system subsequently discontinues 4-log treatment of viruses (using inactivation, removal, or a Department-approved combination of 4-log virus inactivation and removal) before or at the first customer for the groundwater source.

(b) Monitoring requirements. A groundwater system subject to the requirements of section (6) or subsection (7)(a) of this rule must monitor the effectiveness and reliability of treatment for that groundwater source before or at the first customer as follows:

(A) Chemical Disinfection:

(i) Groundwater systems serving greater than 3,300 people must continuously monitor the residual disinfectant concentration using analytical methods as specified in OAR 333-061-0036(1), at a location approved by the Department, and must record the lowest residual disinfectant concentration each day that water from the groundwater source is served to the public. The groundwater system must maintain the Department-determined residual disinfectant concentration every day the groundwater system serves water from the groundwater source to the public. If there is a failure in the continuous monitoring equipment, the groundwater system must conduct grab sampling every four hours until the continuous monitoring equipment is returned to service. The system must resume continuous residual disinfectant monitoring within 14 days.

(ii) Groundwater systems serving 3,300 or fewer people must monitor the residual disinfectant concentration using analytical methods as specified in OAR 333-061-0036(1), at a location approved by the Department, and record the residual disinfection concentration each day that water from the groundwater source is served to the public. The groundwater system must maintain the Department-determined residual disinfectant concentration every day the groundwater system serves water from the groundwater source to the public. The groundwater system must take a daily grab sample during the hour of peak flow or at another time specified by the Department. If any daily grab sample measurement falls below the Department-determined residual disinfectant concentration, the ground-

ADMINISTRATIVE RULES

water system must take follow-up samples every four hours until the residual disinfectant concentration is restored to the Department-determined level. Alternately, a groundwater system that serves 3,300 or fewer people may monitor continuously and meet the requirements of subparagraph (7)(b)(A)(i) of this rule.

(B) Membrane filtration. A groundwater system that uses membrane filtration to achieve at least 4-log removal of viruses must monitor and operate the membrane filtration process in accordance with all Department-specified monitoring and compliance requirements. A groundwater system that uses membrane filtration is in compliance with the requirement to achieve at least 4-log removal of viruses when:

(i) The membrane has an absolute molecular weight cut-off (MWCO), or an alternate parameter describing the exclusion characteristics of the membrane, that can reliably achieve at least 4-log removal of viruses;

(ii) The membrane process is operated in accordance with Department-specified compliance requirements; and

(iii) The integrity of the membrane is intact as verified per OAR 333-061-0050(4)(c)(J).

(C) Alternative treatment. A groundwater system that uses a Department-approved alternative treatment to provide at least 4-log treatment of viruses (using inactivation, removal, or a Department-approved combination of 4-log virus inactivation and removal) before or at the first customer must:

(i) Monitor the alternative treatment in accordance with all Department-specified monitoring requirements; and

(ii) Operate the alternative treatment in accordance with all compliance requirements that the Department determines to be necessary to achieve at least 4-log treatment of viruses.

(c) Discontinuing treatment. A groundwater system may discontinue 4-log treatment of viruses (using inactivation, removal, or a Department-approved combination of 4-log virus inactivation and removal) before or at the first customer for a groundwater source if the Department determines, and documents in writing, that 4-log treatment of viruses is no longer necessary for that groundwater source. A system that discontinues 4-log treatment of viruses is subject to the source water monitoring requirements of OAR 333-061-0036(6).

(8) Determination of groundwater under the direct influence of surface water (GWUDI).

(a) Except as listed in (8)(b) of this rule, all Public Water Systems using groundwater as a source of drinking water must evaluate their source(s) for the potential of direct influence of surface water if the source(s) is:

(A) In proximity to perennial or intermittent surface water, the source meets one of the distance-hydrogeologic setting criteria outlined below as specified by the Source Water Assessment or other Department-approved hydrogeologic study:

(i) 500 feet within a fractured bedrock or layered volcanic aquifer;

(ii) 200 feet within a coarse sand, gravel and boulder aquifer;

(iii) 100 feet within a sand and gravel aquifer;

(iv) 75 feet within a sand aquifer;

(v) Greater distances if geologic conditions or historical monitoring data indicate additional risk at the source, and

(B) Has a confirmed or suspected history of coliform bacteria in the source; or

(C) Through the Source Water Assessment the source has been determined by the Department to be highly sensitive as a result of aquifer characteristics, vadose zone characteristics, monitoring history or well construction.

(b) Notwithstanding the requirement given in subsection (8)(a) of this rule, systems that derive their water from wells using a hand pump only are not subject to this rule.

(c) Groundwater sources that meet one of the criteria in paragraph (8)(a)(A) of this rule and meet either the criteria in paragraphs (8)(a)(B) or (C) in this rule, must begin raw water (before treatment) coliform sampling of their drinking water source.

(d) Raw water samples must be collected monthly for a period not to exceed 12 months.

(e) Samples shall be marked as "special" and cannot be used in lieu of sampling required for routine coliform monitoring within the distribution system (after treatment). Nor can samples collected to satisfy routine coliform monitoring requirements be used to satisfy the requirements of this rule.

(f) If a raw water sample is reported as fecal or E. coli positive, then the system must collect five additional raw water special samples within 24 hours of receiving notification from the laboratory.

(g) If any of the five additional special samples are fecal or E. coli positive then the original fecal or E. coli positive is considered confirmed and the system must have the raw water analyzed for surface water indicators using the microscopic particulate analysis (MPA) method described in subsection (8)(o) of this rule. Systems whose raw water samples are consistently total coliform positive may be required to conduct microscopic particulate analyses at the discretion of the Department.

(h) A confirmed fecal or E. coli positive sample from the raw water in an otherwise treated water system is not considered a violation of the coliform MCL and is not subject to the public notice or direct laboratory reporting requirements.

(i) If a water system experiences a confirmed fecal or E. coli positive test result of their raw water, no further monthly raw water testing is required.

(j) Sources may be re-evaluated if geologic conditions or water quality trends change over time, as determined by the Department.

(k) Sources that have been determined by the Source Water Assessment as not susceptible to being under the direct surface water influence are considered groundwater and do not need further evaluation.

(l) Public water systems that are required to evaluate their source(s) for direct influence of surface water may submit results of a hydrogeological assessment to demonstrate that the source is not potentially under the direct influence of surface water. The assessment must be consistent with the Oregon State Board of Geologist Examiners "Hydrology Report Guidelines," shall be completed within a time frame specified by the Department and shall include the following:

(A) Well characteristics: well depth, screened or perforated interval, casing seal placement;

(B) Aquifer characteristics: thickness of the vadose zone, hydraulic conductivity of the vadose zone and the aquifer, presence of low permeability zones in the vadose zone, degree of connection between the aquifer and surface water;

(C) Hydraulic gradient: gradient between the aquifer and surface water source during pumping conditions, variation of static water level and surface water level with time;

(D) Groundwater flow: flow of water from the surface water source to the groundwater source during pumping conditions, estimated time-of-travel for groundwater from the surface water source to the well(s), spring(s), etc.; and

(E) The hydrogeologic assessment must be completed by an Oregon registered geologist or other licensed professional with demonstrated experience and competence in hydrogeology in accordance with ORS 672.505 through 672.705.

(m) Emergency groundwater sources that meet the criteria of subsection (a) of this section can either be evaluated as prescribed in subsection (8)(c) of this rule, or the evaluation can be waived if a Tier 2 public notice prescribed in OAR 333-061-0042 is issued each time the source is used. The notice must explain that the source has been identified as potentially under the direct influence of surface water, but has not been fully evaluated, and therefore may not be treated sufficiently to inactivate pathogens such as *Giardia lamblia* or *Cryptosporidium*.

(n) Water systems that derive their water from a confined aquifer and have been determined to be potentially under the direct influence of surface water solely as a result of inadequate well construction under paragraph (8)(a)(B) of this rule may choose to reconstruct their source according to construction standards as prescribed in OAR 333-061-0050.

(o) Water system sources that have been determined to be potentially under the direct influence of surface water must conduct a minimum of two Microscopic Particulate Analyses (MPAs) according to the "Consensus Method for Determining Groundwaters under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)". Both Samples are to be taken during a period of high runoff or streamflow, separated by a period of at least four weeks, or at other times as determined by the Department.

(p) Scoring of MPAs shall be partially modified from the "Consensus Method" according to Table 11. Scoring for *Giardia*, coccidia, rotifers, and plant debris remains unchanged. [Table not included. See ED. NOTE.]

(q) Determinations of water system source classification based on MPAs are made as follows:

(A) If all MPAs have a risk score of less than 10, the water system source is classified as groundwater;

ADMINISTRATIVE RULES

(B) If any MPA risk score is greater than 19, or two or more are greater than 14, the water system source is classified as under the direct influence of surface water;

(C) If at least one MPA risk score is between 10 and 19 or both are between 10 and 15, an additional set of two MPAs must be taken. Determinations are made as follows:

(i) If four or all MPA risk scores are less than 15, the water system source is classified as groundwater; and

(ii) If two or more MPA risk scores are greater than 14, or one or more is greater than 19, the water system source is classified as under the direct influence of surface water;

(iii) Two additional MPAs must be taken if only one of four MPA risk scores is greater than 14. Scores will be evaluated according to subsection (8)(o) and (p) of this rule, or by further evaluation by the Department.

(r) If an infiltration gallery, Ranney well, or dug well has been determined to be classified as groundwater under this rule, the turbidity of the source must be monitored and recorded daily and kept by the water system operator. If the turbidity exceeds 5 NTU or if the surface water body changes course such that risk to the groundwater source is increased, an MPA must be taken at that time. Re-evaluation may be required by the Department.

(s) The Department can determine a groundwater source to be under the direct influence of surface water if the criteria in subsection (8)(a) of this rule are true and there are significant or relatively rapid shifts in groundwater characteristics, such as turbidity, which closely correlate to changes in weather or surface water conditions.

(t) If geologic conditions, water quality trends, or other indicators change, the Department can require re-evaluation, as detailed in this section, of a source despite any data previously collected or any determination previously made.

(u) The Department may determine that a source is not under direct influence of surface water based on criteria other than MPAs including the Source Water Assessment, source water protection, and other water quality parameters. The determinations shall be based on the criteria indicating that the water source has a very low susceptibility to contamination by parasites, including *Giardia* and *Cryptosporidium*. The Department may impose additional monitoring or disinfection treatment requirements to ensure that the risk remains low.

(9) Requirements for groundwater sources under the direct influence of surface water seeking alternative filtration credit through bank filtration:

(a) Water systems with all MPA risk scores less than 30 may choose the option to evaluate for bank filtration credit. The water system must conduct a demonstration of performance study that includes an assessment of the ability of the local hydrogeologic setting to provide a minimum of 2-log reduction in the number of particles and microorganisms in the *Giardia* and *Cryptosporidium* size range between surface water and the groundwater source. The bank filtration study must include the following elements or other Department approved methods:

(A) The bank filtration study must involve the collection of data on removal of biological surrogates and particles in the *Cryptosporidium* size range of 2 – 5 microns or other surrogates approved by the Department, and related hydrogeologic and water quality parameters during the full range of operating conditions. The demonstration study methods shall be reviewed and approved by the Department prior to implementation. Final assessment of removal credit granted to the well shall be made by the Department based on the study results.

(b) If a GWUDI system using bank filtration as an alternative filtration technology violates the MCL for turbidity specified in OAR 333-061-0030(3)(b)(D), the water system must investigate the cause of the high turbidity within 24 hours of the exceedance. Pending the results of the investigation by the water system, the Department may require a new bank filtration study.

(10) Disinfection Byproduct Control Requirements:

(a) This rule establishes criteria under which community water systems and Non-transient, Non-community water systems which add a chemical disinfectant to the water in any part of the drinking water treatment process must modify their practices to meet MCLs and MRDLs in OAR 333-061-0030 and 0031, respectively. This rule also establishes the treatment technique requirements for disinfection byproduct precursors. This rule establishes criteria under which transient non-community water systems that use chlorine dioxide as a disinfectant or oxidant must modify their practices to meet the MRDL for chlorine dioxide as specified in OAR 333-061-0031.

(b) Compliance dates.

(A) Community and Non-transient Non-community water systems serving at least 10,000 people using surface water or groundwater under the direct influence of surface water must comply with the treatment technique requirements of this rule as well as monitoring and maximum contaminants requirements for disinfection byproduct control as specified in OAR 333-061-0030 and 0036, respectively beginning January 1, 2002. Those systems serving fewer than 10,000 people using surface water or groundwater under the direct influence of surface water and those systems using only groundwater not under the direct influence of surface water must comply with the rules identified in this paragraph beginning January 1, 2004.

(B) Transient non-community water systems serving at least 10,000 people using surface water or groundwater under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with the requirements for chlorine dioxide in this rule and OAR 333-061-0030 and 0036 beginning January 1, 2002. Those systems serving fewer than 10,000 persons using surface water or groundwater under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant and systems using only groundwater not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with the requirements for chlorine dioxide in this rule and OAR 333-061-0030 and 0036 beginning January 1, 2004.

(c) Water systems may increase residual disinfectant levels in the distribution system of chlorine or chloramines (but not chlorine dioxide) to a level and for a time necessary to protect public health, to address specific microbiological contamination problems caused by circumstances such as, but not limited to, distribution line breaks, storm run-off events, source water contamination events, or cross connection events.

(d) Treatment technique for control of disinfection by-product precursors. Community and Non-transient Non-community water systems using conventional filtration treatment must operate with enhanced coagulation or enhanced softening to achieve the total organic carbon (TOC) percent removal levels specified in subsection (10)(e) of this rule unless the system meets at least one of the alternative compliance criteria listed in paragraph (10)(d)(A) or (10)(d)(B) of this rule.

(A) Alternative compliance criteria for enhanced coagulation and enhanced softening systems. Water systems may use the alternative compliance criteria in subparagraphs (10)(d)(A)(i) through (vi) of this rule in lieu of complying with the performance criteria specified in subsection (e) of this section. Systems must still comply with monitoring requirements specified in OAR 333-061-0036(4)(n).

(i) The system's source water TOC level is less than 2.0 mg/L, calculated quarterly as a running annual average.

(ii) The system's treated water TOC level is less than 2.0 mg/L, calculated quarterly as a running annual average.

(iii) The system's source water TOC is less than 4.0 mg/L, calculated quarterly as a running annual average; the source water alkalinity is greater than 60 mg/L (as CaCO₃ calculated quarterly as a running annual average; and either the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively; or prior to the effective date for compliance, the system has made a clear and irrevocable financial commitment not later than the effective date for compliance in this rule to use of technologies that will limit the levels of TTHMs and HAA5 to no more than 0.040 mg/L and 0.030 mg/L, respectively. Systems must submit evidence of a clear and irrevocable financial commitment, in addition to a schedule containing milestones and periodic progress reports for installation and operation of appropriate technologies, to the Department for approval not later than the effective date for compliance in this rule. These technologies must be installed and operating not later than June 30, 2005. Failure to install and operate these technologies by the date in the approved schedule will constitute a violation of National Primary Drinking Water Regulations.

(iv) The TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

(v) The system's source water SUVA, prior to any treatment and measured monthly is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(vi) The system's finished water SUVA, measured monthly is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(B) Additional alternative compliance criteria for softening systems. Systems practicing enhanced softening that cannot achieve the TOC removals required by paragraph (10)(e)(B) of this rule may use the alternative compliance criteria in subparagraphs (10)(d)(B)(i) and (ii) of this rule

ADMINISTRATIVE RULES

in lieu of complying with subsection (10)(e) of this rule. Systems must still comply with monitoring requirements in specified in OAR 333-061-0036(4)(n).

(i) Softening that results in lowering the treated water alkalinity to less than 60 mg/L (as CaCO₃), measured monthly and calculated quarterly as a running annual average.

(ii) Softening that results in removing at least 10 mg/L of magnesium hardness (as CaCO₃), measured monthly and calculated quarterly as a running annual average.

(e) Enhanced coagulation and enhanced softening performance requirements.

(A) Systems must achieve the percent reduction of TOC specified in paragraph (10)(e)(B) in this rule between the source water and the combined filter effluent, unless the Department approves a system's request for alternate minimum TOC removal (Step 2) requirements under paragraph (10)(e)(C) of this rule.

(B) Required Step 1 TOC reductions, specified in Table 12, are based upon specified source water parameters. Systems practicing softening are required to meet the Step 1 TOC reductions in the far-right column (Source water alkalinity >120 mg/L) for the specified source water TOC: [Table not included. See ED. NOTE.]

(C) Water systems that cannot achieve the Step 1 TOC removals required by paragraph (10)(e)(B) of this rule due to water quality parameters or operational constraints must apply to the Department, within three months of failure to achieve the TOC removals required by paragraph (10)(e)(B) of this rule, for approval of alternative minimum TOC (Step 2) removal requirements submitted by the water system. If the Department approves the alternative minimum TOC removal (Step 2) requirements, the Department may make those requirements retroactive for the purposes of determining compliance. Until the Department approves the alternate minimum TOC removal (Step 2) requirements, the water system must meet the Step 1 TOC removals contained in paragraph (10)(e)(B) of this rule.

(D) Alternate minimum TOC removal (Step 2) requirements. Applications made to the Department by enhanced coagulation systems for approval of alternative minimum TOC removal (Step 2) requirements under paragraph (10)(e)(C) of this rule must include, as a minimum, results of bench-scale or pilot-scale testing conducted under subparagraph (10)(e)(D)(i) of this rule. The submitted bench-scale or pilot-scale testing must be used to determine the alternate enhanced coagulation level.

(i) Alternate enhanced coagulation level is defined as coagulation at a coagulant dose and pH as determined by the method described in subparagraphs (10)(e)(D)(i) through (v) of this rule such that an incremental addition of 10 mg/L of alum (or equivalent amount of ferric salt) results in a TOC removal of less than or equal to 0.3 mg/L. The percent removal of TOC at this point on the "TOC removal versus coagulant dose" curve is then defined as the minimum TOC removal required for the system. Once approved by the Department, this minimum requirement supersedes the minimum TOC removal required by the Table 12 in paragraph (10)(e)(B) of this rule. This requirement will be effective until such time as the Department approves a new value based on the results of a new bench-scale and pilot-scale test. Failure to achieve Department-set alternative minimum TOC removal levels is a violation.

(ii) Bench-scale or pilot-scale testing of enhanced coagulation must be conducted by using representative water samples and adding 10 mg/L increments of alum (or equivalent amounts of ferric salt) until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH as specified in Table 13: [Table not included. See ED. NOTE.]

(iii) For waters with alkalinities of less than 60 mg/L for which addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below 5.5 before significant TOC removal occurs, the system must add necessary chemicals to maintain the pH between 5.3 and 5.7 in samples until the TOC removal of 0.3 mg/L per 10 mg/L alum added (or equivalent addition of iron coagulant) is reached.

(iv) The system may operate at any coagulant dose or pH necessary, consistent with these rules to achieve the minimum TOC percent removal approved under paragraph (10)(e)(C) of this rule.

(v) If the TOC removal is consistently less than 0.3 mg/L of TOC per 10 mg/L of incremental alum dose at all dosages of alum (or equivalent addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The water system may then apply to the Department for a waiver of enhanced coagulation requirements.

(f) Compliance calculations.

(A) Water systems other than those identified in paragraphs (10)(d)(A) or (d)(B) of this rule must comply with requirements contained in paragraph (10)(e)(B) or (C) of this rule. Systems must calculate compli-

ance quarterly, beginning after the system has collected 12 months of data, by determining an annual average using the following method:

(i) Determine actual monthly TOC percent removal, equal to: $\{1 - (\text{treated water TOC} / \text{source water TOC})\} \times 100$

(ii) Determine the required monthly TOC percent removal (from either Table 9 in paragraph (10)(e)(B) of this rule or from paragraph (10)(e)(C) of this rule).

(iii) Divide the value in subparagraph (10)(f)(A)(i) of this rule by the value in subparagraph (10)(f)(A)(ii) of this rule.

(iv) Add together the results of subparagraph (10)(f)(A)(iii) of this rule for the last 12 months and divide by 12.

(v) If the value calculated in subparagraph (10)(f)(A)(iv) of this rule is less than 1.00, the water system is not in compliance with the TOC percent removal requirements.

(B) Water systems may use the provisions in subparagraphs (10)(f)(B)(i) through (v) of this rule in lieu of the calculations in subparagraph (10)(f)(A)(i) through (v) of this rule to determine compliance with TOC percent removal requirements.

(i) In any month that the water system's treated or source water TOC level is less than 2.0 mg/L, the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(f)(A) of this rule.

(ii) In any month that a system practicing softening removes at least 10 mg/L of magnesium hardness (as CaCO₃), the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(f)(A) of this rule.

(iii) In any month that the water system's source water SUVA, prior to any treatment is less than or equal to 2.0 L/mg-m, the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(f)(A) of this rule.

(iv) In any month that the water system's finished water SUVA is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(f)(A) of this rule.

(v) In any month that a system practicing enhanced softening lowers alkalinity below 60 mg/L (as CaCO₃), the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(f)(A) of this rule.

(C) Water systems using conventional treatment may also comply with the requirements of this section by meeting the criteria in paragraph (10)(d)(A) or (B) of this rule.

(g) Treatment technique requirements for DBP precursors. Treatment techniques to control the level of disinfection byproduct precursors in drinking water treatment and distribution systems are recognized by the Department for water systems using surface water or groundwater under the direct influence of surface water using conventional treatment as enhanced coagulation or enhanced softening.

(11) Requirements for Water Treatment Plant Recycled Water

(a) Any water system using surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment or direct filtration treatment and that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes must meet the requirements of subsections (10)(b) and (c) of this rule and OAR 333-061-0040(2)(i).

(b) A water system must notify the Department in writing by December 8, 2003 if that water system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification must include, at a minimum, the information specified in paragraphs (10)(b)(A) and (B) of this rule.

(A) A water treatment plant schematic showing the origin of all flows which are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance used to transport them, and the location where they are re-introduced back into the water treatment plant.

(B) Typical recycle flow in gallons per minute (gpm), the highest observed water treatment plant flow experienced in the previous year (gpm), the design flow for the water treatment plant (gpm), and the operating capacity of the water treatment plant (gpm) that has been determined by the Department where the Department has made such determinations.

ADMINISTRATIVE RULES

(c) Any water system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes must return these flows through the processes of a system's existing conventional filtration treatment plant or direct filtration treatment plant as defined by these rules or at an alternate location approved by the Department by June 8, 2004. If capital improvements are required to modify the recycle location to meet this requirement, all capital improvements must be completed no later than June 8, 2006.

(12) Water systems using uncovered finished water storage facilities must comply with the conditions of either subsections (12)(a) or (b) of this rule for each uncovered finished water storage facility, or be in compliance with a Department-approved schedule to meet these conditions no later than April 1, 2009.

(a) Water systems must cover any uncovered finished water storage facility; or

(b) Treat the discharge from the uncovered finished water storage facility into the distribution system to achieve at least 4-log virus, 3-log *Giardia lamblia*, and 2-log *Cryptosporidium* inactivation and/or removal using a protocol approved by the Department.

(c) Failure to comply with the requirements of this section is a violation of the treatment technique requirement.

(13) Summary and General Requirements of Microbial toolbox options for meeting *Cryptosporidium* treatment requirements. Filtered water systems are eligible for the treatment credits listed in Table 14 of this section by meeting the conditions for microbial toolbox options described in sections (14) through (18) of this rule and in OAR 333-061-0036(5)(c). Unfiltered water systems are eligible only for the treatment credits specified as inactivation toolbox options in Table 14. Water systems apply these treatment credits to meet the requirements of subsections (3)(e) or (4)(g) of this rule, as applicable. [Table not included. See ED. NOTE.]

(14) Source toolbox components for meeting *Cryptosporidium* treatment requirements.

(a) Watershed control program. Water systems receive 0.5-log *Cryptosporidium* treatment credit for implementing a watershed control program that meets the requirements of this subsection.

(A) Water systems must notify the Department of the intent to apply for the watershed control program credit no later than two years prior to the treatment compliance date applicable to the system in subsection (1)(a) of this rule.

(B) Water systems must submit a proposed watershed control plan to the Department no later than one year before the applicable treatment compliance date in subsection (1)(a) of this rule. The Department must approve the watershed control plan for the water system to receive the applicable treatment credit. The watershed control plan must include the following elements:

(i) Identification of an area of influence, outside of which the likelihood of *Cryptosporidium* or fecal contamination affecting the treatment plant intake is not significant. This is the area to be evaluated in future watershed surveys under subparagraph (14)(a)(E)(ii) of this rule;

(ii) Identification of both potential and actual sources of *Cryptosporidium* contamination, and an assessment of the relative impact of these contamination sources on the water system's source water quality;

(iii) An analysis of the effectiveness and feasibility of control measures that could reduce *Cryptosporidium* loading from sources of contamination to the system's source water; and

(iv) A statement of goals and specific actions the system will undertake to reduce source water *Cryptosporidium* levels. The plan must explain how the actions are expected to contribute to specific goals, identify watershed partners and their roles, identify resource requirements and commitments, and include a schedule for plan implementation with deadlines for completing specific actions identified in the plan.

(C) Water Systems with existing watershed control programs are eligible to seek this credit, but must meet the requirements prescribed in paragraph (14)(a)(B) of this rule, and must specify ongoing and future actions that will reduce source water *Cryptosporidium* levels.

(D) If the Department does not respond to a water system regarding approval of a watershed control plan submitted in accordance with this section, and the system meets the other requirements of this section, the watershed control program will be considered approved and a 0.5 log *Cryptosporidium* treatment credit will be awarded unless the Department subsequently withdraws such approval.

(E) Water systems must complete the actions specified in this paragraph to maintain the 0.5-log credit.

(i) Water systems must submit an annual watershed control program status report to the Department. The status report must describe the water

system's implementation of the approved plan, and assess the adequacy of the plan to meet its goals. It must explain how the water system is addressing any deficiencies in plan implementation, including those previously identified by the Department, or as the result of the watershed survey conducted in accordance with subparagraph (14)(a)(E)(ii) of this rule. The watershed control program status report must also describe any significant changes that have occurred in the watershed since the last watershed sanitary survey.

(ii) Water systems must undergo a watershed sanitary survey every three years for community water systems and every five years for non-community water systems and submit the survey report to the Department. The survey must be conducted according to Department guidelines and by persons the Department approves.

(I) The watershed sanitary survey must meet the following criteria: encompass the region identified in the Department approved watershed control plan as the area of influence; assess the implementation of actions to reduce source water *Cryptosporidium* levels; and identify any significant new sources of *Cryptosporidium*.

(II) If the Department determines that significant changes may have occurred in the watershed since the previous watershed sanitary survey, water systems must undergo another watershed sanitary survey by a date determined by the Department regardless of the regular date specified in subparagraph (14)(a)(E)(ii) of this rule.

(iii) The water system must make the watershed control plan, annual status reports, and watershed sanitary survey reports available to the public upon request. These documents must be in a plain language style and include criteria by which to evaluate the success of the program in achieving plan goals. The Department may approve withholding portions of the annual status report, watershed control plan, and watershed sanitary survey from the public based on water supply security considerations.

(F) If the Department determines that a water system is not implementing the approved watershed control plan, the Department may withdraw the watershed control program treatment credit.

(G) If a water system determines, during implementation, that making a significant change to its approved watershed control program is necessary, the system must notify the Department prior to making any such changes. If any change is likely to reduce the level of source water protection, the system must notify the Department of the actions the water system will take to mitigate this effect.

(b) Alternative source. A water system may conduct source water monitoring that reflects a different intake location (either in the same source or from an alternate source), or a different procedure for the timing or level of withdrawal from the source. If the Department approves, a system may determine its bin classification under subsection (4)(f) of this rule based on the alternative source monitoring results.

(A) If a water system conducts alternative source monitoring as prescribed by this subsection, the water system must also monitor their current plant intake concurrently as prescribed by OAR 333-061-0036(5)(e).

(B) Alternative source monitoring as prescribed by this subsection must meet the requirements for source monitoring to determine bin classification, as described in OAR 333-061-0036(1), 333-061-0036(5)(e) through (g), and 333-061-0040(1)(m). Water systems must report the alternative source monitoring results to the Department, including supporting information that documents the operating conditions under which the samples were collected.

(C) If a system determines its bin classification according to subsection (4)(f) of this rule using alternative source monitoring results that reflect a different intake location or a different procedure for managing the timing or level of withdrawal from the source, the system must relocate the intake or permanently adopt the withdrawal procedure, as applicable, no later than the applicable treatment compliance date in subsection (1)(a) of this rule.

(15) Pre-filtration treatment toolbox components for meeting *Cryptosporidium* treatment requirements.

(a) Presedimentation. Systems receive 0.5-log *Cryptosporidium* treatment credit for a presedimentation basin during any month the process meets the criteria specified in this paragraph:

(A) The presedimentation basin must be in continuous operation, and must treat the entire plant flow taken from a surface water or GWUDI source;

(B) The water system must continuously add a coagulant to the presedimentation basin; and

(C) The presedimentation basin must achieve the performance criteria specified in this paragraph.

(i) The basin must demonstrate at least 0.5-log mean reduction of influent turbidity. This reduction must be determined using daily turbidity

ADMINISTRATIVE RULES

measurements of the presedimentation process influent and effluent, and must be calculated as follows: $\log_{10}(\text{monthly mean of daily influent turbidity}) - \log_{10}(\text{monthly mean of daily effluent turbidity})$.

(i) The basin must also comply with Department-approved performance criteria that demonstrates at least 0.5-log mean removal of micron-sized particulate material through the presedimentation process.

(b) Two-stage lime softening. Systems receive an additional 0.5-log Cryptosporidium treatment credit for a two-stage lime softening plant if chemical addition and hardness precipitation occur in two separate and sequential softening stages prior to filtration. Both softening stages must treat the entire plant flow taken from a surface water or GWUDI source.

(c) Bank filtration. Water systems receive Cryptosporidium treatment credit for bank filtration that serves as pretreatment to a filtration plant by meeting the criteria specified in this section. Water systems using bank filtration when they begin source water monitoring according to OAR 333-061-0036(5)(e) must collect samples as prescribed by OAR 333-061-0036(5)(g) and are not eligible for this credit.

(A) Wells with a groundwater flow path of at least 25 feet receive 0.5-log treatment credit. Wells with a groundwater flow path of at least 50 feet receive 1.0-log treatment credit. The groundwater flow path must be determined as specified in paragraph (D) of this subsection.

(B) Only wells in granular aquifers are eligible for treatment credit. Granular aquifers are those comprised of sand, clay, silt, rock fragments, pebbles or larger particles, and minor cement. A water system must characterize the aquifer at the well site to determine aquifer properties.

(i) Water systems must extract a core from the aquifer and demonstrate that in at least 90 percent of the core length, grains less than 1.0 mm in diameter constitute at least 10 percent of the core material.

(C) Only horizontal and vertical wells are eligible for treatment credit.

(D) For vertical wells, the groundwater flow path is the measured distance from the edge of the surface water body under high flow conditions (as determined by the 100 year floodplain elevation boundary or by the floodway, as defined in Federal Emergency Management Agency flood hazard maps) to the well screen. For horizontal wells, the groundwater flow path is the measured distance from the bed of the river under normal flow conditions to the closest horizontal well lateral screen.

(E) Water systems must monitor each wellhead for turbidity at least once every four hours while the bank filtration process is in operation. If monthly average turbidity levels, based on daily maximum values in the well, exceed 1 NTU, the system must report this result to the Department and conduct an assessment within 30 days to determine the cause of the high turbidity levels in the well. If the Department determines that microbial removal has been compromised, the Department may revoke treatment credit until the water system implements Department-approved corrective actions to remediate the problem.

(F) Springs and infiltration galleries are not eligible for treatment credit under this section, but are eligible for a treatment credit in accordance with subsection (16)(c) of this rule.

(G) Bank filtration demonstration of performance. The Department may approve Cryptosporidium treatment credit for bank filtration based on a demonstration of performance study that meets the criteria in this paragraph. This treatment credit may be greater than 1.0-log and may be awarded to bank filtration that does not meet the criteria in (15)(c)(A) through (E) of this rule.

(i) The study must follow a Department-approved protocol, and must include the collection of data on the removal of Cryptosporidium or a surrogate for Cryptosporidium and related hydrogeologic and water quality parameters during the full range of operating conditions.

(ii) The study must include sampling from both the production well(s) and monitoring wells that are screened and located along the shortest flow path between the surface water source and the production well(s).

(16) Treatment performance toolbox components for meeting Cryptosporidium treatment requirements.

(a) Combined filter performance. Water systems using conventional filtration treatment or direct filtration treatment receive an additional 0.5-log Cryptosporidium treatment credit during any month that the water system meets the criteria in this subsection. Combined filter effluent (CFE) turbidity must be less than or equal to 0.15 NTU in at least 95 percent of the measurements. Turbidity must be measured as described in OAR 333-061-0036(5)(a)(B).

(b) Individual filter performance. Water systems using conventional filtration treatment or direct filtration treatment receive 0.5-log Cryptosporidium treatment credit, which can be in addition to the 0.5-log credit under subsection (16)(a) of this rule, during any month the system

meets the criteria in this subsection. Compliance with this criteria must be based on individual filter turbidity monitoring as described in OAR 333-061-0036(5)(d).

(A) The filtered water turbidity for each individual filter must be less than or equal to 0.15 NTU in at least 95 percent of the measurements recorded each month.

(B) No individual filter may have a measured turbidity greater than 0.3 NTU in two consecutive measurements taken 15 minutes apart.

(C) Any system that has received treatment credit for individual filter performance and fails to meet the requirements of paragraphs (16)(b)(A) or (B) of this rule, during any month, is in violation of treatment technique requirements as prescribed by subsection (4)(g) of this rule unless the Department determines the following:

(i) The failure was due to unusual and short-term circumstances that could not reasonably be prevented through optimizing treatment plant design, operation, or maintenance; and

(ii) The system has experienced no more than two such failures in any calendar year.

(c) Demonstration of performance. The Department may approve Cryptosporidium treatment credit for water treatment processes based on a demonstration of performance study that meets the criteria in this subsection. This treatment credit may be greater than or less than the prescribed treatment credits in subsection (4)(g) or sections (15) through (18) of this rule and may be awarded to treatment processes that do not meet the criteria for the prescribed credits.

(A) Water systems cannot receive the prescribed treatment credit for any toolbox option in sections (15) through (18) of this rule, if that toolbox option is included in a demonstration of performance study for which treatment credit is awarded under this subsection.

(B) The demonstration of performance study must follow a Department-approved protocol, and must demonstrate the level of Cryptosporidium reduction achieved by the treatment process under the full range of expected operating conditions for the water system.

(C) Approval by the Department must be in writing, and may include monitoring and treatment performance criteria that the system must demonstrate and report on an ongoing basis to remain eligible for the treatment credit. The Department may require such criteria where necessary to verify that the conditions under which the demonstration of performance credit was approved are maintained during routine operation.

(17) Additional filtration toolbox components for meeting Cryptosporidium treatment requirements.

(a) Bag and cartridge filters. Systems receive Cryptosporidium treatment credit of up to 2.0-log for individual bag or cartridge filters and up to 2.5-log for bag or cartridge filters operated in series by meeting the requirements in OAR 333-061-0050(4)(c)(L). To be eligible for this credit, water systems must report to the Department, the results of challenge testing conducted in accordance with OAR 333-061-0050(4)(c)(L). The filters must treat the entire plant flow.

(b) Membrane filtration. Systems receive Cryptosporidium treatment credit for membrane filtration that meets the requirements of this paragraph. Membrane cartridge filters that meet the definition of membrane filtration in OAR 333-061-0020(122) are eligible for this credit. The level of treatment credit a system receives is equal to the lower of the values determined under OAR 333-061-0050(4)(c)(H)(i) and (ii).

(c) Second stage filtration. Water systems receive 0.5-log Cryptosporidium treatment credit for a separate second stage of Department-approved filtration that consists of sand, dual media, GAC, or other fine grain media following granular media filtration. To be eligible for this credit, the first stage of filtration must be preceded by a coagulation step and, both filtration stages must treat the entire plant flow taken from a surface water or GWUDI source. The Department must assign the treatment credit based on an assessment of the design characteristics of the filtration process. A cap (added layer of filter media), such as GAC, on a single stage of filtration is not eligible for this credit.

(d) Slow sand filtration (as secondary filter). Water systems are eligible to receive 2.5-log Cryptosporidium treatment credit for a slow sand filtration process that follows a separate stage of filtration if both filtration stages treat the entire plant flow taken from a surface water or GWUDI source, and no disinfectant residual is present in the influent water to the slow sand filtration process. The Department must assign the treatment credit based on an assessment of the design characteristics of the filtration process. This subsection does not apply to treatment credit awarded to slow sand filtration used as a primary filtration process.

(18) Inactivation toolbox components for meeting Cryptosporidium treatment requirements.

ADMINISTRATIVE RULES

(a) If Chlorine Dioxide is used, CT values in Table 34 must be met. [Table not included. See ED. NOTE.]

(b) If Ozone is used, CT values in Table 35 must be met. [Table not included. See ED. NOTE.]

(c) To receive treatment credit for UV light, water systems must treat at least 95 percent of the water delivered to the public during each month by UV reactors operating within validated conditions for the required UV dose, as prescribed by OAR 333-061-0036(5)(c)(D) and OAR 333-061-0050(5)(k)(I). Systems must demonstrate compliance with this condition by the monitoring required in OAR 333-061-0036(5)(c)(D)(ii).

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

Stat. Auth.: ORS 431 & 448

Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

Hist.: HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-1-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0034

Treatment Requirements and Performance Standards for Corrosion Control

(1) General requirements:

(a) All Community and Non-Transient Non-Community water systems required to provide corrosion control shall install and operate optimal corrosion control treatment.

(b) Any water system that complies with the applicable corrosion control treatment requirements specified by the Department under sections (2) and (3) of this rule shall be deemed in compliance with the treatment requirement contained in subsection (1)(a) of this rule.

(c) Any system exceeding the lead or copper action level shall implement all applicable source water treatment requirements specified by the Department under section (4) of this rule.

(d) Any system exceeding the lead action level shall implement the public education requirements contained in section (5) of this rule.

(e) Tap water monitoring for lead and copper, monitoring for water quality parameters, source water monitoring for lead and copper, and analyses of the monitoring results shall be completed in accordance with OAR 333-061-0036(1)(a) and 333-061-0036(2)(c).

(f) Systems shall report to the Department all required treatment provision information and maintain appropriate records as prescribed in OAR 333-061-0034 and 0040.

(g) Failure to comply with the applicable requirements prescribed in these rules, shall constitute a violation of the national primary drinking water regulations for lead and/or copper.

(2) Systems shall complete the corrosion control treatment requirements as prescribed in section (3) of this rule as follows:

(a) Large systems (serving >50,000 persons) shall complete the following corrosion control treatment steps, unless it is deemed to have optimized corrosion control as prescribed in paragraphs (d)(B) or (d)(C) of this section:

(A) Systems shall conduct initial tap and water quality parameter monitoring for two consecutive six-month periods as prescribed in OAR 333-061-0036(2)(c)(D)(i) and (2)(c)(F) beginning January 1, 1992;

(B) Systems shall complete corrosion control studies prescribed in subsection (3)(c) of this rule by July 1, 1994;

(C) The Department shall designate optimal corrosion control treatment as prescribed in subsection (3)(i) of this rule by January 1, 1995;

(D) Systems shall install optimal corrosion control treatment as prescribed in subsection (3)(k) of this rule by January 1, 1997;

(E) Systems shall complete follow-up sampling as prescribed in OAR 333-061-0036(2)(c)(D)(ii) and (2)(c)(F)(iv) by January 1, 1998;

(F) The Department shall review installation of treatment and designate optimal water quality control parameters as prescribed in subsection (3)(l) of this rule by July 1, 1998.

(G) Systems shall operate in compliance with the Department-specified optimal water quality control parameters as prescribed in subsection (3)(m) of this rule and continue to conduct tap sampling.

(b) Medium systems (serving 3,301 to 50,000 persons) shall complete the following corrosion control treatment steps, unless it is deemed to have optimized corrosion control under paragraph (d)(A),(d)(B), or (d)(C) of this section:

(A) Systems shall conduct initial tap sampling beginning July 1, 1992 until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under OAR 333-061-0036(e)(D)(iv). A system exceeding the lead or copper action level shall recommend optimal cor-

rosion control treatment within six months after the end of the monitoring period during which it exceeds one of the action levels.

(B) Within 12 months after the end of the monitoring period during which a system exceeds the lead or copper action level, the Department may require the system to perform corrosion control studies. If the Department does not require the system to perform such studies, the Department shall specify optimal corrosion control treatment within the following time frames:

(i) For medium systems, within 18 months after the end of the monitoring period during which such system exceeds the lead or copper action level;

(ii) For small systems, within 24 months after the end of the monitoring period during which such system exceeds the lead or copper action level.

(C) If the Department requires a system to perform corrosion control studies under paragraph (2)(b)(B) of this rule, the system shall complete the studies within 18 months after the Department requires that such studies be conducted.

(D) If the system has performed corrosion control studies under paragraph (2)(b)(B) of this rule, the Department shall designate optimal corrosion control treatment within 6 months after completion of paragraph (2)(b)(C) of this rule.

(E) Systems shall install optimal corrosion control treatment within 24 months after the Department designates such treatment.

(F) Systems shall complete follow-up sampling within 36 months after the Department designates optimal corrosion control treatment.

(G) The Department shall review the system's installation of treatment and designate optimal water quality control parameters within 6 months after completion of follow-up sampling.

(H) Systems shall operate in compliance with the Department-designated optimal water quality control parameters and continue to conduct tap sampling.

(c) Small systems (serving 3,300 or less persons) shall complete the corrosion control treatment steps prescribed in subsection (2)(b) of this rule, unless it is deemed to have optimized corrosion control under paragraphs (d)(A),(d)(B), or (d)(C) of this section. Small systems shall conduct initial tap sampling beginning July 1, 1993.

(d) A system is deemed to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this section if the system satisfies one of the following criteria. Any system deemed to have optimized corrosion control under this rule, and which has treatment in place, shall continue to operate and maintain optimal corrosion control treatment and meet any requirements that the Department determines appropriate to ensure optimal corrosion control treatment is maintained:

(A) A small or medium-size water system meets the lead and copper action levels during each of two consecutive six-month monitoring periods conducted in accordance with OAR 333-061-0036(2)(c)(A) through (E).

(B) Any water system that demonstrates to the satisfaction of the Department that it has conducted activities equivalent to the corrosion control steps applicable to such system under this section. If the Department makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with subsection (3)(l) of this rule. Water systems deemed to have optimized corrosion control under this paragraph shall operate in compliance with the Department-designated optimal water quality control parameters in accordance with subsection (3)(m) of this rule and continue to conduct lead and copper tap and water quality parameter sampling in accordance with OAR 333-061-0036(2)(c)(D)(iii) and 333-061-0036(2)(c)(F)(v), respectively. A system shall provide the Department with the following information in order to support a determination under this paragraph:

(i) The results of all test samples collected for each of the water quality parameters in subsection (3)(d) of this rule;

(ii) A report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in subsection (3)(c) of this rule, the results of all tests conducted, and the basis for the system's selection of optimal corrosion control treatment;

(iii) A report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

(iv) The results of tap water samples collected in accordance with OAR 333-061-0036(2)(c)(A) through (E) at least once every six months for one year after corrosion control has been installed.

ADMINISTRATIVE RULES

(C) Any water system is deemed to have optimized corrosion control if it submits results of tap water monitoring and source water monitoring conducted in accordance with OAR 333-061-0036(2)(c)(A) through (E), (G) and (H) that demonstrates for two consecutive six-month monitoring periods that the difference between the 90th percentile tap water lead level computed under OAR 333-061-0030(1)(c)(A) and the highest source water lead concentration, is less than 0.005 mg/l:

(i) Those systems whose highest source water lead level is below the MDL may also be deemed to have optimized corrosion control if the 90th percentile tap water lead level is less than or equal to the PQL for lead for two consecutive 6-month monitoring periods;

(ii) Any water system deemed to have optimized corrosion control shall continue monitoring for lead and copper at the tap no less frequently than once every three years using the reduced number of sampling sites and collecting the samples at the specified times and locations. Any such system that has not conducted a round of monitoring since September 30, 1997, shall complete a round of monitoring no later than September 30, 2000;

(iii) Any water system deemed to have optimized corrosion control shall notify the Department in writing of any upcoming long-term change in treatment (eg. changing disinfectants or corrosion control chemicals) or the addition of a new source. The Department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Department may require any such system to conduct additional monitoring or to take other action the Department deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system;

(iv) As of July 2001, a system is not deemed to have optimized corrosion control unless it meets the copper action level.

(v) Any system triggered into corrosion control because it is no longer deemed to have optimized corrosion control shall implement corrosion control treatment in accordance with the deadlines prescribed in subsections (b) and (c) of this rule. Any such large system shall adhere to the schedule specified for medium size systems, with the time periods for completing each step being triggered by the date the system is no longer deemed to have optimized corrosion control.

(e) Any small or medium-size water system that is required to complete the corrosion control steps due to its exceedance of the lead or copper action level may cease completing the treatment steps whenever the system meets both action levels during each of two consecutive monitoring periods conducted pursuant to OAR 333-061-0036(2)(c)(A) through (E) and submits the results to the Department. If any such water system thereafter exceeds the lead or copper action level during any monitoring period, the system (or the Department, as the case may be) shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The Department may require a system to repeat treatment steps previously completed by the system where the Department determines that this is necessary to implement properly the treatment requirements of this section. The Department shall notify the system in writing of such a determination and explain the basis for its decision. The requirement for any small- or medium- size system to implement corrosion control treatment steps in accordance with subsection (2)(b) of this rule (including systems deemed to have optimized corrosion control under paragraph (2)(d)(A) of this rule) is triggered whenever any small- or medium- size system exceeds the lead or copper action level.

(3) Each system shall complete the corrosion control treatment requirements described below which are applicable to such system under section (2) of this rule:

(a) Based upon the results of lead and copper tap monitoring and water quality parameter monitoring, small and medium-size water systems exceeding the lead or copper action level shall recommend installation of one or more of the corrosion control treatments listed in subsection (3)(c) of this rule which the system believes constitutes optimal corrosion control for that system. The Department may require the system to conduct additional water quality parameter monitoring in accordance with OAR 333-061-0036(2)(c)(F)(iii) to assist the Department in reviewing the system's recommendation.

(b) The Department may require any small or medium-size system that exceeds the lead or copper action level to perform corrosion control studies under subsection (3)(c) of this rule to identify optimal corrosion control treatment for the system.

(c) Any public water system performing corrosion control studies shall evaluate the effectiveness of each of the treatments which follow, and, if appropriate, combinations of the treatments which follow to identify the

optimal corrosion control treatment for that system. The water system shall evaluate each of the corrosion control treatments using either pipe rig/loop tests, metal coupon tests, partial-system tests, or analyses based on documented analogous treatments with other systems of similar size, water chemistry and distribution system configuration:

(A) Alkalinity and pH adjustment;

(B) Calcium hardness adjustment; and

(C) The addition of a phosphate or silicate based corrosion inhibitor at a concentration sufficient to maintain an effective residual concentration in all test tap samples.

(d) The water system shall measure the following water quality parameters in any tests conducted under this subsection before and after evaluating the corrosion control treatments listed in subsection (3)(c) of this rule:

(A) Lead;

(B) Copper;

(C) pH;

(D) Alkalinity;

(E) Calcium;

(F) Conductivity;

(G) Orthophosphate (when an inhibitor containing a phosphate compound is used);

(H) Silicate (when an inhibitor containing a silicate compound is used);

(I) Water temperature.

(e) Any additional chemical treatment approaches considered by the water system shall be evaluated by the water system by conducting appropriate studies and analyses approved by the Department that are equivalent in scope to the studies and analyses required in this section.

(f) The water system shall identify all chemical or physical constraints that limit or prohibit the use of a particular corrosion control treatment and document such constraints with at least one of the following:

(A) Data and documentation showing that a particular corrosion control treatment has adversely affected other water treatment processes when used by another water system with comparable water quality characteristics; and/or

(B) Data and documentation demonstrating that the water system has previously attempted to evaluate a particular corrosion control treatment and has found that the treatment is ineffective or adversely affects other water quality treatment processes.

(g) The water system shall evaluate the effect of the chemicals used for corrosion control treatment on other water quality treatment processes.

(h) On the basis of an analysis of the data generated during each evaluation, the water system shall recommend to the Department in writing the treatment option that the corrosion control studies indicate constitutes optimal corrosion control treatment for that system. The water system shall provide a rationale for its recommendation along with all supporting documentation specified in subsections (3)(c) through (g) of this rule.

(i) Based upon consideration of available information including, where applicable, studies performed under subsection (3)(c) through (g) of this rule and a system's recommended treatment alternative, the Department shall either approve the corrosion control treatment option recommended by the system, or designate alternative corrosion control treatment(s) from among those listed in subsection (3)(c) of this rule. When designating optimal treatment the Department shall consider the effects that additional corrosion control treatment will have on water quality parameters and on other water quality treatment processes.

(j) The Department shall notify the system of its decision on optimal corrosion control treatment in writing and explain the basis for this determination. If the Department requests additional information to aid its review, the water system shall provide the information.

(k) Each system shall properly install and operate throughout its distribution system the optimal corrosion control treatment designated by the Department under subsection (3)(i) of this rule.

(l) The Department shall evaluate the results of all lead and copper tap samples and water quality parameter samples submitted by the water system and determine whether the system has properly installed and operated the optimal corrosion control treatment designated by the Department in subsection (3)(i) of this rule. Upon reviewing the results of tap water and water quality parameter monitoring by the system, both before and after the system installs optimal corrosion control treatment, the Department shall designate values for the applicable water quality control parameters as listed below and shall be those that the Department determines to reflect optimal corrosion control treatment for the system. The Department may designate values for additional water quality control parameters determined by

ADMINISTRATIVE RULES

the Department to reflect optimal corrosion control for the system. The Department shall notify the system in writing of these determinations and explain the basis for its decisions.

(A) A minimum value or a range of values for pH measured at each entry point to the distribution system;

(B) A minimum pH value, measured in all tap samples. Such value shall be 7.0, unless the Department determines that meeting a pH level of 7.0 is not technologically feasible or is not necessary for the system to optimize corrosion control;

(C) If a corrosion inhibitor is used, a minimum concentration or a range of concentrations for the inhibitor, measured at each entry point to the distribution system and in all tap samples, that the Department determines is necessary to form a passivating film on the interior walls of the pipes of the distribution system;

(D) If alkalinity is adjusted as part of optimal corrosion control treatment, a minimum concentration or a range of concentrations for alkalinity, measured at each entry point to the distribution system and in all tap samples;

(E) If calcium carbonate stabilization is used as part of corrosion control, a minimum concentration or a range of concentrations for calcium, measured in all tap samples.

(m) All systems that have installed treatment optimizing corrosion control shall continue to operate and maintain optimal corrosion control treatment, including maintaining water quality parameters at or above minimum values or within ranges designated by the Department under subsection (3)(l) of this rule for all samples collected under OAR 333-061-0036(2)(c)(F)(v)-(vii). Compliance shall be determined every six months, as specified under OAR 333-061-0036(2)(c)(F)(v). A water system is out of compliance for a six-month period if it has excursions for any Department-designated water quality parameter on more than nine days during the period. An excursion occurs whenever the daily value for one or more of the water quality parameters measured at a sampling location is below the minimum value or outside the range designated by the Department. Daily values are calculated as follows:

(A) On days when more than one measurement for the water quality parameter is collected at the sampling location, the daily value shall be the average of all results collected during the day regardless of whether they are collected through continuous monitoring, grab sampling or a combination of both;

(B) On days when only one measurement for the water quality parameter is collected at the sampling location, the daily value shall be the result of that measurement.

(C) On days when no measurement is collected for the water quality parameter at the sampling location, the daily value shall be the daily value calculated on the most recent day on which the water quality parameter was measured at the sample site;

(n) Upon its own initiative or in response to a request by a water system or other interested party, the Department may modify its determination of the optimal corrosion control treatment under subsection (3)(i) of this rule or optimal water quality control parameters under subsection (3)(l) of this rule. A request for modification by a system or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The Department may modify its determination where it concludes that such change is necessary to ensure that the system continues to optimize corrosion control treatment. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the Department's decision, and provide an implementation schedule for completing the treatment modifications.

(4) Source water treatment requirements:

(a) Systems shall complete the applicable source water monitoring and treatment requirements prescribed in subsection (4)(b) of this rule and OAR 333-061-0036(2)(c)(A) through (E), (G) and (H) by the following deadlines:

(A) A system exceeding the lead or copper action level shall complete lead and copper source water monitoring as prescribed in OAR 333-061-0036(2)(c)(G) and (H) and make a treatment recommendation to the Department as prescribed in paragraph (4)(b)(A) of this rule no later than 180 days after the end of the monitoring period during which the lead or copper action level was exceeded.

(B) The Department shall make a determination regarding source water treatment as prescribed in paragraph (4)(b)(B) of this rule within 6 months after submission of monitoring results required under paragraph (4)(a)(A) of this rule.

(C) If the Department requires installation of source water treatment, the system shall install the treatment as prescribed in paragraph (4)(b)(C)

of this rule within 24 months after completion of requirements prescribed in paragraph (4)(a)(B) of this rule.

(D) The system shall complete follow-up tap water monitoring as prescribed in OAR 333-061-0036(2)(c)(D)(ii) and source water monitoring as prescribed in OAR 333-061-0036(2)(c)(I) within 36 months after completion of requirements prescribed in paragraph (4)(a)(B) of this rule.

(E) The Department shall review the system's installation and operation of source water treatment and specify maximum permissible source water levels as prescribed in paragraph (4)(b)(D) of this rule within 6 months after completion of requirements prescribed in paragraph (4)(a)(D) of this rule.

(F) The system shall operate in compliance with the Department-specified maximum permissible lead and copper source water levels as prescribed in paragraph (4)(b)(D) of this rule and continue source water monitoring as prescribed in OAR 333-061-0036(2)(c)(J).

(b) Source water treatment description:

(A) Any system which exceeds the lead or copper action level shall recommend in writing to the Department the installation and operation of one of the source water treatments listed in paragraph (4)(b)(B) of this rule. A system may recommend that no treatment be installed based upon a demonstration that source water treatment is not necessary to minimize lead and copper levels at users' taps.

(B) The Department shall complete an evaluation of the results of all source water samples submitted by the water system to determine whether source water treatment is necessary to minimize lead or copper levels in water delivered to users' taps. If the Department determines that treatment is needed, the Department shall either require installation and operation of the source water treatment recommended by the system (if any) or require the installation and operation of another source water treatment from among the following: ion exchange, reverse osmosis, lime softening or coagulation/filtration. If the Department requests additional information to aid in its review, the water system shall provide the information by the date specified by the Department in its request. The Department shall notify the system in writing of its determination and set forth the basis for its decision.

(C) Each system shall properly install and operate the source water treatment designated by the Department under paragraph (4)(b)(B) of this rule.

(D) The Department shall review the source water samples taken by the water system both before and after the system installs source water treatment, and determine whether the system has properly installed and operated the source water treatment designated by the Department. Based upon its review, the Department shall designate the maximum permissible lead and copper concentrations for finished water entering the distribution system. Such levels shall reflect the contaminant removal capability of the treatment properly operated and maintained. The Department shall notify the system in writing and explain the basis for its decision.

(E) Each water system shall maintain lead and copper levels below the maximum permissible concentrations designated by the Department at each sampling point monitored in accordance with OAR 333-061-0036(2)(c)(G) through (K). The system is out of compliance with this paragraph if the level of lead or copper at any sampling point is greater than the maximum permissible concentration designated by the Department.

(F) Upon its own initiative or in response to a request by a water system or other interested party, the Department may modify its determination of the source water treatment under paragraph (4)(b)(B) of this rule, or maximum permissible lead and copper concentrations for finished water entering the distribution system under paragraph (4)(b)(D) of this rule. A request for modification by a system or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The Department may modify its determination where it concludes that such change is necessary to ensure that the system continues to minimize lead and copper concentrations in source water. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the Department's decision, and provide an implementation schedule for completing the treatment modifications.

(5) All water systems must deliver a consumer notice of lead tap water monitoring results to persons served by the water system at sites that are tested, as specified in subsection (5)(e) of this rule. Water systems that exceed the lead action level must sample the tap water of any customer who requests it in accordance with subsection (5)(d) of this rule. A water system that exceeds the lead action level based on tap water samples collected in accordance with OAR 333-061-0036(2)(c)(A) through (E) shall deliver the public education materials contained in subsections (5)(a) and (b) of this rule in accordance with the requirements in subsection (5)(c) of this rule.

ADMINISTRATIVE RULES

(a) Content of written materials. Community and non-transient non-community water system(s) shall include the following elements in all of the printed materials it distributes through its lead public education program in the same order listed below. Paragraphs (5)(a)(A), (B) and (F) of this rule must be included in the materials exactly as written except for the text in braces in these paragraphs for which the system must include system-specific information. Any additional information presented by a system shall be consistent with the information below and be in plain language that can be understood by the general public. Water systems must submit all written public education materials to the Department prior to delivery.

(A) IMPORTANT INFORMATION ABOUT LEAD IN YOUR DRINKING WATER. {INSERT NAME OF WATER SYSTEM} found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information closely to see what you can do to reduce lead in your drinking water.

(B) HEALTH EFFECTS OF LEAD: Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of the body. The greatest risk of lead exposure is to infants, young children and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

(C) SOURCES OF LEAD:

(i) Explain what lead is.

(ii) Explain the possible sources of lead in drinking water and how lead enters drinking water. Include information on home/building plumbing materials and service lines that contain lead.

(iii) Discuss other important sources of lead exposure in addition to drinking water (e.g., paint).

(D) STEPS THE CONSUMER CAN TAKE TO REDUCE THEIR EXPOSURE TO LEAD IN DRINKING WATER:

(i) Encourage running the water to flush out the lead.

(ii) Explain concerns with using hot water from the tap and specifically caution against the use of hot water for preparing baby formula.

(iii) Explain that boiling water does not reduce lead levels.

(iv) Discuss other options consumers can take to reduce exposure to lead in drinking water, such as alternative sources or treatment of water.

(v) Suggest that parents have their child's blood tested for lead.

(E) Explain why there are elevated levels of lead in the system's drinking water (if known) and what the water system is doing to reduce the lead levels in homes/buildings in this area.

(F) For more information, call us at {INSERT YOUR NUMBER}, {(if applicable include the following) or visit our web site at {INSERT YOUR WEB SITE HERE}}. For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's web site at <http://www.epa.gov/lead> or contact your health care provider.

(b) Community water systems must also:

(A) Tell consumers how to get their water tested;

(B) Discuss lead in plumbing components and the difference between low lead and lead free.

(c) Delivery of public education materials.

(A) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Department, the public education materials must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the public education materials or to request assistance in the appropriate language.

(B) A community water system that exceeds the lead action level on the basis of tap water samples collected in accordance with tap water monitoring requirements of these rules and that is not already conducting public education tasks under this rule must conduct the public education tasks under this section within 60 days after the end of the monitoring period in which the exceedance occurred.

(i) Deliver printed materials meeting the content requirements of subsections (5)(a) and (5)(b) of this rule to all bill paying customers;

(ii) Contact customers who are most at risk by delivering education materials that meet the content requirements of subsections (5)(a) and (5)(b) of this rule to local public health agencies even if they are not located within the water system's service area, along with an informational

notice that encourages distribution to all the organization's potentially affected customers or community water system's users. The water system must contact the local public health agencies directly by phone or in person. The local public health agencies may provide a specific list of additional community based organizations serving target populations, which may include organizations outside the service area of the water system. If such lists are provided, systems must deliver education materials that meet the content requirements of subsections (5)(a) and (5)(b) of this rule to all organizations on the provided lists.

(iii) Contact customers who are most at risk by delivering materials that meet the content requirements of subsections (5)(a) and (5)(b) of this rule to public and private schools or school boards; Women, Infants and Children (WIC), and Head Start programs; public and private hospitals and medical clinics; Pediatricians; family planning clinics; and local welfare agencies located within the water system's service area along with an informational notice that encourages distribution to all of the organization's potentially affected customers or community water system's users.

(iv) Make a good faith effort to locate licensed childcare centers; public and private preschools; and Obstetricians-Gynecologists and Midwives within the service area and deliver materials that meet the content requirements of subsections (5)(a) and (5)(b) of this rule to them, along with an informational notice that encourages distribution to all potentially affected customers or users. The good faith effort to contact at-risk customers may include requesting a specific contact list of these organizations from the local public health agencies, even if the agencies are not located within the water system's service area.

(v) No less often than quarterly, provide information on or in each water bill as long as the system exceeds the action level for lead. The message on the water bill must include the following statement exactly as written except for the text in braces for which the water system must include system-specific information: {INSERT NAME OF WATER SYSTEM} found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information please call {INSERT NAME OF WATER SYSTEM}, {(if applicable include the following) or visit our web site at {INSERT YOUR WEB SITE HERE}}. The message or delivery mechanisms can be modified in consultation with the Department; specifically the Department may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills.

(vi) Post material meeting the content requirements of subsection (5)(a) and (5)(b) of this rule on the water system's web site if the system serves a population greater than 100,000.

(vii) Submit a press release to newspaper, television and radio stations.

(viii) In addition to (5)(c)(B)(i) through (vii) of this rule systems must implement at least three activities from the following: public service announcements; paid advertisements; public area information displays; emails to customers; public meetings; household deliveries, targeted individual customer contact; direct material distribution to all multi-family homes and institutions or other methods approved by the Department. The educational content and selection of these activities must be determined in consultation with the Department.

(ix) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Department has established an alternate monitoring period, the last day of that period.

(C) As long as a community water system exceeds the action level, it must repeat the activities in subsection (5)(c) of this rule as follows:

(i) A community water system shall repeat the tasks contained in (5)(c)(B)(i),(ii),(iii),(iv) and (viii) of this rule every 12 months.

(ii) A community water system shall repeat tasks contained in (5)(c)(B)(v) of this rule with each billing cycle.

(iii) A community water system serving a population greater than 100,000 shall post and retain material on a publicly accessible web site pursuant to (5)(c)(B)(vi) of this rule.

(iv) The community water system shall repeat the task in (5)(c)(B)(vii) of this rule twice every 12 months on a schedule agreed upon with the Department. The Department can allow activities in (5)(c)(B) of this rule to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the Department in advance of the 60-day deadline.

(D) Within 60 days after the end of the monitoring period in which the exceedance occurred (unless it already is repeating public education tasks), a non-transient non-community water system shall deliver the public education materials specified by (5)(a) of this rule as follows:

ADMINISTRATIVE RULES

(i) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

(ii) Distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the non-transient non-community water system. The Department may allow the system to utilize electronic transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.

(iii) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Department has established an alternate monitoring period, the last day of that period.

(E) A non-transient non-community water system shall repeat the tasks contained in (5)(c)(D) at least once during each calendar year in which the system exceeds the action level. The Department can allow activities to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis, however, this extension must be approved in writing by the Department in advance of the 60-day deadline.

(F) A water system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six-month monitoring period conducted pursuant to the monitoring requirements of these rules. Such a system shall recommence public education requirements if it subsequently exceeds the lead action level during any monitoring period.

(G) A community water system may apply to the Department, in writing to use only the text specified in (5)(a) of this rule in lieu of the text in (5)(a) and (5)(b) of this rule and to perform the tasks listed in (5)(c)(D) and (E) in lieu of the tasks in (5)(c)(B) and (C) of this rule if:

(i) The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point of use treatment devices; and

(ii) The system provides water as part of the cost of services provided and does not separately charge for water consumption.

(H) A community water system serving 3,300 or fewer people may limit certain aspects of their public education programs as follows:

(i) With respect to the requirements of (5)(c)(B)(viii), a system serving 3,300 or fewer must implement at least one of the activities listed.

(ii) With respect to the requirements of (5)(c)(B)(ii), (iii) and (iv) of this rule, a system serving 3,300 or fewer people may limit the distribution of the public education materials required to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children.

(iii) With respect to the requirements of (5)(c)(B)(vii) of this rule the Department may waive this requirement for systems serving 3,300 or fewer persons as long as the system distributes notices to every household served by the system.

(d) Supplemental monitoring and notification of results. A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with OAR 333-061-0036(2)(c)(A) through (E) shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

(e) Notification of results.

(A) All water systems must provide a notice of the individual tap results from lead tap water monitoring carried out under the monitoring requirements of these rules to the persons served by the water system at the specific sampling site from which the sample was taken (e.g. the occupants of the residence where the tap was tested).

(B) A water system must provide the consumer notice as soon as practical, but no later than 30 days after the system learns of the tap monitoring results.

(C) The consumer notice must include the results of lead tap water monitoring for the tap that was tested, an explanation of the health effects of lead, list steps consumers can take to reduce exposure to lead in drinking water and contact information for the water utility. The notice must also provide the maximum contaminant level goal and the action level for lead and the definitions for these two terms.

(D) The Consumer notice must be provided to persons served at the tap that was tested, either by mail or by another method approved by the Department. For example, upon approval by the Department, a non-transient, non-community water system could post the results on a bulletin board in the facility to allow users to review the information. The system must provide the notice to customers at sample taps tested, including consumers who do not receive water bills.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-1-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0036

Sampling and Analytical Requirements

(1) General:

(a) Analyses must be conducted by EPA approved methods in accordance with the analytical requirements set forth in 40 CFR 141. Samples analyzed for the purposes of this rule shall be collected after the water has been allowed to flow from the sample tap for a sufficient length of time to assure that the collected sample is representative of water in the distribution system or from the water source as applicable, except for samples collected to determine corrosion by-products. Analysis and handling of Cryptosporidium and E. coli samples collected in accordance with subsections (5)(e) through (5)(h) of this rule must be conducted using EPA approved methods and must meet the requirements set forth in 40 CFR 141.704.

(b) Alternate Analytical Methods:

(A) With the written permission of the Department, and concurred in by the Administrator of the U.S. EPA, an alternate analytical method may be employed on the condition that it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with any MCL; and

(B) The use of the alternate analytical method shall not decrease the frequency of sampling required by these rules.

(c) Accredited laboratories:

(A) For the purpose of determining compliance with the maximum contaminant levels and the sampling requirements of these rules, the Department will only accept results from samples that have been handled and documented in accordance with Oregon Environmental Laboratory Accreditation Program (ORELAP) standards, and analyzed by a laboratory accredited by ORELAP, except as prescribed by paragraph (1)(c)(D) of this rule. Accredited laboratories will be considered a primary or subcontracted laboratory as specified by subparagraphs (1)(c)(A)(i) and (ii) of this rule.

(i) A primary laboratory is the first accredited laboratory that receives a compliance sample for analysis, and is responsible for chain of custody documentation (if applicable), performing the analytical method on a compliance sample (if applicable), final report review, and submission of results to the water system and the Department as specified in OAR 333-061-0040(1)(b)(B). Primary laboratories must hold primary or secondary ORELAP accreditation.

(ii) A subcontracted laboratory is an accredited laboratory that performs the analytical method on a compliance sample, and is responsible for sample analysis and result reporting to the primary laboratory as specified in OAR 333-061-0040(1)(b)(B). Subcontracted laboratories must hold ORELAP primary or secondary accreditation for the appropriate method(s).

(B) Measurements for turbidity, disinfectant residual, temperature, alkalinity, calcium, conductivity, chlorite, bromide, TOC, SUVA, dissolved organic carbon (DOC), UV254, orthophosphate, silica and pH may be performed on site using approved methods by individuals trained in sampling and testing techniques. Daily chlorite samples measured at the entrance to the distribution system must be performed by a party approved by the Department.

(C) Nothing in these rules shall be construed to preclude the Department or any of its duly authorized representatives from taking samples and from using the results of such samples to determine compliance with applicable requirements of these rules.

(D) All analysis for Cryptosporidium must be conducted by a laboratory that is approved by EPA's Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium in Water or a laboratory certified for Cryptosporidium analysis by the Department.

(d) Monitoring of purchasing water systems:

(A) When a public water system obtains its water, in whole or in part, from another public water system, the monitoring requirements imposed by these rules on the purchasing water system may be modified by the Department to the extent that the system supplying the water is in compliance with its source monitoring requirements. When a public water system supplies water to one or more other public water systems, the Department may modify monitoring requirements imposed by this rule to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes.

ADMINISTRATIVE RULES

(B) Any modified monitoring shall be conducted pursuant to a schedule specified by the Department and concurred in by the Administrator of the US Environmental Protection Agency.

(e) Water suppliers shall monitor each water source individually for contaminants listed in OAR 333-061-0030 (Maximum Contaminant Levels), except for coliform bacteria, TTHMs and corrosion by-products, at the entry point to the distribution system except as described below. Any such modified monitoring shall be conducted pursuant to a schedule prescribed by the Department.

(A) If the system draws water from more than one source and sources are combined before distribution, the system may be allowed to sample at an entry point to the distribution system during normal operating conditions, where justified, taking into account operational considerations, geologic and hydrologic conditions, and other factors.

(B) If a system draws water from multiple ground water sources which are not combined before distribution, the system may be allowed to sample at a representative source or sources, where justified, taking into account geologic and hydrogeologic conditions, land uses, well construction, and other factors.

(f) Compliance with MCLs shall be based on each sampling point as described in this section. If any point is determined to be out of compliance, the system shall be deemed out of compliance. If an entirely separated portion of a water system is out of compliance, then only that portion of the system shall be deemed out of compliance.

(g) The Department may require additional sampling and analysis for the contaminants included in OAR 333-061-0030 (Maximum Contaminant Levels) when necessary to determine whether an unreasonable risk to health exists. The Department may also require sampling and analysis for additional contaminants not included in OAR 333-061-0030 (Maximum Contaminant Levels) when necessary for public health protection.

(h) Water suppliers and their appointed representatives shall collect water samples from representative locations in the water system as prescribed in this rule and shall employ proper sampling procedures and techniques. Samples submitted to laboratories for analysis shall be clearly identified and shall include the name of the water system, public water system identification number, sampling date, and time, sample location identifying the sample tap, the name of the person collecting the sample and be labeled as follows:

(A) Routine: These are samples collected from established sampling locations within a water system at specified frequencies to satisfy monitoring requirements as prescribed in this rule. These samples are used to calculate compliance with maximum contaminant levels prescribed in OAR 333-061-0030(4);

(B) Repeat: These are samples collected as a follow-up to a routine sample that has exceeded a maximum contaminant level as prescribed in OAR 333-061-0030. Repeat samples are also used to calculate compliance with maximum contaminant levels prescribed in OAR 333-061-0030(4);

(C) Special: These are samples collected to supplement routine monitoring samples and are not required to be reported to the Department. Samples of this type are not considered representative of the water system and are outside the scope of normal quality assurance and control procedures and/or the established compliance monitoring program. Special samples include, but are not limited to, samples taken for special studies, user complaints, post construction/repair disinfection, sources not in service and raw water prior to treatment, except as required by this rule.

(2) Inorganic chemicals:

(a) Antimony, Arsenic, Barium, Beryllium, Cadmium, Chromium, Cyanide, Fluoride, Mercury, Nickel, Selenium and Thallium.

(A) Sampling of water systems for regulated Inorganic Chemicals shall be conducted as follows:

(i) Community and Non-Transient Non-Community Water systems using surface water sources or groundwater sources under the direct influence of surface water solely or a combination of surface and ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Surface water systems shall collect samples annually at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(j) of this rule. The water system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) Community and Non-Transient Non-Community Water systems using ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system representative of each source after any application of

treatment. Ground water systems shall collect samples once every three years at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(j) of this rule. The water system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(iii) All new Transient Non-Community and State Regulated water systems or existing Transient Non-Community, and State Regulated water systems with new sources shall sample once for arsenic. Samples are to be collected at the entry points to the distribution system representative of each source after any application of treatment.

(iv) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(B) The Department may allow compositing of samples from a maximum of 5 sampling points, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples is to be done in the laboratory. Composite samples must be analyzed within 14 days of collection. If the concentration in the composite sample is equal to or greater than one-fifth of the MCL of any inorganic chemical listed in section (2) of this rule, then a follow-up sample must be taken for the contaminants which exceeded one-fifth of the MCL within 14 days at each sampling point included in the composite. If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicates must be analyzed and the results reported to the Department within 14 days of collection. If the population served by the water system is >3,300 persons, then compositing can only be allowed within the system. In systems serving ≤3,300 persons, compositing is allowed among multiple systems provided the 5 sample limit is maintained.

(C) Water systems may apply to the Department for a waiver from the monitoring frequencies specified in paragraph (2)(a)(A) of this rule on the condition that the system shall take a minimum of one sample while the waiver is effective and the effective period for the waiver shall not exceed one nine-year compliance cycle.

(i) The Department may grant a waiver provided surface water systems have monitored annually for at least three years and groundwater systems have conducted a minimum of three rounds of monitoring (at least one sample shall have been taken since January 1, 1990), and all analytical results are less than the maximum contaminant levels prescribed in OAR 333-061-0030 for inorganic chemicals. Systems that use a new water source are not eligible for a waiver until three rounds of monitoring from the new source have been completed.

(ii) Waivers granted by the Department shall be in writing and shall set forth the basis for the determination. The Department shall review and revise, where appropriate, its determination of the appropriate monitoring frequency when the system submits new monitoring data or where other data relevant to the system's appropriate monitoring frequency become available. In determining the appropriate reduced monitoring frequency, the Department shall consider the reported concentrations from all previous monitoring; the degree of variation in reported concentrations; and other factors which may affect concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating procedures, or changes in stream flows or characteristics.

(D) Systems which exceed the maximum contaminant levels as calculated in subsection (2)(i) of this rule shall monitor quarterly beginning in the next quarter after the violation occurred. The Department may decrease the quarterly monitoring requirement to the frequencies prescribed in paragraph (2)(a)(A) of this rule when it is determined that the system is reliably and consistently below the maximum contaminant level. Before such a decrease is permitted a groundwater system must collect at least two quarterly samples and a surface water system must collect a minimum of four quarterly samples.

(E) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Department. The system must also comply with the initial sampling frequencies specified by the Department to ensure a system can demonstrate compliance with the MCL. Routine and increased monitoring frequencies shall be conducted in accordance with the requirements in this section.

(b) Asbestos:

(A) Community and Non-Transient Non-Community water systems regardless of source, shall sample for Asbestos at least once during the initial three-year compliance period of each nine-year compliance cycle starting January 1, 1993 according to the schedule under subsection (2)(j) of this

ADMINISTRATIVE RULES

rule unless a water system applies for a waiver and the waiver is granted by the Department.

(B) As reviewed by the Department, if the water system is determined not to be vulnerable to either asbestos contamination in its source water or due to corrosion of asbestos-cement pipe, or both, a waiver may be granted. If granted, the water system will not be required to monitor while the waiver remains in effect. A waiver remains in effect until the completion of the three year compliance period.

(C) A system vulnerable to asbestos contamination due solely to corrosion of asbestos-cement pipe shall take one sample at a tap served by the asbestos-cement pipe under conditions where asbestos contamination is most likely to occur.

(D) A system vulnerable to asbestos contamination due solely to source water shall monitor for asbestos once every nine years.

(E) A system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(F) A System which exceeds the maximum contaminant levels for asbestos as prescribed in subsection (2)(i) of this rule shall monitor quarterly beginning in the next quarter after the violation occurred. If the Department determines that the system is reliably and consistently below the maximum contaminant level based on a minimum of two quarterly samples for groundwater systems or a minimum of four quarterly samples for surface water systems or combined surface water/groundwater systems, the system may return to the sampling frequency prescribed in paragraph (2)(b)(A) of this rule.

(G) If monitoring data collected after January 1, 1990 are generally consistent with subsection (2)(b) of this rule, then the Health Department may allow the system to use these data to satisfy monitoring requirements for the three-year compliance period beginning January 1, 1993.

(c) Lead and Copper:

(A) Community and Non-Transient, Non-Community water systems shall monitor for lead and copper in tap water as follows: Sample site location:

(i) Each water system shall complete a materials evaluation of its distribution system in order to identify a pool of targeted sampling sites that meets the requirements of this paragraph, and which is sufficiently large to ensure that the water system can collect the number of lead and copper tap samples required in paragraph (2)(c)(C) of this rule. All sites from which first draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices designed to remove inorganic contaminants.

(ii) In addition to any information that may have been gathered under the special corrosivity monitoring requirements, the water system shall review the sources of information listed below in order to identify a sufficient number of sampling sites:

(I) All plumbing codes, permits, and records in the files of the building department(s) which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system; and

(II) All existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations.

(iii) The sampling sites selected for a Community water system's sampling pool ("tier 1 sampling sites") shall consist of single family structures that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes. When multiple-family residences comprise at least 20 percent of the structures served by a water system, the system may include these types of structures in its sampling pool.

(iv) Any Community water system with insufficient tier 1 sampling sites shall complete its sampling pool with "tier 2 sampling sites", consisting of buildings, including multiple-family residences that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes.

(v) Any Community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with "tier 3 sampling sites", consisting of single family structures that contain copper pipes with lead solder installed before 1983. A community water system with insufficient tier 1, tier 2 and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system. A representative site

is a site in which the plumbing materials used at that site would be commonly found at other sites served by the system.

(vi) The sampling sites selected for a Non-Transient Non-Community water system ("tier 1 sampling sites") shall consist of buildings that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes.

(vii) A Non-Transient Non-Community water system with insufficient tier 1 sites that meet the targeting criteria in subparagraph (2)(c)(A)(vi) of this rule shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed, the system shall use representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

(viii) Any water system whose sampling pool does not consist exclusively of tier 1 sites shall demonstrate in a letter submitted to the Department under OAR 333-061-0040(1)(h)(A)(i) why a review of the information listed in subparagraph (2)(c)(A)(ii) of this rule was inadequate to locate a sufficient number of tier 1 sites. Any Community water system which includes tier 3 sampling sites in its sampling pool shall demonstrate in such a letter why it was unable to locate a sufficient number of tier 1 and tier 2 sampling sites.

(B) Monitoring requirements for lead and copper in tap water. Sample collection methods:

(i) All tap samples for lead and copper collected in accordance with this paragraph shall be first draw samples.

(ii) Each first-draw tap sample for lead and copper shall be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least six hours. First-draw samples from residential housing shall be collected from the cold-water kitchen tap or bathroom sink tap. First-draw samples from a non-residential building shall be one liter in volume and shall be collected at an interior tap from which water is typically drawn for consumption. First-draw samples may be collected by the system or the system may allow residents to collect first-draw samples after instructing the residents of the sampling procedures specified in this paragraph. To avoid problems of residents handling nitric acid, acid fixation of first draw samples may be done up to 14 days after the sample is collected. If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

(iii) A water system shall collect each first-draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

(C) Monitoring requirements for lead and copper in tap water. Number of samples: Water systems shall collect at least one sample during each monitoring period specified in paragraph (2)(c)(D) of this rule from the number of sites listed in the first column below ("standard monitoring"). A system conducting reduced monitoring under subparagraph (2)(c)(D)(iv) of this rule shall collect at least one sample from the number of sites specified in the second column below during each monitoring period specified in subparagraph (2)(c)(D)(iv) of this rule. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. A system that has fewer than five drinking water taps, that can be used for human consumption meeting the sample site criteria of (2)(c)(A) of this rule to reach the required number of sample sites, must collect at least one sample from each tap and then must collect additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively the Department may allow these public water systems to collect a number of samples less than the number of sites specified below provided that 100 percent of all taps that can be used for human consumption are sampled. The Department must approve this reduction of the minimum number of samples in writing based on a request from the system or onsite verification by the Department. The Department may specify sampling locations when a system is conducting reduced monitoring.

System Size — # of sites — # of sites (# People Served) — (Standard Monitoring) — (Reduced Monitoring)
>100,000 — 100 — 50
10,001 to 100,000 — 60 — 30
3,301 to 10,000 — 40 — 20
501 to 3,300 — 20 — 10
101 to 500 — 10 — 5
<100 — 5 — 5

ADMINISTRATIVE RULES

(D) Monitoring requirements for lead and copper in tap water. Timing of monitoring:

(i) Initial tap monitoring requirements:

(I) All large systems shall monitor during two consecutive six-month periods.

(II) All small and medium-size systems shall monitor during each six-month monitoring period until the system exceeds the lead or copper action level and is therefore required to implement the corrosion control treatment requirements specified in OAR 333-061-0034(2), in which case the system shall continue monitoring in accordance with subparagraph (2)(c)(D)(ii) of this rule, or the system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with subparagraph (2)(c)(D)(iv) of this rule.

(ii) Monitoring after installation of corrosion control and source water treatment.

(I) Any large (serving more than 50,000 persons) system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(a)(D) shall monitor during two consecutive six-month monitoring periods by the date specified in 333-061-0034(2)(a)(E).

(II) Any small (serving 3,300 people or less) or medium-size (serving 3,301 to 50,000 persons) system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(b)(E) shall monitor during two consecutive six-month monitoring periods by the date specified in 333-061-0034(2)(b)(F).

(III) Any system which installs source water treatment pursuant to OAR 333-061-0034(4)(a)(C) shall monitor during two consecutive six-month monitoring periods by the date specified in 333-061-0034(4)(a)(D).

(iii) Monitoring after the Department specifies water quality parameter values for optimal corrosion control. After the Department specifies the values for water quality control parameters under OAR 333-061-0034(3)(I), the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the Department specifies the optimal values.

(iv) Reduced monitoring

(I) A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples in accordance with paragraph (2)(c)(C) of this rule, and reduce the frequency of sampling to once per year. A small or medium water system collecting fewer than five samples as specified in (2)(c)(C) of this rule that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the frequency of sampling to once per year. In no case can the system reduce the number of samples required below the minimum of one sample per available tap. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

(II) Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Department during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year and reduce the number of lead and copper samples in accordance with paragraph (2)(c)(C) of this rule if it receives written approval from the Department. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. The Department shall review monitoring, treatment, and other relevant information submitted by the water system, and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring. The Department shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(III) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Department during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval from the Department. Samples collected once every three years shall be collected no later than every third calendar year. The Department shall review monitoring, treatment, and other relevant information submitted by the water system and shall notify the system in writing when it determines the system is eligible to reduce the frequency of monitoring to once

every three years. The Department shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(IV) A water system that reduces the number and frequency of sampling shall collect these samples from representative sites included in the pool of targeted sampling sites identified in paragraph (2)(c)(A) of this rule. Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August or September. The Department may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a Non-transient Non-community water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the Department shall designate a period that represents a time of normal operation for the system. This sampling shall begin during the period approved or designated by the Department in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring and during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring. Community and Non-transient Non-community water systems monitoring annually or triennially that have been collecting samples during the months of June through December and that receive Department approval to alter their sample collection period must collect their next round of samples during a time period that ends no later than 21 months or 45 months, respectively, after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially as required in this subsection.

(V) A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance with subparagraph (2)(c)(D)(iii) of this rule and collect the number of samples specified for standard lead and copper monitoring in paragraph (2)(c)(C) of this rule and shall also conduct water quality parameter monitoring in accordance with subparagraphs (2)(c)(F)(iii), (iv) or (v) of this rule, as appropriate, during the period in which the lead or copper action level was exceeded. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites after it has completed two subsequent consecutive six-month rounds of monitoring that meet the requirement of subparagraph (2)(c)(D)(iv)(I) of this rule. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. Any such system may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria prescribed in subparagraphs (2)(c)(D)(iv)(III) or (VI) of this rule. Any water system subject to reduced monitoring frequency that fails to meet the lead action level during any four-month monitoring period or that fails to operate at or above the minimum value or within the range of values for the water quality control parameters specified by the Department for more than nine days in any six-month period specified in subparagraph (2)(c)(F)(v) of this rule shall conduct tap water sampling for lead and copper at the frequency specified in subparagraph (2)(c)(D)(iii) of this rule, collect the number of samples specified for standard monitoring, and shall resume monitoring for water quality parameters within the distribution system in accordance with subparagraph (2)(c)(F)(v) of this rule. This standard tap water sampling shall begin no later than the six-month monitoring period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions. Such a system may, with written Department approval, resume reduced annual monitoring for lead and copper at the tap after it has completed two subsequent six-month rounds of tap lead and copper monitoring that meet the criteria specified in subparagraph (2)(c)(D)(iv)(II) of this rule. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. Such a system, with written Department approval, may resume reduced triennial monitoring for lead and copper at the tap if it meets the criteria specified in subparagraphs (2)(c)(D)(iv)(III) and (VI) of this rule. Such a system may reduce the number and frequency of water quality parameter distribution tap samples required in accordance with subparagraph (2)(c)(F)(vi)(I) and (II) of this rule. Such a system may not resume triennial monitoring for water quality parameters distribution

ADMINISTRATIVE RULES

tap samples until it demonstrates that it has re-qualified for triennial monitoring.

(VI) Any water system that demonstrates for two consecutive 6-month monitoring periods that the 90th percentile lead level is less than or equal to 0.005 mg/l and the 90th percentile copper level is less than or equal to 0.65 mg/l may reduce the number of samples in accordance with paragraph (2)(c)(C) of this rule and reduce the frequency of sampling to once every three calendar years.

(VII) Any water system subject to a reduced monitoring frequency under (2)(c)(D)(iv) of this rule shall notify the Department in writing of any upcoming long-term change in treatment or addition of a new source. The Department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Department may require the system to resume standard monitoring or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

(E) Monitoring requirements for lead and copper in tap water. Additional monitoring by systems: The results of any monitoring conducted in addition to the minimum requirements of subsection (d) of this rule shall be considered by the system and the Department in making any determinations (i.e., calculating the 90th percentile lead or copper level). The Department may invalidate lead and copper tap water samples as follows:

(i) The Department may invalidate a lead or copper tap sample if at least one of the following conditions is met. The decision and the rationale for the decision must be documented in writing by the Department. A sample invalidated by the Department does not count toward determining lead or copper 90th percentile levels or toward meeting the minimum monitoring requirements:

(I) The laboratory establishes that improper sample analysis caused erroneous results; or

(II) A site that did not meet the site selection criteria; or

(III) The sample container was damaged in transit; or

(IV) There is substantial reason to believe that the sample was subject to tampering.

(ii) The system must report the results of all samples to the Department and all supporting documentation for samples the system believes should be invalidated.

(iii) The Department may not invalidate a sample solely on the grounds that a follow-up sample result is higher or lower than that of the original sample.

(iv) The water system must collect replacement samples for any samples invalidated if, after the invalidation of one or more samples, the system has too few samples to meet the minimum requirements. Any such replacement samples must be taken as soon as possible, but no later than 20 days after the date the Department invalidates the sample. The replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(F) Monitoring requirements for water quality parameters. All large water systems and all medium and small water systems that exceed the lead or copper action levels shall monitor water quality parameters in addition to lead and copper as follows:

(i) General Requirements. Sample collection methods:

(I) Tap samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability. Water quality parameter sampling is not required to be conducted at taps targeted for lead and copper sampling, however, established coliform sampling sites may be used to satisfy these requirements.

(II) Samples collected at the entry point(s) to the distribution system shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all sources being used.

(ii) General requirements. Number of samples:

(I) Systems shall collect two tap samples for applicable water quality parameters during each monitoring period specified under subparagraphs (2)(c)(F)(iii) through (vi) of this rule from the following number of sites.

System Size # People served	# of Sites For Water Quality Parameters
>100,000	— 25
10,001-100,000	— 10
3,301 to 10,000	— 3
501 to 3,300	— 2
101 to 500	— 1
<100	— 1

(II) Except as provided in subparagraph (2)(c)(F)(iv)(III) of this rule, systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in subparagraph (2)(c)(F)(iii) of this rule. During each monitoring period specified in subparagraphs (2)(c)(F)(iv) through (vi) of this rule, systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system.

(iii) Initial Sampling. All large water systems shall measure the applicable water quality parameters as specified below at taps and at each entry point to the distribution system during each six-month monitoring period specified in subparagraph (2)(c)(D)(i) of this rule. All small and medium-size systems shall measure the applicable water quality parameters at the locations specified below during each six-month monitoring period specified in subparagraph (2)(c)(D)(i) of this rule during which the system exceeds the lead or copper action level:

(I) At taps: pH, alkalinity, orthophosphate (when an inhibitor containing a phosphate compound is used), silica (when an inhibitor containing a silicate compound is used), calcium, conductivity, and water temperature.

(II) At each entry point to the distribution system: all of the applicable parameters listed in subparagraph (2)(c)(F)(iii)(I) of this rule.

(iv) Monitoring after installation of corrosion control. Any large system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(a)(D) shall measure the water quality parameters at the locations and frequencies specified below during each six-month monitoring period specified in subparagraph (2)(c)(D)(ii)(I) of this rule. Any small or medium-size system which installs optimal corrosion control treatment shall conduct such monitoring during each six-month monitoring period specified in subparagraph (2)(c)(D)(ii)(II) of this rule in which the system exceeds the lead or copper action level.

(I) At taps, two samples for: pH, alkalinity, orthophosphate (when an inhibitor containing a phosphate compound is used), silica (when an inhibitor containing a silicate compound is used), calcium (when calcium carbonate stabilization is used as part of corrosion control).

(II) Except as provided in subparagraph (2)(c)(D)(iv)(III) of this rule, at each entry point to the distribution system, at least one sample, no less frequently than every two weeks (bi-weekly) for: pH; when alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration; and when a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica (whichever is applicable).

(III) Any ground water system can limit entry point sampling to those entry points that are representative of water quality and treatment conditions throughout the system. If water from untreated ground water sources mixes with water from treated ground water sources, the system must monitor for water quality parameters both at representative entry points receiving treatment and no treatment. Prior to the start of any monitoring, the system shall provide to the Department written information identifying the selected entry points and documentation, including information on seasonal variability, sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(v) Monitoring after Department specifies water quality parameter values for optimal corrosion control. After the Department specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under OAR 333-061-0034(3)(l), all large systems shall measure the applicable water quality parameters in accordance with subparagraph (2)(c)(F)(iv) of this rule and determine compliance every six months with the first six-month period to begin on either January 1 or July 1, whichever comes first, after the Department specifies optimal water quality parameter values. Any small or medium-size system shall conduct such monitoring during each monitoring period specified in this paragraph in which the system exceeds the lead or copper action level. For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to subparagraph (2)(c)(D)(iv) of this rule at the time of the action level exceedance, the start of the applicable six-month monitoring period shall coincide with the start of the applicable monitoring period under (2)(c)(D) of this rule. Compliance with Department-designated optimal water quality parameter values shall be determined as specified under 333-061-0034(3)(m).

(vi) Reduced monitoring:

(I) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive six-month monitoring periods under paragraph (2)(c)(D) of this rule shall continue monitoring at the entry point(s) to the distribution system as specified in subparagraph (2)(c)(F)(iv)(II) of this

ADMINISTRATIVE RULES

rule. Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each six-month monitoring period.

System Size# People served —	Reduced # of Sites for Water Quality Parameters
>100,000 —	10
10,001-100,000 —	7
3,301 to 10,000 —	3
501 to 3,300 —	2
101 to 500 —	1
<100 —	1

(II) Any water system that maintains the minimum values or maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under OAR 333-061-0034(3)(I) during three consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in subparagraph (2)(c)(F)(vi)(I) of this rule from every six months to annually. This sampling begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any water system that maintains the minimum values or maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under 333-061-0034(3)(I) during three consecutive years of annual monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters from annually to every three years. This sampling begins no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

(III) A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to 0.005 mg/l, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/l, and that it also has maintained the range of values for water quality parameters reflecting optimal corrosion control treatment specified by the Department. Monitoring conducted every three years shall be done no later than every third calendar year.

(IV) A water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

(V) Any water system subject to reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the Department under OAR 333-061-0034(3)(I) for more than nine days in any six-month period shall resume distribution system tap water sampling in accordance with the number and frequency requirements in subparagraph (2)(c)(F)(v) of this rule. Such a system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites after it has completed two subsequent consecutive six-month rounds of monitoring that meet the criteria specified in subparagraph (2)(c)(F)(v) of this rule and/or may resume triennial monitoring at the reduced number of sites after it demonstrates through subsequent annual rounds that it meets the criteria of subparagraphs (2)(c)(F)(vi)(I) and (II) of this rule.

(vi) Additional monitoring by systems. The results of any monitoring conducted in addition to the minimum requirements of subsection (2)(c) of this rule shall be considered by the system and the Department in making any determinations.

(G) Monitoring requirements for lead and copper in source water. Sample location, collection methods, and number of samples:

(i) A water system that fails to meet the lead or copper action level on the basis of tap samples collected in accordance with paragraphs (2)(c)(A) through (E) of this rule shall collect lead and copper source water samples in accordance with the following requirements regarding sample location, number of samples, and collection methods:

(I) Ground water systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant;

(II) Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source, after treatment. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant; Surface water systems include systems with a combination of surface and ground sources; and

(III) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an

entry point to the distribution system during periods when water is representative of all sources being used.

(ii) Where the results of sampling indicate an exceedance of maximum permissible source water levels established under OAR 333-061-0034(4)(b)(D) the Department may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point. If a Department-required confirmation sample is taken for lead or copper, then the results of the initial and confirmation sample shall be averaged in determining compliance with the Department-specified maximum permissible levels. Any sample value below the detection limit shall be considered to be zero. For lead any value above the detection limit but below the Practical Quantitation Level (PQL) (0.005 mg/l) shall either be considered as the measured value or be considered one-half the PQL (0.0025 mg/l). For copper any value above the detection limit but below the PQL (0.050 mg/l) shall either be considered as the measured value or be considered one-half the PQL (0.025 mg/l).

(H) Monitoring requirements for lead and copper in source water. Monitoring frequency after system exceeds tap water action level. Any system which exceeds the lead or copper action level at the tap, shall collect one source water sample from each entry point to the distribution system no later than six months after the end of the monitoring period during which the lead or copper action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or if the Department has established an alternate monitoring period, the last day of that period.

(i) Monitoring frequency after installation of source water treatment. Any system which installs source water treatment pursuant to OAR 333-061-0034(4)(a)(C) shall collect an additional source water sample from each entry point to the distribution system during two consecutive six-month monitoring periods by the deadline specified in 333-061-0034(4)(a)(D).

(ii) Monitoring frequency after Department specifies maximum permissible source water levels or determines that source water treatment is not needed.

(I) A system shall monitor at the frequency specified below in cases where the Department specifies maximum permissible source water levels under OAR 333-061-0034(4)(b)(D) or determines that the system is not required to install source water treatment under 333-061-0034(4)(b)(B). A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the applicable Department determination is made. Such systems shall collect samples once during each subsequent compliance period. Triennial samples shall be collected every third calendar year. A water system using surface water (or a combination of surface and groundwater) shall collect samples once during each calendar year, the first annual monitoring period to begin during the year in which the applicable Department determination is made.

(II) A system is not required to conduct source water sampling for lead and/or copper if the system meets the action level for the specific contaminant in tap water samples during the entire source water sampling period applicable to the system under subparagraph (2)(c)(H)(ii)(I) of this rule.

(iii) Reduced monitoring frequency:

(I) A water system using only groundwater may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and it demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Department in OAR 333-061-0034(4)(b)(D) during at least three consecutive compliance periods under subparagraph (2)(c)(H)(ii)(I) of this rule or the Department has determined that source water treatment is not needed and the system demonstrates during at least three consecutive compliance periods under subparagraph (2)(c)(H)(ii)(I) of this rule that the concentration of lead in source water was less than or equal to 0.005 mg/l and the concentration of copper in source water was less than or equal to 0.65 mg/l.

(II) A water system using surface water (or a combination of surface and ground waters) may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and it demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Department in OAR 333-061-0034(4)(b)(D) for at least three consecutive years or the Department has determined that source water treatment is not needed and the system demonstrates that during at least three consecutive years the concentration

ADMINISTRATIVE RULES

of lead in source water was less than or equal to 0.005 mg/l and the concentration of copper in source water was less than or equal to 0.65 mg/l.

(III) A water system that uses a new source of water is not eligible for reduced monitoring for lead and/or copper until concentrations in samples collected from the new source during three consecutive monitoring periods are below the maximum permissible lead and copper concentrations specified by the Department in OAR 333-061-0034(4)(a)(E).

(d) Nitrate:

(A) Community and Non-Transient Non-Community water systems using surface water sources or groundwater sources under the direct influence of surface water shall monitor for Nitrate on a quarterly basis, at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment, beginning January 1, 1993. The Department may allow a surface water system to reduce the sampling frequency to annually provided that all analytical results from four consecutive quarters are less than 50% of the MCL. A surface water system shall return to quarterly monitoring if any one sample is 50% of the MCL.

(B) Community and Non-Transient Non-Community water systems using groundwater sources shall monitor for Nitrate annually, at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment, beginning January 1, 1993. The Department shall require quarterly monitoring for a least one year following any one sample in which the concentration is 50 percent of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(C) Transient Non-Community and State Regulated water systems shall monitor for Nitrate annually, at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment, beginning January 1, 1993. Transient Non-Community water systems must monitor quarterly for at least one year following any one sample in which the concentration is 50 percent of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(D) After the initial round of quarterly sampling is completed, each Community and Non-Transient Non-Community water system which is monitoring annually shall take subsequent samples during the quarter(s) which previously resulted in the highest analytical result.

(e) Nitrite:

(A) Community, Non-Transient Non-Community, and Transient Non-Community water systems shall collect one sample for Nitrite at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment during the compliance period beginning January 1, 1993. The Department shall require quarterly monitoring for at least one year following any one sample in which the concentration is 50 percent of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(B) After the initial sample, all systems where analytical results for Nitrite are <50 percent of the MCL, shall monitor once during each subsequent compliance period.

(C) Systems which are monitoring annually shall take each subsequent sample during the quarter(s) which previously resulted in the highest analytical result.

(D) The Department may grant a waiver from the monitoring frequencies specified in this subsection provided that water systems have conducted a minimum of three rounds of monitoring (at least one sample shall have been collected since January 1, 1990), and all analytical results are less than the maximum contaminant level prescribed in OAR 333-061-0030. Water systems that have been granted a waiver must monitor once during each nine-year compliance cycle. Waivers must be granted as prescribed by subparagraph (2)(a)(C)(ii) of this rule.

(f) Sodium

(A) Samples of water which is delivered to users shall be analyzed for Sodium as follows:

(i) Community and Non-Transient Non-Community water systems, surface water sources, once per year for each source;

(ii) Community and Non-Transient Non-Community water systems, ground water sources, once every three years for each source.

(B) The water supplier shall report to the Department the results of the analyses for Sodium as prescribed in rule 333-061-0040. The Department shall notify local health officials of the test results.

(g) Confirmation Samples:

(A) Where the results of sampling for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium exceed the MCL prescribed in OAR 333-061-0030 for inorganic chemicals, the Department may require one additional sample to be taken as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point.

(B) Where the results of sampling for nitrate or nitrite exceed the MCL prescribed in OAR 333-061-0030 for inorganic chemicals, the system is required to collect one additional sample within 24 hours of notification of the results of the initial sample at the same sampling point. Systems unable to comply with the 24-hr sampling requirement must initiate consultation with the Department as soon as practical, but no later than 24 hours after the system learns of the violation and must immediately notify their users as prescribed in 333-061-0042(2)(a)(B), and collect one additional sample within two weeks of notification of the results of the initial sample.

(C) If a confirmation sample required by the Department is taken for any contaminant then the results of the initial and confirmation sample shall be averaged. The resultant average shall be used to determine the system's compliance as prescribed in subsection (2)(i) of this rule.

(h) The Department may require more frequent monitoring than specified in subsections (2)(a) through (f) of this rule or may require confirmation samples for positive and negative results. Systems may apply to the Department to conduct more frequent monitoring than is required in this section.

(i) Compliance with the inorganic MCLs as listed in 333-061-0030(1) (Table 1) shall be determined based on the analytical result(s) obtained at each sampling point as follows:

(A) For systems which are conducting monitoring at a frequency greater than annual, compliance with the MCLs for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium is determined by a running annual average at any sampling point. If the average at any sampling point rounded to the same number of significant figures as the MCL for the substance in question is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample with results below the detection limit specified for the approved EPA analytical method shall be calculated at zero for the purpose of determining the annual average. If a system fails to collect the required number of samples, compliance (average concentration) will be based on the total number of samples collected.

(B) Systems monitoring annually or less frequently for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium must begin quarterly sampling if the level of a contaminant at any sampling point is greater than the MCL listed in OAR 333-061-0030(1). The water system will then determine compliance with the MCL by running annual average at the sampling point. The water system will not be considered in violation of the MCL until it has completed one year of quarterly monitoring. If any sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance (average concentration) will be based on the total number of samples collected.

(C) Compliance with MCLs for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs. If the levels of nitrate and/or nitrite exceed the MCLs in the initial sample, a confirmation sample is required in accordance with paragraph (2)(g)(B) of this rule and compliance shall be determined based on the average of the initial and confirmation samples.

(D) If the results of an analysis as prescribed in this rule indicate the level of any contaminant exceeds the maximum contaminant level, the water supplier shall report the analysis results to the Department within 48 hours as prescribed in OAR 333-061-0040 and initiate the public notice procedures as prescribed by OAR 333-061-0042.

(E) A water system's running annual average (RAA) is calculated by averaging the analytical results for the current monitoring period and the previous monitoring periods within a one-year time frame. The first sample result that exceeds the MCL is considered to be in the initial monitoring period for determination of the RAA. Multiple sample results within any monitoring period will be averaged and then rounded to the same number of significant figures as the MCL of the contaminant in question. For the purposes of calculating a RAA, a monitoring period may be a calendar month or calendar quarter. Special samples, as described by paragraph (1)(h)(C) of this rule, will not be included in the calculation of a system's running annual average.

ADMINISTRATIVE RULES

(j) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Population — Begin Initial Monitoring — Complete Initial Monitoring By
300 or More — January 1, 1993 — December 31, 1993
100-299 — January 1, 1994 — December 31, 1994
Less than 100 — January 1, 1995 — December 31, 1995

(3) Organic chemicals:

(a) Synthetic Organic Chemicals: Alachlor, Atrazine, Benzo(a)pyrene, Carbofuran, Chlordane, Dalapon, Dibromochloropropane, Dinoseb, Dioxin(2,3,7,8-TCDD), Diquat, Di(2-ethylhexyl)adipate, Di(2-ethylhexyl)phthalate, Endothall, Endrin, Ethylene dibromide, Glyphosate, Heptachlor, Heptachlor epoxide, Hexachlorobenzene, Hexachlorocyclopentadiene, Lindane(BHC-g), Methoxychlor, Oxamyl(Vydate), Picloram, Polychlorinated biphenyls, Pentachlorophenol, Simazine, Toxaphene, 2,4-D and 2,4,5-TP Silvex.

(A) Samples of water which is delivered to users shall be analyzed for regulated synthetic organic chemicals (SOC) as follows:

(i) Community and Non-Transient Non-Community water systems using surface or ground water under the direct influence of surface water shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Community and Non-Transient Non-Community water systems shall collect four consecutive quarterly samples at each sampling point beginning with the initial compliance period starting January 1, 1993. The water systems must take each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) Beginning on January 1, 2010, new community and non-transient non-community water systems using groundwater sources, or existing systems using a new source, shall sample at each point to the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Samples must be collected annually for three consecutive years at each sampling point. The water systems must collect each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. New wells in an existing wellfield, within an existing drinking water protection area, or within an area well characterized by area-wide source water assessments and/or past monitoring results as determined by the Department, may be eligible for a reduction in initial monitoring from three consecutive annual samples to one sample if no detections occur and if, based on the system's source assessment, the Department determines that the new well is producing from the same and only the same aquifer or does not significantly modify the existing drinking water protection area.

(iii) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(iv) If the initial analyses as specified in subparagraphs (3)(a)(A)(i) or (ii) of this rule does not detect any contaminant listed in subsection (3)(a) of this rule, then monitoring at each sampling point may be reduced to:

(I) Two consecutive quarterly samples in one year during each repeat 3-year compliance period for systems serving more than 3,300 population; or

(II) One sample in each repeat 3-year compliance period for systems serving less than or equal to 3,300 population; or

(III) Once every six years for all SOCs, if the system has a state certified Drinking Water Protection Plan or for those SOCs determined to be "used" and for which that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "moderate" susceptibility according to the Department's Use and Susceptibility Protocol. Information from the system's Source Water Assessment can be used in this determination; or

(IV) Once every nine years for those SOCs in an analytical method group determined to be "not used" in the delineated drinking water protection area, or for those SOCs determined to be "used" if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "low susceptibility" according to the Department's Use and Susceptibility Waiver Document. Information from the system's Source Water Assessment can be used in this determination.

(v) If a water system has two or more wells that have been determined by the Department to constitute a "wellfield" as specified in OAR 333-061-0058, the system must sample at the entry point(s) designated by the Department.

(B) Each Community and Non-Transient Non-Community water system may apply to the Department for a waiver from the requirements of

paragraph (3)(a)(A) of this rule. Each water system can receive specific guidance in obtaining a waiver from the Use and Susceptibility Waiver Guidance Document developed by the Department. A waiver must be in place prior to the year in which the monitoring is to be accomplished, and the water system must reapply for a waiver for Organics monitoring each compliance period.

(i) The water system shall use the drinking water protection area as delineated during the Source Water Assessment according to procedures described in the Use and Susceptibility Waiver Guidance Document.

(ii) The Use Waiver criteria as described in the Use and Susceptibility Waiver Guidance Document shall take into consideration but is not limited to the use, storage, distribution, transport and disposal of the contaminant within the delineated recharge or watershed area.

(iii) The Susceptibility Waiver criteria as described in the Use and Susceptibility Waiver Guidance Document shall address only those contaminants that remain after the use waiver process has been completed. The Susceptibility Waiver criteria shall take into consideration but is not limited to the history of bacteria and/or nitrate contamination, well construction, agricultural management practices, infiltration potential, and contaminant mobility and persistence.

(iv) Water systems which qualify for use and susceptibility waivers shall follow the monitoring requirements as directed in the Use and Susceptibility Waiver Guidance Document.

(v) The Use and Susceptibility Waiver Guidance Document is made a part of this rule and shall take into consideration the Wellhead Protection Program and shall be updated with new methods and procedures as they become available.

(vi) The Department may establish area-wide waivers based on historical monitoring data, land use activity, and the results of "Source Water Assessments" and/or "Use and Susceptibility Waiver Documents".

(C) If a water system detects in any sample a contaminant listed in subsection (3)(a) of this rule equal to or greater than the minimum detection limit listed in Table 15, then the water system shall monitor quarterly at each sampling point where a detection occurred. [Table not included. See ED. NOTE.]

(i) Based on a minimum of two quarterly samples for ground water sources and four quarterly samples for surface water sources, the Department may reduce the monitoring frequency required in paragraph (3)(a)(C) of this rule to annually provided the system is reliably and consistently below the MCL. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

(ii) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the Department for a waiver as specified in paragraph (3)(a)(B) of this rule.

(iii) If any monitoring required in paragraph (3)(a)(A) of this rule results in the detection of either Heptachlor or Heptachlor epoxide, then subsequent monitoring shall analyze for both contaminants.

(D) If the results of an analysis prescribed in paragraph (3)(a)(A) of this rule indicate that the level of any contaminant exceeds a maximum contaminant level, then the system must monitor quarterly. After a minimum of four quarterly samples show the system to be reliably and consistently below the MCL and in compliance with paragraph (3)(a)(G) of this rule, then the system may monitor annually.

(E) The Department may require confirmation samples for positive or negative results. If a confirmation sample is required by the Department, the result must be averaged with the original sample result (unless the previous sample has been invalidated by the Department) and the average used to determine compliance.

(F) The Department may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections. If the concentration in the composite sample detects one or more contaminants listed in subsection (3)(a) of this rule, then a follow-up sample must be taken and analyzed within 14 days at each sampling point included in the composite, and be analyzed for that contaminant. Duplicates taken on the original composite samples may be used instead of resampling provided the duplicates are analyzed and the results reported to the Department within 14 days of collection. For systems with a population greater than 3,300, the Department may allow compositing at sampling points only within a single system. For systems with a population of 3,300 or less, the Department may allow compositing among different systems, provided the 5-sample limit is maintained.

ADMINISTRATIVE RULES

(G) Compliance with contaminants listed in OAR 333-061-0030(2)(a) shall be determined based on the analytical results obtained at each sampling point. If one sampling point is in violation of an MCL, the system is in violation of the MCL. For systems which monitor more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. Systems which monitor annually or less whose sample result exceeds the regulatory detection limit prescribed in paragraph (3)(a)(C) of this rule (Table 15) must begin quarterly sampling. The system will not be considered in violation of the MCL until it has completed one year of quarterly monitoring. If any sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected. If a sample result is less than the detection limit, zero will be used to calculate the annual average. If the system is out of compliance, the system shall follow the reporting and public notification procedures as prescribed in OAR 333-061-0040 and 333-061-0042(2)(b)(A).

(H) A water system's running annual average (RAA) is calculated by averaging the analytical results for the current monitoring period and the previous monitoring periods within a one-year time frame. The first sample result that exceeds the MCL is considered to be in the initial monitoring period for determination of the RAA. Multiple sample results within any monitoring period will be averaged and then rounded to the same number of significant figures as the MCL of the contaminant in question. For the purposes of calculating a RAA, a monitoring period may be a calendar month or calendar quarter. Special samples, as described by paragraph (1)(h)(C) of this rule, will not be included in the calculation of a system's running annual average.

(I) If monitoring data collected after January 1, 1990 are consistent with the requirements of subsection (3)(a) of this rule, the Department may allow systems to use that data to satisfy the monitoring requirements for the initial compliance periods beginning January 1, 1993 and January 1, 1996.

(J) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Population — Begin Initial Monitoring — Complete Initial Monitoring By
300 or More — January 1, 1993 — December 31, 1993
100-299 — January 1, 1994 — December 31, 1994
Less than 100 — January 1, 1995 — December 31, 1995

(K) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Department. The system must also comply with the initial sampling frequencies specified by the Department to ensure a system can demonstrate compliance with the MCL.

(b) Volatile Organic Chemicals: Benzene, Carbon tetrachloride, Cis-1,2-Dichloroethylene, Dichloromethane, Ethylbenzene, Monochlorobenzene, O-Dichlorobenzene, P-Dichlorobenzene, Styrene, Tetrachloroethylene(PCE), Toluene, Trans-1,2-Dichloroethylene, Trichloroethylene(TCE), Vinyl chloride, Xylenes(total), 1,1-Dichloroethylene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, 1,2-Dichloroethane, 1,2-Dichloropropane, and 1,2,4-Trichlorobenzene.

(A) Samples of water which is delivered to users shall be analyzed for regulated volatile organic chemicals (VOC) as follows:

(i) Community and Non-Transient Non-Community water systems using surface or ground water under the direct influence of surface water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Community and Non-Transient Non-Community water systems shall collect four consecutive quarterly samples from each sampling point during each compliance period beginning in the initial compliance period starting January 1, 1993. The water system shall take each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) Beginning on January 1, 2010, new community and non-transient non-community water systems using groundwater sources, or existing systems using a new source, shall sample at each point to the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Samples must be collected annually for three consecutive years at each sampling point. The water systems must take each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. New wells in an existing wellfield, within an existing drinking water protection area, or within an area well characterized by area-wide source water assessments and/or past monitoring results as determined by the Department, may be eligible for a reduction in initial monitoring

from three consecutive annual samples to one sample if no detections occur and if, based on the system's Source Water Assessment, the Department determines that the new well is producing from the same and only the same aquifer or does not significantly modify the existing drinking water protection area.

(iii) If warranted, the Department may designate additional sampling points within the distribution system or at the consumer's tap which more accurately determines consumer exposure.

(iv) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all sources being used.

(v) If a water system has two or more wells that have been determined by the Department to constitute a "wellfield" as specified in OAR 333-061-0058, the system must sample at the entry point(s) designated by the Department.

(B) For the purpose of subsection (3)(b) of this rule, a detectable level for VOCs is 0.0005 mg/l.

(C) If the initial analyses do not detect any contaminant listed in subsection (3)(b) of this rule, then monitoring for all of the VOCs may be reduced to:

(i) Annual per entry point for surface water systems;

(ii) Once every three years per entry point for ground water systems after a minimum of three years of annual monitoring and no history of detections;

(iii) Once every six years if the system has a state certified Drinking Water Protection Plan or if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "moderate" susceptibility to the VOCs according to the Department's Use and Susceptibility Protocol. Information from the system's Source Water Assessment can be used in this determination; or

(iv) Once every nine years if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "low susceptibility" to the VOCs according to the Use and Susceptibility Waiver Document. Information from the system's Source Water Assessment can be used in this determination.

(v) The Department may establish area-wide waivers based on historical monitoring data, land use activity, and the results of "Source Water Assessments" and/or "Use and Susceptibility Waiver Documents".

(D) Each Community and Non-Transient Non-Community water system which does not detect any contaminant listed in subsection (3)(b) of this rule after the initial monitoring period may apply to the Department for a waiver from the requirements prescribed in paragraphs (3)(b)(A) and (C) of this rule according to procedures described in paragraph (3)(a)(B) of this rule and the Use and Susceptibility Waiver Guidance Document developed by the Department. A waiver must be in place prior to the year in which the monitoring is to be accomplished, and the water system must reapply for a waiver for Volatile Organic Chemicals monitoring every two compliance periods (six years).

(E) As a condition of a waiver groundwater systems must take one sample at each sampling point during the time the waiver is in effect and update its vulnerability assessment addressing those factors listed in subparagraph (3)(a)(B)(ii) and (iii) of this rule. The Department must confirm that a system is not vulnerable within three years of the original determination or the waiver is invalidated and the system is required to sample annually as specified in paragraph (3)(b)(C) of this rule.

(F) Surface water systems which do not detect any contaminant listed in subsection (3)(b) of this rule after completing the initial monitoring and have been determined to be not vulnerable to VOC contamination by the Department shall monitor at the discretion of the Department. The Department shall reevaluate the vulnerability of such systems during each compliance period.

(G) If a water system detects any contaminant listed in subsection (3)(b) of this rule (except vinyl chloride) in any sample greater than the minimum detection limit of 0.0005 mg/l, then the water system shall monitor quarterly at each sampling point where a detection occurred.

(i) Based on a minimum of two quarterly samples for ground water sources and four quarterly samples for surface water sources, the Department may reduce the monitoring frequency required in paragraph (3)(b)(G) of this rule to annually provided the system is reliably and consistently below the MCL. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

(ii) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the Department for a waiver as specified in paragraph (3)(b)(D) of this rule.

ADMINISTRATIVE RULES

(iii) Groundwater systems which have detected one or more of the following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene or 1,1-dichloroethylene shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be taken at each sampling point at which one or more of the two-carbon organic compounds was detected. If the results of the first analysis do not detect vinyl chloride, the Department may reduce the quarterly monitoring frequency of vinyl chloride monitoring to one sample during each compliance period. Surface water systems are required to monitor for vinyl chloride at the discretion of the Department.

(H) If the results of an analysis prescribed in paragraph (3)(b)(A) of this rule indicate that the level of any contaminant exceeds a maximum contaminant level, then the system shall monitor quarterly. After a minimum of four consecutive quarterly samples show the system to be reliably and consistently below the MCL and in compliance with paragraph (3)(b)(K) of this rule, then the system may monitor annually during the quarter which previously yielded the highest analytical result.

(I) The Department may require confirmation samples for positive or negative results. If a confirmation sample is required by the Department, the result must be averaged with the original sample result and the average used to determine compliance.

(J) The Department may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections. If the concentration in the composite sample is 0.0005 mg/l for any contaminant listed in subsection (3)(b) of this rule, then a follow-up sample must be taken and analyzed within 14 days at each sampling point included in the composite, and be analyzed for that contaminant. Duplicates taken on the original composite samples may be used instead of resampling provided the duplicates have not been held for longer than 14 days. For systems with a population greater than 3,300, the Department may allow compositing at sampling points only within a single system. For systems with a population of 3,300 or less, the Department may allow compositing among different systems provided the 5-sample limit is maintained.

(K) Compliance with contaminants listed in OAR 333-061-0030(2)(c) shall be determined based on the analytical results obtained at each sampling point. If one sampling point is in violation of an MCL, the system is in violation of the MCL. For systems which monitor more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. Systems which monitor annually or less whose sample result exceeds the MCL must begin quarterly sampling. The system will not be considered in violation of the MCL until it has completed one year of quarterly sampling. If any sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected. If a sample result is less than the detection limit, zero will be used to calculate the annual average. If the water system is out of compliance, the system shall follow the reporting and public notification procedures as prescribed in 333-061-0040 and 333-061-0042(2)(b)(A).

(L) A water system's running annual average (RAA) is calculated by averaging the analytical results for the current monitoring period and the previous monitoring periods within a one-year time frame. The first sample result that exceeds the MCL is considered to be in the initial monitoring period for determination of the RAA. Multiple sample results within any monitoring period will be averaged and then rounded to the same number of significant figures as the MCL of the contaminant in question. For the purposes of calculating a RAA, a monitoring period may be a calendar month or calendar quarter. Special samples, as described by paragraph (1)(h)(C) of this rule, will not be included in the calculation of a system's running annual average.

(M) If monitoring data collected after January 1, 1988 are consistent with the requirements of subsection (3)(b) of this rule, the Department may allow systems to use that data (i.e. a single sample rather than four quarterly samples) to satisfy the monitoring requirements prescribed in paragraph (3)(b)(A) of this rule for the initial compliance period. Systems which use grandparented samples and did not detect any contaminant listed in subsection (3)(b) of this rule shall begin monitoring annually in accordance with paragraph (3)(b)(C) of this rule beginning with the initial compliance period.

(N) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Population — Begin initial monitoring — Complete initial monitoring by
300 or More — January 1, 1993 — December 31, 1993
100-299 — January 1, 1994 — December 31, 1994
Less than 100 — January 1, 1995 — December 31, 1995

(O) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Department. The system must also comply with the initial sampling frequencies specified by the Department to ensure a system can demonstrate compliance with the MCL.

(4) Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors:

(a) General sampling and analytical requirements. The requirements of this section apply to all Community and Non-transient Non-community water systems that add a disinfectant (oxidant) to the water supply at any point in the treatment process or deliver water in which a disinfectant (oxidant) has been added to the water supply.

(A) Water systems must take all samples during normal operating conditions.

(B) Water systems may consider multiple wells where a disinfectant is added, drawing water from a single aquifer, as one treatment plant for determining the minimum number of total trihalomethanes (TTHM) and haloacetic acids(five)(HAA5) samples required, with approval from the Department.

(C) Failure to monitor in accordance with the monitoring plan as specified in paragraphs (4)(c)(C) or (4)(d)(D) of this rule is a monitoring violation.

(D) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average (RAA) of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs.

(E) Systems must use only data collected under the provisions of this rule to qualify for reduced monitoring.

(b) Initial Distribution System Evaluation (IDSE) Requirements. This subsection establishes monitoring and other requirements for identifying monitoring locations which, in conjunction with the requirements of subsections (4)(d) and (4)(f) of this rule, determine compliance with the MCLs for TTHM and HAA5 as specified in OAR 333-061-0030. Non-transient non-community water systems serving less than 10,000 people are exempt from the requirements of this subsection.

(A) IDSE Submittal Schedule: Water systems must comply with the requirements specified in Table 16 of this paragraph. Water systems that begin adding a disinfectant to the water supply after the dates specified in Table 16 must consult with the Department to identify compliance monitoring locations and any IDSE compliance requirements. Water systems that were granted a waiver by the EPA exempting them from completing an IDSE, must begin monitoring in accordance with subsection (4)(d) of this rule no later than the date set forth in Table 21. [Table not included. See ED. NOTE.]

(i) The Department may determine, in regards to the dates specified in Table 16, that a combined distribution system does not include certain wholesale or purchasing water systems based on factors such as delivering or receiving water only on an emergency basis, or delivering or receiving only a small percentage and volume of water. [Table not included. See ED. NOTE.]

(ii) IDSE results will not be used for the purpose of determining compliance with MCLs as prescribed by OAR 333-061-0030(2)(b).

(B) Standard monitoring plans. Standard monitoring plans must comply with the requirements of subparagraphs (4)(b)(B)(i) through (iv) of this rule.

(i) The standard monitoring plan must include a schematic of the distribution system (including distribution system water sources, entry points, and storage facilities), with notes indicating the locations and dates of all projected standard monitoring and projected monitoring as prescribed by subsections (4)(c) and (4)(e) of this rule.

(ii) The standard monitoring plan must include an explanation of standard monitoring location selection, and a summary of data relied on to justify the selection.

(iii) The standard monitoring plan must identify the population served and source water classification for the water system.

(iv) Standard monitoring. Water systems must monitor as indicated in Table 17 below. Water systems must collect dual sample sets at each monitoring location, and at least one round of monitoring must be during the peak historical month for TTHM or HAA5 levels, or during the month of

ADMINISTRATIVE RULES

warmest water temperature. Water systems must review available compliance, study, or operational data to determine the peak historical month for TTHM or HAA5 levels or the month of warmest water temperature. [Table not included. See ED. NOTE.]

(v) Samples must be collected at locations other than those specified by the monitoring plan as prescribed by subsection (4)(c) of this rule. Sampling locations must be spread throughout the distribution system.

(vi) If the number of entry points to the distribution system is fewer than the number of entry point monitoring locations specified in Table 17, excess entry point samples must be replaced equally by samples collected at locations where you would expect to find high TTHM and HAA5 concentration. If there is an odd number of excess sampling locations, the additional sample must be collected at a location where you would expect to find high TTHM concentration. If the number of entry points to the distribution system is greater than the number of entry point monitoring locations specified in Table 17, the samples must be collected at entry points having the highest annual water flows. [Table not included. See ED. NOTE.]

(vii) Monitoring in accordance with Table 17 may not be reduced according to the provisions of subsection (1)(d) of this rule. [Table not included. See ED. NOTE.]

(viii) IDSE report. The IDSE report must include the following elements:

(I) The IDSE report must include all TTHM and HAA5 analytical results collected in accordance with subsection (4)(c) or (4)(e) of this rule, and all standard monitoring conducted during the period of the IDSE as individual analytical results and a locational running annual average (LRAA) presented in a format acceptable to the Department. If changed from the standard monitoring plan prescribed by paragraph (4)(b)(B) of this rule, the report must also include a schematic of the distribution system, the population served, and the source water type.

(II) The IDSE report must include an explanation of any deviations from the approved standard monitoring plan.

(III) Water systems must recommend timing and locations for compliance monitoring prescribed in subsections (4)(d) and (4)(f) of this rule, based on the protocol prescribed by subparagraph (4)(b)(D)(iii) of this rule, including an explanation for why the locations were selected.

(C) System Specific Study Plans. A system specific study plan must be based on either existing monitoring results as prescribed by subparagraph (4)(b)(C)(i) of this rule, or modeling as prescribed by subparagraph (4)(b)(C)(ii) of this rule.

(i) Existing Monitoring Results. Water systems may submit monitoring results that were collected no more than two years prior to the date prescribed for completion of the system specific study as listed in Table 16. [Table not included. See ED. NOTE.] The monitoring results and analysis must meet the following criteria:

(I) TTHM and HAA5 samples must have been collected no earlier than seven years prior to the system specific study plan completion date listed in Table 16. Sample collection and analysis must be conducted in accordance with subsections (1)(a) and (1)(c) of this rule; [Table not included. See ED. NOTE.]

(II) The monitoring locations and monitoring frequency must meet the conditions specified in Table 18. Each sampling location must be sampled once during the peak historical month for TTHM or HAA5 levels or the month of warmest water temperature, for every 12 months of data submitted for that sampling location. Monitoring results must include all monitoring results collected in accordance with subsection (4)(c) or (4)(e) of this rule, and any additional monitoring results necessary to meet the minimum sample requirements; [Table not included. See ED. NOTE.]

(III) The water system must report previously collected monitoring results, and certify that the reported monitoring results include all results generated during the time period beginning with the first reported result and ending with the most recent monitoring result collected in accordance with subsection (4)(c) or (4)(e) of this rule;

(IV) The water system must certify that the samples are representative of the entire distribution system, and that neither treatment nor the distribution system has changed significantly since the samples were collected;

(V) The study plan must include a schematic of the distribution system (including distribution system water sources, entry points, and storage facilities), with notes indicating the locations and dates of all completed or planned system specific study monitoring;

(VI) The system specific study plan must include the population served and source water classification; and

(VII) If a water system submits previously collected monitoring results that meets the number of samples required by Table 18, and the

Department rejects some of the monitoring results, the water system must either conduct additional monitoring to replace the rejected results on a Department-approved schedule or conduct standard monitoring as prescribed by paragraph (4)(b)(B) of this rule. [Table not included. See ED. NOTE.]

(ii) Modeling. Water systems must conduct analysis of an extended period simulation hydraulic model. The hydraulic model and analysis must meet the following criteria:

(I) The model must simulate a 24-hour variation in demand and show a consistently repeating 24-hour pattern of residence time;

(II) The model must represent the following criteria: (1) 75 percent of pipe volume; (2) 50 percent of pipe length; (3) all pressure zones; (4) all 12-inch diameter and larger pipes; (5) all 8-inch and larger pipes that connect pressure zones, influence zones from different sources, storage facilities, major demand areas, pumps, and control valves, or are known or expected to be significant conveyors of water; (6) all 6-inch and larger pipes that connect remote areas of a distribution system to the main portion of the system; (7) all storage facilities with standard operations represented in the model; and (8) all active pump stations with controls represented in the model; and (9) all active control valves; and

(III) The model must be calibrated, or have calibration plans for the current configuration of the distribution system during the period of highest TTHM formation potential. All storage facilities must be evaluated as part of the calibration process. Calibration must be completed no later than 12-months after submission of the system specific study plan.

(IV) Reporting modeling. The system specific study plan must include (1) tabular or spreadsheet data demonstrating that the model meets requirements in subparagraph (C)(ii)(II) of this section; (2) a description of all calibration activities undertaken, and if calibration is complete, a graph of predicted tank levels versus measured tank levels for the storage facility with the highest residence time in each pressure zone, and a time series graph of the residence time at the longest residence time storage facility in the distribution system showing the predictions for the entire simulation period (i.e., from time zero until the time it takes to for the model to reach a consistently repeating pattern of residence time); (3) model output showing preliminary 24 hour average residence time predictions throughout the distribution system; (4) timing and number of samples representative of the distribution system planned for at least one monitoring period of TTHM and HAA5 dual sample monitoring at a number of locations no less than would be required for the system under standard monitoring in paragraph (4)(b)(B) of this rule during the historical month of high TTHM. These samples must be taken at locations other than existing compliance monitoring locations determined in accordance with subsection (4)(c) of this rule (5) description of how all requirements will be completed no later than 12 months after system submits the system specific study plan; (6) schematic of the distribution system (including distribution system entry points and their sources, and storage facilities), with notes indicating the locations and dates of all completed system specific study monitoring (if calibration is complete) and all compliance monitoring conducted in accordance with subsection (4)(c) of this rule; and (7) population served and system type (surface water, groundwater under the direct influence of surface water, or groundwater).

(V) If a model is submitted that does not meet the requirements of subparagraph (4)(b)(C)(ii) of this rule, the system must correct the deficiencies and respond to Department inquiries concerning the model. Failure to correct deficiencies or respond to inquiries by the Department will result in the system having to conduct standard monitoring as prescribed by paragraph (4)(b)(B) of this rule.

(iii) IDSE report. Water systems must submit the IDSE report according to the schedule prescribed in Table 16, and the report must include the following elements: [Table not included. See ED. NOTE.]

(I) The IDSE report must include all TTHM and HAA5 monitoring results collected in accordance with subsections (4)(c) and (4)(e) of this rule, and all system specific study monitoring results collected during the period of the system specific study submitted in a tabular or spreadsheet format acceptable to the Department. If changed from the system specific study plan submitted under paragraph (4)(b)(C) of this rule, the IDSE report must also include a schematic of the distribution system, the population served, and source water classification;

(II) If using the modeling provision prescribed by subparagraph (4)(b)(C)(ii) of this rule, the system must include final information for the elements described in subparagraphs (4)(b)(C)(ii)(IV) and (V) of this rule, and a 24-hour time series graph of residence time for each location selected for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule;

ADMINISTRATIVE RULES

(III) The water system must recommend monitoring locations selected for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule based on the protocol in paragraph (4)(b)(D) of this rule. It must also recommend and justify the timing of the monitoring to be conducted at these monitoring locations.

(IV) The IDSE report must include an explanation of any deviations from the approved system specific study plan.

(V) The IDSE report must include the analytical and modeling results, and the justification for recommending the monitoring locations selected for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule.

(VI) Water systems may submit the IDSE report in lieu of the system specific study plan two years prior to the dates listed in Table 16 for completion of the system specific study plan if the water system believes it has the necessary information by the time that the system specific study plan is due. If water systems choose this approach, the IDSE report must also include all information required under paragraph (4)(b)(C) of this rule. [Table not included. See ED. NOTE.]

(D) Monitoring location recommendations.

(i) The IDSE report must include recommendations and explanation for where and during what month(s) TTHM and HAA5 monitoring in accordance with subsections (4)(d) and (4)(f) of this rule should be conducted. Recommendations must be based on the criteria in subparagraphs (4)(b)(D)(ii) through (v) of this rule.

(ii) Water systems must collect samples as prescribed by Table 19 below. The number of samples and recommended locations must be used for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule, unless the Department requires different or additional locations. Monitoring locations should be dispersed throughout the distribution system to the maximum extent possible. [Table not included. See ED. NOTE.]

(iii) Water systems must recommend locations for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule based on standard monitoring results, system specific study results, or monitoring results collected in accordance with subsections (4)(c) and (4)(e) of this rule. Water systems must comply with the protocol specified in subparagraphs (4)(b)(D)(iii)(I) through (VIII) of this rule. If a water system is required to monitor at more than eight locations, the protocol must be repeated as necessary. If a water system does not have sufficient monitoring results collected in accordance with subsections (4)(c) and (4)(e) of this rule, the system must repeat the protocol, ignoring the provisions of subparagraphs (4)(b)(D)(iii)(III) and (VII) as necessary, until the required total number of monitoring locations have been identified. Water systems must select the:

(I) Location with the highest TTHM LRAA not previously selected through this protocol;

(II) Location with the highest HAA5 LRAA not previously selected through this protocol;

(III) Location with the highest HAA5 RAA based on sampling in accordance with subsections (4)(c) and (4)(e) of this rule, and with average residence time (or maximum residence time for groundwater systems) not previously selected through this protocol;

(IV) Location with the highest TTHM LRAA not previously selected through this protocol;

(V) Location with the highest TTHM LRAA not previously selected through this protocol;

(VI) Location with the highest HAA5 LRAA not previously selected through this protocol;

(VII) Location with the highest TTHM LRAA based on sampling in accordance with subsections (4)(c) and (4)(e) of this rule, and with average residence time (or maximum residence time for groundwater systems) not previously selected through this protocol; and

(VIII) Location with the highest HAA5 LRAA not previously selected through this protocol.

(iv) A water system may recommend locations other than those determined through subparagraph (4)(b)(D)(iii) of this rule, if the system includes a rationale for selecting other locations. If the Department approves the alternate locations, the water system must monitor at these locations to determine compliance with subsections (4)(d) and (4)(f) of this rule.

(v) The water system's recommended monitoring schedule must include the month of historically highest TTHM and HAA5 concentration, unless the Department approves another month. Once the highest historical month has been identified, and if quarterly or more frequent routine monitoring is required, water systems must schedule monitoring at a regular frequency of at least every 90 days.

(c) Routine monitoring requirements for TTHMs and HAA5.

(A) Water systems required to conduct monitoring for TTHM and HAA5 must monitor at the frequency specified in Table 20 until the date set forth in Table 21, after which water systems must comply with the requirements of subsections (4)(d) or (4)(f) of this rule. [Table not included. See ED. NOTE.]

(B) Systems on increased monitoring may return to routine monitoring if, after at least one year of monitoring, the TTHM annual average is less than or equal to 0.060 mg/L and the HAA5 annual average is less than or equal to 0.045 mg/L.

(C) Monitoring plans. Each water system required to monitor under subsection (4)(c) of this rule must develop and implement a monitoring plan. The system must maintain the plan and make it available for inspection by the Department and the general public no later than 30 days following the applicable compliance dates as specified in OAR 333-061-0032(10)(b). All water systems using surface water or groundwater under the direct influence of surface water serving more than 3,300 people must submit a copy of the monitoring plan to the Department no later than the date of the first report required by OAR 333-061-0040(k). The Department may also require the plan to be submitted by any other system. After review, the Department may require changes in any plan elements. The plan must include at least the following elements:

(i) Specific locations and schedules for collecting samples for any parameters included in subsection (4)(c) and (4)(e) of this rule;

(ii) How the water system will calculate compliance with MCLs, MRDLs, and treatment techniques; and

(iii) If approved for monitoring as a purchasing water system, or if providing water to a purchasing water system, the sampling plan must reflect the entire distribution system.

(d) Revised monitoring requirements for TTHM and HAA5. This subsection establishes monitoring and other requirements for achieving compliance with the MCL based on a LRAA for TTHM and HAA5.

(A) Water systems must meet the requirements of this subsection beginning on the date specified by the schedule in Table 21: [Table not included. See ED. NOTE.]

(i) Water systems required to conduct quarterly monitoring must begin monitoring in the calendar quarter that includes the compliance date specified in Table 21. [Table not included. See ED. NOTE.]

(ii) Water systems required to conduct monitoring at a frequency less than quarterly must begin monitoring in the month recommended in the IDSE report prepared as prescribed in paragraphs (4)(b)(B) or (4)(b)(C) of this rule, or the month identified in the monitoring plan developed as prescribed in paragraph (4)(d)(D) of this rule, within 12 months of the date specified in Table 21. [Table not included. See ED. NOTE.]

(B) Compliance calculations and determinations. Water systems required to conduct quarterly monitoring must make compliance calculations at the end of the fourth quarter following the compliance date specified in Table 21, and at the end of each subsequent quarter. The LRAA must be calculated prior to the fourth quarter if fewer than four quarters of data would cause the MCL to be exceeded, regardless of the monitoring results in subsequent quarters. Water systems required to conduct monitoring at a frequency less than quarterly must make compliance calculations beginning with the first sample collected after the date specified in Table 21. [Table not included. See ED. NOTE.]

(i) Water systems required to monitor quarterly. Water systems must calculate the LRAA for TTHM and HAA5 using monitoring results collected under this subsection to determine that each LRAA does not exceed the MCL listed in OAR 333-061-0030(2)(b). Water systems that fail to complete four consecutive quarters of monitoring must calculate the LRAA based on the available data from the most recent four quarters. Water systems that take more than one sample per quarter at a specific monitoring location must average all samples taken in the quarter for that location to determine a quarterly average to be used in the LRAA calculation.

(ii) Water systems required to monitor yearly or less frequently. Water systems must determine that each sample collected is less than the MCL listed in OAR 333-061-0030(2)(b). If any sample exceeds the MCL, the water system must comply with the requirements of subsection (4)(h) of this rule. If no sample exceeds the MCL, the sample result for each monitoring location is considered the LRAA for that monitoring location.

(iii) A water system required to monitor quarterly is in violation of the monitoring requirements for each quarter that a monitoring result would be used in calculating an LRAA if the system fails to monitor.

(C) Routine Monitoring Frequency. Water systems that submitted an IDSE report must begin monitoring at the locations and during the months recommended in the IDSE report as prescribed by paragraph (4)(b)(D) of this rule, following the schedule as prescribed by Table 21, unless the

ADMINISTRATIVE RULES

Department requires other or additional locations after its review. Non-transient Non-community water systems serving less than 10,000 people, and water systems that were granted a waiver by the EPA exempting them from completing an IDSE must begin monitoring at the location(s) and dates identified in the monitoring plan developed as prescribed in paragraph (4)(c)(C) of this rule, and updated as required by paragraph (4)(d)(D) of this rule. [Table not included. See ED. NOTE.]

(i) Systems must monitor at no fewer than the number of locations identified in Table 22: [Table not included. See ED. NOTE.]

(ii) Water systems that begin adding a disinfectant to the water supply after the dates specified in Table 16 must consult the Department to identify compliance monitoring locations. Systems must then develop a monitoring plan as prescribed in paragraph (4)(d)(D) of this rule that includes those monitoring locations.

(D) Monitoring Plan. Water systems must develop and implement a monitoring plan. The monitoring plan must be completed no later than the date the system begins monitoring in accordance with subsections (4)(d) and (4)(f) of this rule, and must be maintained and made available for inspection by the Department and the general public.

(i) The monitoring plan must include the following elements:

(I) Monitoring locations;

(II) Monitoring dates; and

(III) Compliance calculation procedures.

(ii) Water systems not required to submit an IDSE report as prescribed in paragraphs (4)(b)(B) or (4)(b)(C) of this rule, and that have either insufficient or too many monitoring locations from monitoring in accordance with subsections (4)(c) and (4)(e) of this rule, must identify the required number of monitoring locations for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule. Water systems must identify the locations by alternating the selection of locations representing high TTHM levels and high HAA5 levels until the required number of monitoring locations have been identified. Water systems must also provide a rationale for identifying the locations as having high levels of TTHM or HAA5.

(iii) Surface water or GWUDI systems serving more than 3,300 people must submit a copy of their monitoring plan to the Department prior to the date the system conducts initial monitoring under subsection (4)(d) of this rule, unless the IDSE report submitted as prescribed in subsection (4)(b) of this rule contains all the information required in paragraph (4)(b)(D) of this rule.

(iv) Revisions to monitoring plans. Systems may revise monitoring plans to reflect changes in treatment, distribution system operations, layout (including new service areas), or other factors that may affect TTHM or HAA5 formation, including Department-approved reasons, after consultation with the Department regarding the need and justification for the revision. If monitoring locations are changed, then water systems must replace existing monitoring locations with the lowest LRAA with new locations that reflect current distribution system locations expected to have high TTHM or HAA5 levels. The Department may require modifications in monitoring plans. Surface water or groundwater under the direct influence of surface water systems serving > 3,300 people must submit a copy of their modified monitoring plan to the Department prior to the date required to comply with the revised monitoring plan.

(e) Reduced monitoring. Until the date set forth in Table 21, water systems may reduce monitoring as specified in Table 23, except as otherwise provided. [Table not included. See ED. NOTE.]

(A) Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the average of all samples taken in the year (for systems which must monitor quarterly) or the result of the sample (for systems which must monitor no more frequently than annually) is no more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5, respectively. Systems that do not meet these levels must resume monitoring at the frequency identified in paragraph (4)(c)(A) of this rule (minimum monitoring frequency column) in the quarter immediately following the monitoring period in which the system exceeds 0.060 mg/L or 0.045 mg/L for TTHMs and HAA5, respectively. For systems using only groundwater not under the direct influence of surface water and serving less than 10,000 persons, if either the TTHM annual average is greater than 0.080 mg/L or the HAA5 annual average is greater than 0.060 mg/L, the water system must go to increased monitoring as specified in paragraph (4)(c)(A) of this rule (sample location column) in the quarter immediately following the monitoring period in which the system exceeds 0.080 mg/L or 0.060 mg/L for TTHMs or HAA5, respectively.

(B) Systems may remain on reduced monitoring after the dates identified in Table 21 of paragraph (4)(d)(A) of this rule for compliance with this rule only if the water system was granted a waiver by the EPA exempt-

ing them from completing an IDSE, and the system meets the reduced monitoring criteria specified in subsection (4)(f) and paragraph (4)(f)(A) of this rule, and does not change or add monitoring locations from those used for compliance monitoring in accordance with subsection (4)(c) of this rule. If monitoring locations under subsection (4)(d) of this rule differ from monitoring locations under subsection (4)(c) of this rule, then systems may not remain on reduced monitoring after the dates identified in paragraph (4)(d)(A) of this rule, for compliance with this rule. [Table not included. See ED. NOTE.]

(C) Monitoring requirements for source water TOC. Surface water or GWUDI systems must collect TOC samples every 30 days at a location prior to any treatment in order to qualify for reduced TTHM and HAA5 monitoring as prescribed by this subsection, unless the water system is monitoring as prescribed by subsection (4)(n) of this rule. To remain on reduced monitoring, and in addition to meeting other criteria for reduced monitoring, the source water TOC running annual average must be ≤ 4.0 mg/L, based on the most recent four quarters of monitoring, on a continuing basis at a location prior to any treatment. Once qualified for reduced monitoring as prescribed by this subsection, a water system may reduce source water TOC monitoring to quarterly TOC samples collected every 90 days at a location prior to any treatment.

(D) The Department may return a system to routine monitoring at its discretion.

(f) Revised reduced monitoring. Beginning on the dates set forth in Table 21, systems may reduce monitoring to the level specified in Table 24 any time the LRAA is ≤ 0.040 mg/L for TTHM and ≤ 0.030 mg/L for HAA5 at all monitoring locations. [Table not included. See ED. NOTE.]

(A) Systems may only use data collected under the provisions of subsections (4)(c) through (4)(f) of this rule to qualify for reduced monitoring. In addition, the annual source water average TOC level, before any treatment, must be less than or equal to 4.0 mg/L at each plant treating surface water or groundwater under the direct influence of surface water, based on monitoring conducted as prescribed in paragraph (4)(f)(D) and subsection (4)(n) of this rule.

(B) Water Systems may remain on reduced monitoring so long as:

(i) The LRAA for water systems conducting quarterly monitoring is less than or equal to 0.040 mg/L for TTHM and less than or equal to 0.030 mg/L for HAA5 at each monitoring location; or

(ii) Samples collected by water systems conducting annual or less frequent monitoring are less than or equal to 0.060 mg/L for TTHM and less than or equal to 0.045 mg/L for HAA5.

(C) Water systems must resume routine monitoring as prescribed in subsection (4)(d) of this rule, or begin increased monitoring as prescribed in subsection (4)(h) of this rule if:

(i) The LRAA based on quarterly monitoring exceeds 0.040 mg/L for TTHM or 0.030 mg/L for HAA5 at any monitoring location; or

(ii) A sample collected at any location exceeds either 0.060 mg/L for TTHM or 0.045 mg/L for HAA5 when the monitoring frequency is annual or less frequent; or

(iii) The average annual source water TOC level, before any treatment, is greater than 4.0 mg/L at any treatment plant treating surface water or groundwater under the direct influence of surface water.

(D) Monitoring requirements for source water TOC. Surface water or GWUDI systems must collect monthly TOC samples every 30 days at a location prior to any treatment in order to qualify for reduced TTHM and HAA5 monitoring as prescribed by this subsection, unless the water system is monitoring as prescribed by subsection (4)(n) of this rule. To remain on reduced monitoring, and in addition to meeting other criteria for reduced monitoring, the source water TOC running annual average must be ≤ 4.0 mg/L, based on the most recent four quarters of monitoring, on a continuing basis at a location prior to any treatment. Once qualified for reduced monitoring as prescribed by this subsection, a water system may reduce source water TOC monitoring to quarterly TOC samples collected every 90 days at a location prior to any treatment.

(E) A water system may be returned to routine monitoring at the Department's discretion.

(g) Disinfection Profiling and Disinfection Benchmarking. Any community, non-transient non-community, or transient non-community water system utilizing surface water or groundwater under direct influence of surface water that desires to make a significant change to its disinfection treatment process as defined by OAR 333-061-0060(1)(e)(A) through (1)(e)(D) must conduct disinfection profiling and benchmarking for *Giardia lamblia* and viruses. Any community or non-transient non-community water system utilizing surface water or groundwater under direct influence of surface water and having a running annual average greater than or equal to 0.064

ADMINISTRATIVE RULES

mg/l for TTHM or 0.048 mg/l for HAA5, must conduct disinfection profiling for *Giardia lamblia*.

(A) Water systems serving at least 10,000 people must conduct the disinfection profiling in accordance with the USEPA Disinfection Profiling and Benchmarking Guidance Manual. The profile must be based on daily inactivation rate calculations over a period of 12 consecutive months. If the water system uses chloramines, ozone, or chlorine dioxide as a primary disinfectant, the log inactivation for viruses must be calculated and an additional disinfection profile must be developed using a method approved by the Department.

(B) Water systems serving less than 10,000 people must conduct the disinfection profiling in accordance with or the USEPA LT1-ESWTR Disinfection Profiling and Benchmarking Technical Guidance Manual. The profile must be based on weekly inactivation rate calculations collected on the same calendar day over a period of 12 consecutive months. If the water system uses chloramines, ozone, or chlorine dioxide as a primary disinfectant, the log inactivation for viruses must be calculated and an additional disinfection profile must be developed using a method approved by the Department.

(C) Water systems using either a single or multiple points of disinfection must monitor the following parameters to determine total log inactivation for each disinfection segment:

(i) The temperature of the disinfected water at each residual disinfectant concentration sampling point during peak hourly flow;

(ii) The pH of the disinfected water at each residual disinfectant concentration sampling point during peak hourly flow for systems using chlorine;

(iii) The disinfectant contact time(s) ("T") during peak hourly flow; and

(iv) The residual disinfectant concentration(s) ("C") of the water before or at the first customer and prior to each additional point of disinfection during peak hourly flow.

(D) Water systems required to develop disinfection profiles as prescribed by OAR 333-061-0060(1)(e) must meet the requirements of subparagraphs (4)(g)(D)(i) through (iii) of this rule:

(i) Water systems must monitor at least weekly for a period of 12 consecutive months to determine the total log inactivation for *Giardia lamblia* and viruses. If water systems monitor more frequently, the monitoring frequency must be evenly spaced. Water systems that operate for fewer than 12 months per year must monitor weekly during the period of operation;

(ii) Water systems must determine log inactivation for *Giardia lamblia* through the entire plant, based on CT99.9 values in Tables 26 through 33 in OAR 333-061-0036(5) as applicable; and [Table not included. See ED. NOTE.]

(iii) Water systems must determine log inactivation for viruses through the entire treatment plant based on a protocol approved by the Department.

(E) Water systems must calculate the total inactivation ratio for *Giardia lamblia* as specified in this paragraph.

(i) Water systems using only one point of disinfectant application must determine the total inactivation ratio for the disinfection segment based on the methods specified in this paragraph.

(I) Water systems must determine one inactivation ratio (CTcalc/CT99.9) before or at the first customer during peak hourly flow; or

(II) Must determine successive (CTcalc/CT99.9) values, representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow. Water systems must calculate the total inactivation ratio by determining (CTcalc/CT99.9) for each sequence and then adding the (CTcalc/CT99.9) values together to determine $\Sigma(\text{CTcalc}/\text{CT99.9})$.

(ii) Water systems using more than one point of disinfectant application before the first customer must determine the (CTcalc/CT99.9) value of each disinfection segment immediately prior to the next point of disinfectant application, or for the final segment, before or at the first customer, during peak hourly flow. The (CTcalc/CT99.9) value of each segment and $\Sigma(\text{CTcalc}/\text{CT99.9})$ must be calculated using the method in subparagraph (4)(g)(E)(i)(II) of this rule.

(iii) The system must determine the total log of inactivation by multiplying the value calculated in subparagraphs (4)(g)(E)(i) or (ii) of this rule by 3.0.

(F) In lieu of conducting new monitoring as prescribed by paragraph (4)(g)(C) of this rule, water systems may elect to meet the requirements of subparagraphs (4)(g)(F)(i) or (ii) of this rule as follows:

(i) Water systems that have at least one year of existing data that are substantially equivalent to data collected in accordance with the provisions

of this subsection may use these data to develop disinfection profiles as specified in this section if the system has not made a significant change to its treatment practice nor changed sources since the data were collected. Water systems may develop disinfection profiles using up to three years of existing data.

(ii) Water systems may use disinfection profile(s) developed as prescribed by this subsection in lieu of developing a new profile if the system has neither made a significant change to its treatment practice nor changed sources since the profile was developed. Water systems that have not developed a virus profile as prescribed by paragraph (4)(g)(G) of this rule must develop a virus profile using the same monitoring data on which the *Giardia lamblia* profile is based.

(G) Water systems must calculate the log of inactivation for viruses using a similar protocol as described in paragraph (4)(g)(D) of this rule, using a CT99.99 and a multiplication factor of 4.0.

(H) A water system subject to OAR 333-061-0060(1)(e) must calculate a disinfection benchmark using the procedures specified in subparagraphs (4)(g)(H)(i) and (ii) of this rule to calculate a disinfection benchmark.

(i) For each year of profiling data collected and calculated as prescribed by paragraphs (4)(g)(A) through (G) of this rule, systems must determine the lowest mean monthly level of both *Giardia lamblia* and virus inactivation. Water systems must determine the mean *Giardia lamblia* and virus inactivation for each calendar month for each year of profiling data by dividing the sum of daily or weekly *Giardia lamblia* and virus log inactivation by the number of values calculated for that month.

(ii) The disinfection benchmark is the lowest monthly mean value (for water systems with one year of profiling data) or the mean of the lowest monthly mean values (for water systems with more than one year of profiling data) of *Giardia lamblia* and virus log inactivation in each year of profiling data.

(I) Water systems must retain the disinfection profile data in graphic form, such as a spreadsheet, which must be available for review by the Department as part of a sanitary survey or other field visit contact.

(h) Conditions requiring increased monitoring.

(A) Water systems required to monitor annually or less frequently as prescribed by subsections (4)(d) or (4)(f) of this rule must increase monitoring to dual sample sets collected every 90 days at all locations, if a TTHM or HAA5 sample exceeds the MCL at any location.

(B) Water systems conducting increased monitoring in accordance with paragraph (4)(h)(A) of this rule must collect samples at the monitoring locations specified in the monitoring plan developed in accordance with paragraph (4)(d)(D) of this rule.

(C) Water systems may return to routine monitoring if at least four consecutive quarters of increased monitoring has been conducted, and the LRAA for every monitoring location is less than or equal to 0.060 mg/L for TTHM and 0.045 mg/L for HAA5.

(D) Water systems conducting increased monitoring in accordance with subsection (4)(c) of this rule must continue increased monitoring at the locations specified in the monitoring plan as described in paragraph (4)(d)(D) of this rule beginning on the date identified in Table 21, and continue increased monitoring at the specified locations until qualifying for a return to routine monitoring as prescribed by subsection (4)(d) and paragraph (4)(h)(C) of this rule. [Table not included. See ED. NOTE.]

(i) Operational evaluation levels

(A) Water systems have exceeded the operational evaluation level for TTHM or HAA5 at a monitoring location when the sum of the two previous quarters' sample results plus twice the current quarter's sample result, divided by 4, exceeds the MCL.

(B) Operational evaluation and report.

(i) Systems that exceed the operational evaluation level for either TTHM or HAA5 must conduct an operational evaluation and submit a written report of the evaluation to the Department no later than 90 days after being notified of the analytical result that causes the system to exceed the operational evaluation level. The written report must be made available to the public upon request.

(ii) Operational evaluations must include an examination of the water system's treatment and distribution practices, including but not limited to: storage tank operations, excess storage capacity, distribution system flushing, changes in sources or source water quality, and treatment changes or problems that may contribute to TTHM and HAA5 formation. The examination must also include what steps could be considered to minimize future exceedances.

ADMINISTRATIVE RULES

(I) The Department may allow water systems to limit the scope of the evaluation if the water system is able to identify the cause of the operational evaluation level exceedance.

(II) The request to limit the scope of the evaluation does not extend the schedule specified in subparagraph (4)(i)(B)(i) of this rule for submitting the written report. The Department must approve this limited scope of evaluation in writing, and the water system must keep that approval with the completed report.

(j) Additional requirements for purchasing water systems. Purchasing water systems that do not add a disinfectant, but deliver water where a disinfectant (oxidant) has been added to the water supply at any point in the treatment process must comply with analytical and monitoring requirements for chlorine and chloramines as prescribed in paragraph (4)(m)(A) of this rule and in subsection (4)(s) of this rule.

(k) Chlorite. Community and Non-transient Non-community water systems using chlorine dioxide, for disinfection or oxidation, must conduct monitoring for chlorite.

(A) Routine monitoring.

(i) Daily monitoring. Water systems must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the system must take additional samples in the distribution system the following day at the locations required by paragraph (4)(k)(B) of this rule, in addition to the sample required at the entrance to the distribution system.

(ii) Monthly monitoring. Systems must take a three sample set each month in the distribution system. The system must take one sample at each of the following locations: near the first customer, at a location representative of average residence time, and at a location reflecting maximum residence time in the distribution system. Any additional routine sampling must be conducted in the same manner (as three sample sets, at the specified locations). The system may use the results of additional monitoring conducted under paragraph (4)(k)(B) of this rule to meet the requirement for monitoring in this paragraph.

(B) Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the system is required to take three chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(C) Reduced monitoring.

(i) Chlorite monitoring at the entrance to the distribution system required by subparagraph (4)(k)(A)(i) of this rule may not be reduced.

(ii) Chlorite monitoring in the distribution system required by subparagraph (4)(k)(A)(ii) of this rule may be reduced to one three sample set per quarter after one year of monitoring where no individual chlorite sample taken in the distribution system under subparagraph (4)(k)(A)(ii) of this rule has exceeded the chlorite MCL and the system has not been required to conduct monitoring under paragraph (4)(k)(B) of this rule. The system may remain on the reduced monitoring schedule until either any of the three individual chlorite samples taken quarterly in the distribution system under subparagraph (4)(k)(A)(ii) of this rule exceeds the chlorite MCL or the system is required to conduct monitoring under paragraph (4)(k)(B) of this rule, at which time the system must revert to routine monitoring.

(l) Bromate

(A) Routine monitoring. Community and Non-transient Non-community water systems using ozone, for disinfection or oxidation, must take one sample per month for each treatment plant in the system using ozone. Water systems must take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(B) Reduced monitoring. Water systems required to analyze for bromate may reduce monitoring from monthly to quarterly, if the system's running annual average bromate concentration is less than or equal to 0.0025 mg/L based on monthly bromate measurements for the most recent four quarters. Water systems may remain on reduced monitoring as long as the running annual average of quarterly bromate samples is less than or equal to 0.0025 mg/L. If the running annual average bromate concentration is >0.0025 mg/L, the system must resume routine monitoring as required by paragraph (4)(l)(A) of this rule.

(m) Monitoring requirements for disinfectant residuals.

(A) Chlorine and chloramines

(i) Routine monitoring. Community and Non-transient Non-community water systems that use chlorine or chloramines must measure the residual disinfectant level at the same points in the distribution system and at the same time when total coliforms are sampled, as specified in OAR 333-061-

0036(6). Water systems using surface water or groundwater under the direct influence of surface water may use the results of residual disinfectant concentration sampling conducted as required by OAR 333-061-0036(5)(a)(F) for unfiltered systems or 333-061-0036(5)(b)(E) for systems which filter, in lieu of taking separate samples. Compliance with this rule is achieved when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. Operators may increase residual disinfectant levels of chlorine or chloramine (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health in order to address specific microbiological contaminant problems resulting from events in the source water or in the distribution system.

(ii) Reduced monitoring from subparagraph (4)(m)(A)(i) of this rule is not allowed.

(B) Chlorine dioxide

(i) Routine monitoring. Community, Non-transient Non-community, and Transient Non-community water systems that use chlorine dioxide for disinfection or oxidation must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the water system must take samples in the distribution system the following day at the locations required by subparagraph (4)(m)(B)(ii) of this rule, in addition to the sample required at the entrance to the distribution system. Compliance with this rule is achieved when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the MRDL, the system is required to take three chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (i.e., no booster chlorination), the system must take three samples as close to the first customer as possible, at intervals of at least six hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance to the distribution system (i.e., booster chlorination), the system must take one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Chlorine dioxide monitoring may not be reduced from subparagraph (4)(m)(B)(ii) of this rule.

(n) Monitoring requirements for disinfection byproduct precursors (DBPP)

(A) Routine monitoring. Water systems using surface water or groundwater under the direct influence of surface water which use conventional filtration treatment must monitor each treatment plant for TOC no later than the point of combined filter effluent turbidity monitoring and representative of the treated water. All systems required to monitor as prescribed by subsection (4)(n) of this rule must also monitor for TOC in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples (source water and treated water) are referred to as paired samples. At the same time as the source water sample is taken, all systems must monitor for alkalinity in the source water prior to any treatment. Systems must take one paired sample and one source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

(B) Reduced monitoring. Water systems using surface water or groundwater under the direct influence of surface water with an average treated water TOC of less than 2.0 mg/L for two consecutive years, or less than 1.0 mg/L for one year, may reduce monitoring for both TOC and alkalinity to one paired sample and one source water alkalinity sample per plant per quarter. The water system must revert to routine monitoring in the month following the quarter when the annual average treated water TOC is greater than or equal to 2.0 mg/L.

(o) General compliance requirements.

(A) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average. Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chlo-

ADMINISTRATIVE RULES

ramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

(B) All samples taken and analyzed under the provisions of section (4) of this rule must be included in determining compliance, even if that number is greater than the minimum required.

(C) If, during the first year of monitoring as required by section (4) of this rule, any individual quarter's average will cause the running annual average of that system to exceed the MCL for TTHM, HAA5, or bromate, or the MRDL for chlorine or chloramine, the system is out of compliance at the end of that quarter.

(p) Compliance requirements for TTHMs and HAA5.

(A) For systems monitoring quarterly, and in accordance with subsections (4)(c) or (4)(e) of this rule, compliance with MCLs as required by OAR 333-061-0030(2)(b) must be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the system as required by subsection (4)(c) of this rule.

(B) For water systems monitoring less frequently than quarterly, and in accordance with subsections (4)(c) or (4)(e) of this rule, compliance must be based on an average of samples taken that year as required by paragraph (4)(c)(A) of this rule. If the average of these samples exceeds the MCL, the water system must increase monitoring to once per quarter per treatment plant and the system is not considered in violation of the MCL until it has completed one year of quarterly monitoring, unless the result of fewer than four quarters of monitoring will cause the running annual average to exceed the MCL, in which case the system is in violation at the end of that quarter. Water systems required to increase monitoring frequency to quarterly monitoring must calculate compliance by including the sample which triggered the increased monitoring plus the following three quarters of monitoring.

(C) If the running annual arithmetic average of quarterly averages covering any consecutive four quarter period exceeds the MCL, the system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040.

(D) If a water system fails to complete four consecutive quarters' monitoring, compliance with the MCL for the last four quarter compliance period must be based on an average of the available data.

(E) A water system monitoring for TTHM or HAA5 in accordance with subsections (4)(d), (4)(f) or (4)(h) of this rule is in violation of the MCL specified in OAR 333-061-0030(2)(b) when the LRAA calculation exceeds the MCL based on four consecutive quarters of monitoring (or fewer than four quarters of monitoring if the MCL would be exceeded regardless of monitoring results in subsequent quarters). A water system is in violation of the monitoring requirements every quarter that a monitoring result would be used in calculating an LRAA if the system fails to monitor.

(q) Compliance requirements for Bromate. Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the system takes more than one sample, the average of all samples taken during the month) collected by the system as required by subsection (4)(l) of this rule. If the average of samples covering any consecutive four quarter period exceeds the MCL, the water system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040. If a water system fails to complete 12 consecutive months monitoring, compliance with the MCL for the last four quarter compliance period must be based on an average of the available data.

(r) Compliance requirements for Chlorite. Compliance must be based on an arithmetic average of each three sample set taken in the distribution system as required by subparagraph (4)(k)(A)(ii) of this rule and paragraph (4)(k)(B) of this rule. If the arithmetic average of any three sample set exceeds the MCL, the water system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040.

(s) Compliance requirements for chlorine and chloramines.

(A) Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system as required by paragraph (4)(m)(A) of this rule. If the average covering any consecutive four quarter period exceeds the MRDL, the system is in violation of the MRDL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040.

(B) In cases where water systems switch between the use of chlorine and chloramines for residual disinfection during the year, compliance must be determined by including together all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted as required

by OAR 333-061-0040(1) must clearly indicate which residual disinfectant was analyzed for each sample.

(t) Compliance requirements for Chlorine dioxide.

(A) Acute violations. Compliance must be based on consecutive daily samples collected by the water system as required by paragraph (4)(m)(B) of this rule. If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (or more) of the three samples taken in the distribution system exceed the MRDL, the water system is in violation of the MRDL and must take immediate corrective action to lower the level of chlorine dioxide below the MRDL and must notify the public pursuant to the procedures for acute health risks as required by OAR 333-061-0042(2)(a)(C) in addition to reporting to the Department as required by OAR 333-061-0040. Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation and the water system must notify the public of the violation in accordance with the provisions for acute violations as required by OAR 333-061-0042(2)(a)(C) in addition to reporting to the Department as required by OAR 333-061-0040.

(B) Non-acute violations. Compliance must be based on consecutive daily samples collected by the system as required by paragraph (4)(m)(B) of this rule. If any two consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the water system is in violation of the MRDL and must take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and will notify the public pursuant to the procedures for non-acute health risks specified by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the water system must notify the public of the violation in accordance with the provisions for non-acute violations specified by OAR 333-061-0042(2)(b)(A) in addition to reporting to the Department as required by OAR 333-061-0040.

(u) Compliance requirements for disinfection byproduct precursors (DBPP). Compliance must be determined as specified by OAR 333-061-0032(10)(f). Water systems may begin monitoring to determine whether Step 1 TOC removals can be met 12 months prior to the compliance date for the system. This monitoring is not required and failure to monitor during this period is not a violation. However, any water system that does not monitor during this period, and then determines in the first 12 months after the compliance date that it is not able to meet the Step 1 requirements as specified in OAR 333-061-0032(10)(e)(B) and must therefore apply for alternate minimum TOC removal (Step 2) requirements, is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements as allowed by OAR 333-061-0032(10)(e)(C) and is in violation. Water systems may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date. For systems required to meet step 1 TOC removals, if the value calculated under OAR 333-061-0032(10)(f)(A)(iv) is less than 1.00, the system is in violation of the treatment technique requirements and must notify the public pursuant to OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department pursuant to OAR 333-061-0040.

(5) Surface Water Treatment.

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water that does not provide filtration treatment must monitor water quality as specified in this subsection beginning January 1, 1991 for systems using a surface water source and January 1, 1991 or 6 months after the Department has identified a source as being under the direct influence of surface water for groundwater sources, whichever is later.

(A) Fecal coliform or total coliform density measurements as required by OAR 333-061-0032(2)(b)(A) must be performed on representative source water samples immediately prior to the first or only point of disinfectant application. The system must sample for fecal or total coliforms at the minimum frequency shown in Table 25 each week the system serves water to the public. These samples must be collected on separate days. Also one fecal or total coliform density measurement must be made every day the system serves water to the public when the turbidity of the source water exceeds 1 NTU (these samples count towards the weekly coliform sampling requirement) unless the Department determines that the system, for logistical reasons outside of its control, cannot have the sample analyzed within 30 hours of collection. [Table not included. See ED. NOTE.]

ADMINISTRATIVE RULES

(B) Turbidity measurements as required by OAR 333-061-0032(2)(b)(B) must be performed on representative grab samples of source water immediately prior to the first or only point of disinfectant application every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Department. Systems using continuous turbidity monitoring must report the turbidity data to the Department in the same manner that grab sample results are reported. The Department will furnish report forms upon request.

(C) The total inactivation ratio for each day that the system is in operation must be determined based on the CT99.9 values in Tables 26 through 33. The parameters necessary to determine the total inactivation ratio must be monitored as follows: [Table not included. See ED. NOTE.]

(i) The temperature of the disinfected water must be measured at least once per day at each residual disinfectant concentration sampling point.

(ii) If the system uses chlorine, the pH of the disinfected water must be measured at least once per day at each chlorine residual disinfectant concentration sampling point.

(iii) The disinfectant contact time(s) ("T") in minutes must be determined for each day during peak hourly flow.

(iv) The residual disinfectant concentration(s) ("C") in mg/l before or at the first customer must be measured each day during peak hourly flow.

(v) If a system uses a disinfectant other than chlorine or UV, the system may demonstrate to the Department, through the use of protocol approved by the Department for on-site disinfection challenge studies or other information satisfactory to the Department, that CT99.9 values other than those specified in the Tables 32 and 33 or other operational parameters are adequate to demonstrate that the system is achieving the minimum inactivation rates required by OAR 333-061-0032(3)(a). [Table not included. See ED. NOTE.]

(D) The total inactivation ratio must be calculated as follows:

(i) If the system uses only one point of disinfectant application, the system may determine the total inactivation ratio based on either of the following two methods:

(I) One inactivation ratio ($CT_{\text{calc}}/CT_{\text{required}}$) is determined before or at the first customer during peak hourly flow and if the $CT_{\text{calc}}/CT_{\text{required}}$ is greater than or equal to 1.0, the Giardia lamblia inactivation requirement has been achieved; or

(II) Successive $CT_{\text{calc}}/CT_{\text{required}}$ values representing sequential inactivation ratios, are determined between the point of disinfection application and a point before or at the first customer during peak hourly flow. Under this alternative, the following method must be used to calculate the total inactivation ratio: Step 1: Determine $CT_{\text{calc}}/CT_{\text{required}}$ for each sequence Step 2: Add the $CT_{\text{calc}}/CT_{\text{required}}$ values together Step 3: If $CT_{\text{calc}}/CT_{\text{required}}$ is greater than or equal to 1.0, the Giardia lamblia inactivation requirement has been achieved.

(ii) If the system uses more than one point of disinfectant application before or at the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The $CT_{\text{calc}}/CT_{\text{required}}$ value of each sequence and $CT_{\text{calc}}/CT_{\text{required}}$ must be calculated using the methods in subparagraph (5)(a)(D)(i)(II) of this rule to determine if the system is in compliance with OAR 333-061-0032(3)(a) or (5)(a).

(E) The residual disinfectant concentration of the water entering the distribution system must be monitored continuously, and the lowest value must be recorded each day. If there is a failure in the continuous monitoring equipment, grab sampling every 4 hours may be conducted in lieu of continuous monitoring, but for no more than 5 working days following the failure of the equipment, and systems serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies prescribed in Table 34. The day's samples cannot be taken at the same time. The sampling intervals are subject to Department review and approval. If at any time the residual disinfectant concentration falls below 0.2 mg/l in a system using grab sampling in lieu of continuous monitoring, the system must take a grab sample every 4 hours until the residual disinfectant concentration is ≥ 0.2 mg/l. [Table not included. See ED. NOTE.]

(F) The residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in section (5) of this rule, except that the Department may allow a public water system which uses both a surface water source or a groundwater source under the direct influence of surface water, and a groundwater source, to take disinfectant residual samples at

points other than the total coliform sampling points if the Department determines that such points are more representative of treated (disinfected) water quality within the distribution system.

(b) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water that does provide filtration treatment must monitor water quality as specified in this subsection when filtration treatment is installed.

(A) Turbidity measurements as required by section OAR 333-061-0032(4) must be performed on representative samples of the system's filtered water, measured prior to any storage, every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Department. Calibration of all turbidimeters must be performed according to manufacturer's specifications, but no less frequently than quarterly. For any systems using slow sand filtration or filtration treatment other than conventional treatment, direct filtration, or diatomaceous earth filtration, the Department may reduce the sampling frequency to once per day if it determines that less frequent monitoring is sufficient to indicate effective filtration performance. Systems using lime softening may acidify representative samples prior to analysis using a method approved by the Department.

(B) The actual CT value achieved must be calculated each day the treatment plant is in operation. The parameters necessary to determine the actual CT value must be monitored as follows:

(i) The temperature of the disinfected water must be measured at least once per day at each residual disinfectant concentration sampling point as prescribed in subparagraph (5)(b)(B)(iv) of this rule.

(ii) If the system uses chlorine, the pH of the disinfected water must be measured at least once per day at each chlorine residual disinfectant concentration sampling point.

(iii) The disinfectant contact time(s) ("T") in minutes must be determined for each day during peak hourly flow, based on results of a tracer study conducted according to OAR 333-061-0050(6)(a)(R), or other method approved by the Department.

(iv) The residual disinfectant concentration(s) ("C") in mg/l before or at the first customer must be measured each day during peak hourly flow.

(v) If a system uses a disinfectant other than chlorine, the system may demonstrate to the Department, through the use of protocol approved by the Department for on-site disinfection challenge studies or other information satisfactory to the Department, or other operational parameters are adequate to demonstrate that the system is achieving the minimum inactivation rates required by OAR 333-061-0032(5)(a).

(C) The inactivation ratio calculations as prescribed in paragraph (5)(a)(D) of this rule.

(D) Monitoring for the residual disinfectant concentration entering the distribution system shall be performed as prescribed in paragraph (5)(a)(E) of this rule.

(E) Monitoring for the residual disinfectant concentration in the distribution system shall be performed as prescribed in paragraph (5)(a)(F) of this rule.

(F) Water systems using membrane filtration must perform direct integrity testing on each filter canister at least daily, per OAR 333-061-0050(4)(c)(J).

(c) Inactivation credit for water systems using a disinfectant other than chlorine for pathogen inactivation.

(A) Calculation of CT values.

(i) CT is the product of the disinfectant concentration (C, in milligrams per liter) and actual disinfectant contact time (T, in minutes). Systems with treatment credit for chlorine dioxide or ozone as prescribed by paragraphs (5)(c)(B) or (C) of this rule must calculate CT at least once per day, with both C and T measured during peak hourly flow as specified in paragraph (5)(b)(B) of this rule.

(ii) Systems with several disinfection segments in sequence must calculate CT for each segment where treatment credit is sought, where a disinfection segment is defined as a treatment unit process with a measurable disinfectant residual level and a liquid volume. If using this approach, water systems must add the Cryptosporidium CT values in each segment to determine the total CT for the treatment plant.

(B) CT values for chlorine dioxide and ozone.

(i) Systems receive the Cryptosporidium treatment credit listed in Table 35 by meeting the corresponding chlorine dioxide CT value for the applicable water temperature, as described in paragraph (5)(c)(A) of this rule. [Table not included. See ED. NOTE.]

ADMINISTRATIVE RULES

(ii) Systems receive the Cryptosporidium treatment credit listed in Table 36 by meeting the corresponding ozone CT values for the applicable water temperature, as described in paragraph (5)(c)(A) of this rule. [Table not included. See ED. NOTE.]

(C) Site-specific study. The Department may approve alternative chlorine dioxide or ozone CT values to those listed in Table 35 or Table 36 on a site-specific basis. The Department must base this approval on a site-specific study conducted by a water system that follows a Department-approved protocol. [Table not included. See ED. NOTE.]

(D) Ultraviolet light. Systems receive Cryptosporidium, Giardia lamblia, and virus treatment credits for ultraviolet light reactors (UV) by achieving the corresponding UV dose values shown in subparagraph (5)(c)(D)(i) of this rule. Systems must validate and monitor UV reactors as described in OAR 333-061-0050(5)(k) and subparagraphs (5)(c)(D)(ii) and (iii) of this rule to demonstrate that they are achieving a particular UV dose value for treatment credit.

(i) UV dose table. The treatment credits listed in this table are for UV light at a wavelength of 254 nm as produced by a low pressure mercury vapor lamp. To receive treatment credit for other lamp types, systems must demonstrate an equivalent germicidal dose through reactor validation testing as specified in OAR 333-061-0050(5)(k). The UV dose values in Table 37 are applicable to post-filter applications of UV in filtered water systems, unfiltered water systems, and groundwater systems required to disinfect as prescribed by OAR 333-061-0032(6)(j). [Table not included. See ED. NOTE.]

(ii) Reactor monitoring. Systems must monitor their UV reactors to determine if the reactors are operating within validated conditions, as prescribed by OAR 333-061-0050(5)(k). This monitoring must include UV intensity as measured by a UV sensor, flow rate, lamp status, and other parameters the Department designates based on UV reactor operation. Water systems must verify the calibration of UV sensors at least monthly, and must recalibrate sensors in accordance with the EPA UV Disinfection Guidance Manual as necessary.

(iii) Water systems must monitor the percentage of water delivered to the public that was treated within validated conditions for the required UV dose. If less than 95 percent of water delivered was within validated conditions, Tier 2 public notice must be issued as prescribed by OAR 333-061-0042(3)(b).

(d) Requirements for individual filter effluent turbidity monitoring

(A) In addition to subsection (5)(b) of this rule, water systems using surface water or groundwater under the direct influence of surface water where treatment includes conventional filtration treatment or direct filtration treatment must conduct continuous turbidity monitoring for each individual filter and must calibrate turbidimeters using the procedure specified by the manufacturer. Individual filter monitoring results must be recorded every 15 minutes. If there is a failure in the continuous turbidity monitoring equipment, the water system must conduct grab sampling every four hours in lieu of continuous monitoring until the turbidimeter is repaired and back on-line. The water system serving at least 10,000 people has a maximum of five working days after failure to repair the equipment or the water system is in violation. The water system serving less than 10,000 people has a maximum of 14 days to resume continuous monitoring before a violation is incurred. If the water system's conventional or direct filtration treatment plant consists of two or fewer filters, continuous monitoring of the combined filter effluent turbidity may be substituted for continuous monitoring of individual filter effluent turbidity. For systems serving less than 10,000 people, the recording and calibration requirements that apply to individual filters also apply when continuous monitoring of the combined filter effluent turbidity is substituted for the continuous monitoring of individual filter effluent turbidity;

(B) Direct integrity testing for membrane filtration. Water systems must conduct direct integrity testing in a manner that demonstrates a removal efficiency equal to or greater than the removal credit awarded to the membrane filtration process, and that meets the requirements described in this paragraph. A direct integrity test is defined as a physical test applied to a membrane unit in order to identify and isolate integrity breaches (i.e., one or more leaks that could result in contamination of the filtrate).

(i) The direct integrity test must be independently applied to each membrane unit in service. A membrane unit is defined as a group of membrane modules that share common valving that allows the unit to be isolated from the rest of the water system for the purpose of integrity testing or other maintenance.

(ii) The direct integrity method must have a resolution of three micrometers or less, where resolution is defined as the size of the smallest integrity breach that contributes to a response from the direct integrity test.

(iii) The direct integrity test must have a sensitivity sufficient to verify the log treatment credit awarded to the membrane filtration process by the Department, where sensitivity is defined as the maximum log removal value that can be reliably verified by a direct integrity test. Sensitivity must be determined using the approach in either subparagraphs (4)(c)(J)(iii)(I) or (II) of this rule as applicable to the type of direct integrity test the system uses.

(I) For direct integrity tests that use an applied pressure or vacuum, the direct integrity test sensitivity must be calculated according to the following equation:

$$LRVDIT = \text{LOG}_{10} (Q_p / (VCF \times Q_{breach}))$$

Where:

LRVDIT = the sensitivity of the direct integrity test;

Q_p = total design filtrate flow from the membrane unit;

Q_{breach} = flow of water from an integrity breach associated with the smallest integrity test response that can be reliably measured; and

VCF = volumetric concentration factor. The volumetric concentration factor is the ratio of the suspended solids concentration on the high pressure side of the membrane relative to that in the feed water.

(II) For direct integrity tests that use a particulate or molecular marker, the direct integrity test sensitivity must be calculated according to the following equation:

$$LRVDIT = \text{LOG}_{10}(C_f - \text{LOG}_{10}(C_p))$$

Where:

LRVDIT = the sensitivity of the direct integrity test;

C_f = the typical feed concentration of the marker used in the test; and

C_p = the filtrate concentration of the marker from an integral membrane unit.

(iv) Water systems must establish a control limit within the sensitivity limits of the direct integrity test that is indicative of an integral membrane unit capable of meeting the removal credit awarded by the Department.

(v) If the result of a direct integrity test exceeds the control limit established under subparagraph (4)(c)(J)(iv) of this rule, the water system must remove the membrane unit from service. Water systems must conduct a direct integrity test to verify any repairs, and may return the membrane unit to service only if the direct integrity test is within the established control limit.

(vi) Water systems must conduct direct integrity testing on each membrane unit at a frequency of not less than once each day that the membrane unit is in operation. The Department may approve less frequent testing, based on demonstrated process reliability, the use of multiple barriers effective for Cryptosporidium, or reliable process safeguards.

(C) Indirect integrity monitoring for membrane filtration. Water systems must conduct continuous indirect integrity monitoring on each membrane unit according to the criteria specified in this paragraph. Indirect integrity monitoring is defined as monitoring some aspect of filtrate water quality that is indicative of the removal of particulate matter. A water system that implements continuous direct integrity testing of membrane units in accordance with the criteria specified in subparagraphs (4)(c)(J)(i) through (v) of this rule is not subject to the requirements for continuous indirect integrity monitoring. Water systems must submit a monthly report to the Department summarizing all continuous indirect integrity monitoring results triggering direct integrity testing and the corrective action that was taken in each case.

(i) Unless the Department approves an alternative parameter, continuous indirect integrity monitoring must include continuous filtrate turbidity monitoring.

(ii) Continuous monitoring must be conducted at a frequency of no less than once every 15 minutes.

(iii) Continuous monitoring must be separately conducted on each membrane unit.

(iv) If indirect integrity monitoring includes turbidity and the filtrate turbidity readings are above 0.15 NTU for a period greater than 15 minutes (i.e., two consecutive 15-minute readings above 0.15 NTU), direct integrity testing in accordance with subparagraphs (4)(c)(J)(i) through (v) of this rule must immediately be performed on the associated membrane unit.

(v) If indirect integrity monitoring includes a Department-approved alternative parameter and if the alternative parameter exceeds a Department-approved control limit for a period greater than 15 minutes, direct integrity testing in accordance with subparagraphs (4)(c)(J)(i) through (v) of this rule must immediately be performed on the associated membrane unit.

(e) Source water monitoring. Wholesale water systems, as defined in OAR 333-061-0020(221), must comply with the requirements of this rule based on the population of the largest water system in the combined distribution system. Water systems required to provide filtration treatment must comply with the requirements of this rule whether or not the water system is currently operating filtration treatment. The requirements of this rule for unfiltered water systems only apply to those water systems that met and continue to meet the requirements of OAR 333-061-0032(2) and (3).

ADMINISTRATIVE RULES

(A) Initial round. Water systems must conduct monitoring as prescribed by this paragraph, and following the schedule specified in paragraph (5)(e)(C) of this rule, unless the system meets the monitoring exemption criteria specified in paragraph (5)(e)(D) of this rule.

(i) Filtered water systems serving at least 10,000 people must sample their source water for *Cryptosporidium*, *E. coli*, and turbidity at least monthly for 24 months.

(ii) Unfiltered water systems serving at least 10,000 people must sample their source water for *Cryptosporidium* at least monthly for 24 months.

(iii) Filtered water systems serving less than 10,000 people must sample their source water for *E. coli* at least once every two weeks for 12 months.

(I) Filtered water systems serving fewer than 10,000 people may avoid *E. coli* monitoring if the system monitors for *Cryptosporidium* as prescribed in subparagraph (5)(e)(A)(iv) of this rule. The water system must notify the Department no later than three months prior to the date the system is otherwise required to start *E. coli* monitoring under paragraph (5)(e)(C) of this rule.

(iv) Filtered water systems serving fewer than 10,000 people must sample their source water for *Cryptosporidium* at least twice per month for 12 months or at least monthly for 24 months if they meet one of the following, based on monitoring conducted in accordance with subparagraph (5)(e)(A)(iii) of this rule:

(I) The annual mean *E. coli* concentration, in the surface water source, is greater than 100 *E. coli*/100 mL;

(II) The water system does not conduct *E. coli* monitoring as described in subparagraph (5)(e)(A)(iii) of this rule; or

(III) Water systems using groundwater under the direct influence of surface water must comply with the requirements of this paragraph based on the *E. coli* level specified in subparagraph (5)(e)(A)(iv)(I) of this rule.

(v) Unfiltered water systems serving fewer than 10,000 people must sample their source water for *Cryptosporidium* at least twice per month for 12 months or at least monthly for 24 months.

(vi) Water systems may sample more frequently than required under this section if the sampling frequency is evenly spaced throughout the monitoring period.

(vii) The Department may approve monitoring for an indicator other than *E. coli* to comply with the monitoring prescribed by subparagraph (5)(e)(A)(iii) of this rule for filtered water systems serving fewer than 10,000 people. The Department may approve an alternative to the *E. coli* concentrations that trigger *Cryptosporidium* monitoring as specified in subparagraphs (5)(e)(A)(iv)(I) and (III) of this rule. The Department's approval to the system will be in writing and will include the basis for the Department's determination that the alternative indicator or trigger level will provide a more accurate identification of whether a water system will exceed the Bin 1 *Cryptosporidium* level specified in Table 9 in OAR 333-061-0032(4)(f)(F). [Table not included. See ED. NOTE.]

(B) Water systems must conduct a second round of source water monitoring that meets the requirements for monitoring parameters, frequency, and duration described in paragraph (5)(e)(A) of this rule, and according to the schedule in paragraph (5)(e)(C) of this rule, unless they meet the monitoring exemption criteria specified in paragraph (5)(e)(D) of this rule.

(C) Monitoring schedule. Systems must begin monitoring as required in paragraphs (5)(e)(A) and (B) of this rule no later than the month beginning with the date listed in Table 38. [Table not included. See ED. NOTE.]

(D) Monitoring avoidance.

(i) Filtered water systems are not required to conduct source water monitoring as prescribed by this subsection if the system will provide a total of at least 5.5-log of treatment for *Cryptosporidium*, equivalent to meeting the treatment requirements of Bin 4 in OAR 333-061-0032(4)(g) and 333-061-0032(13) through (18).

(ii) Unfiltered water systems are not required to conduct source water monitoring as prescribed by this subsection if the system will provide a total of at least 3-log *Cryptosporidium* inactivation, equivalent to meeting the treatment requirements for unfiltered systems with a mean *Cryptosporidium* concentration of greater than 0.01 oocysts/L in OAR 333-061-0032(3)(e).

(iii) If a water system chooses to provide the level of treatment specified in subparagraph (5)(e)(D)(i) or (ii) of this rule, rather than conducting source water monitoring, the water system must notify the Department in writing no later than the date the system is otherwise required to submit a sampling schedule for monitoring as prescribed by OAR 333-061-0036(5)(f)(A). A water system may choose to cease source water monitoring at any point after it has initiated monitoring if it notifies the Department in writing that it will provide this level of treatment. Water systems must

install and operate technologies to provide this level of treatment by the applicable treatment compliance date in OAR 333-061-0032(1)(a)(F).

(E) Seasonal plants. Systems with surface water or GWUDI treatment plants that operate for only part of the year must conduct source water monitoring in accordance with this subsection, but with the following modifications:

(i) Water systems must sample their source water only during the months that the plant is in use unless the Department specifies another monitoring period based on plant operating practices.

(ii) Water systems with treatment plants that operate less than six months per year, and that monitor for *Cryptosporidium*, must collect at least six *Cryptosporidium* samples per year for two years of monitoring. Samples must be evenly spaced throughout the period the plant operates.

(F) New sources. A water system that begins using a new source of surface water or GWUDI after the system is required to begin monitoring as prescribed in paragraph (5)(e)(C) of this rule must monitor the new source on a schedule the Department approves. Source water monitoring must meet the requirements of this subsection, and the water system must also meet the bin classification and *Cryptosporidium* treatment requirements of OAR 333-061-0032 for the new source on a schedule the Department approves.

(i) This applies to water systems using surface water or GWUDI sources that begin operation after the monitoring start date applicable to the system's size specified in Table 38. [Table not included. See ED. NOTE.]

(ii) The water system must begin a second round of source water monitoring no later than six years following determination of the mean *Cryptosporidium* level or initial bin classification as prescribed by OAR 333-061-0032(2) or (4) respectively, as applicable.

(G) Failure to collect any source water sample in accordance with the sampling requirements, schedule, sampling location, analytical method, approved laboratory, and reporting requirements of this section is a monitoring violation.

(H) Grandfathering monitoring data. Systems may use monitoring data collected prior to the applicable monitoring start date in paragraph (5)(e)(C) of this rule to meet the initial source water monitoring requirements in paragraph (5)(e)(A) of this rule. Grandfathered data may substitute for an equivalent number of months at the end of the monitoring period. All data submitted under this paragraph must meet the requirements in subsection (5)(h) of this rule.

(f) Source water sampling schedules.

(A) Water systems required to conduct source water monitoring as prescribed in subsection (5)(e) of this rule must submit a sampling schedule that specifies the calendar dates when the system will collect each required sample.

(i) Water systems must submit sampling schedules to the Department, no later than three months prior to the applicable date listed in paragraph (5)(e)(C) of this rule, for each round of required monitoring.

(ii) If the Department does not respond to a water system regarding its sampling schedule, the system must sample at the reported schedule.

(B) Water systems must collect samples within a five-day period, starting two days before the scheduled sampling date and ending two days after. The five-day period applies to each of the dates indicated in the sampling schedule unless one of the following conditions applies:

(i) An extreme condition or situation exists that may pose danger to the sample collector or that cannot be avoided, and that prevents the water system from sampling in the scheduled five-day period. In this case, the water system must sample as close to the scheduled date as possible unless the Department approves an alternative sampling date. The water system must submit an explanation for the delayed sampling date to the Department concurrent with the submittal of the sample to the laboratory; or

(ii) A water system is unable to report a valid analytical result for the scheduled sampling date due to equipment failure, loss of or damage to the sample, failure to comply with the analytical method requirements (including the quality control requirements), or the failure of an approved laboratory to analyze the sample.

(I) In this case the water system must collect a replacement sample as prescribed in subparagraph (5)(f)(B)(ii)(II) of this rule.

(II) The system must collect the replacement sample not later than 21 days after receiving information that an analytical result cannot be reported for the scheduled date unless the water system demonstrates that collecting a replacement sample within this time frame is not feasible or the Department approves an alternative re-sampling date. The system must submit an explanation for the delayed sampling date to the Department concurrent with the submittal of the sample to the laboratory.

ADMINISTRATIVE RULES

(iii) Water systems that fail to meet the criteria of paragraph (5)(f)(B) of this rule for any required source water sample must revise their sampling schedules to add dates for collecting all missed samples. Water systems must submit the revised sampling schedule to the Department for approval prior to beginning collecting the missed samples.

(g) Source water sampling locations.

(A) Water systems required to conduct source water monitoring as prescribed in subsection (5)(e) of this rule must collect samples for each plant that treats a surface water or GWUDI source. Where multiple plants draw water from the same influent, such as the same pipe or intake, the Department may approve one set of monitoring results to be used to satisfy the requirements for all treatment plants.

(B) Water systems must collect source water samples prior to chemical treatment, such as coagulants, oxidants and disinfectants, unless the system meets the following condition:

(i) The Department may approve a water system to collect a source water sample after chemical treatment if the Department determines that collecting a sample prior to chemical treatment is not feasible for the system and that the chemical treatment is unlikely to have a significant adverse effect on the analysis of the sample.

(C) Water systems that recycle filter backwash water must collect source water samples prior to the point of filter backwash water addition.

(D) Bank filtration.

(i) Water systems that receive Cryptosporidium treatment credit for bank filtration as an alternate filtration technology as specified by OAR 333-061-0032(9) must collect source water samples in the surface water source prior to bank filtration.

(ii) Water systems that use bank filtration as pretreatment to a filtration plant must collect source water samples from the well, after bank filtration. Use of bank filtration during monitoring must be consistent with routine operational practice. Water systems collecting samples after a bank filtration process may not receive treatment credit for the bank filtration prescribed by OAR 333-061-0032(9).

(E) Multiple sources. Water systems with treatment plants that use multiple water sources, including multiple surface water sources and blended surface water and groundwater sources, must collect samples as specified in subparagraph (5)(g)(E)(i) or (ii) of this rule. The use of multiple sources during monitoring must be consistent with routine operational practice.

(i) If a sampling tap is available where the sources are combined prior to treatment, water systems must collect samples from this tap.

(ii) If a sampling tap where the sources are combined prior to treatment is not available, systems must collect samples at each source near the intake on the same day and must comply with either subparagraph (5)(g)(E)(ii)(I) or (II) below for sample analysis.

(I) Water systems may composite samples from each source into one sample prior to analysis. The volume of sample from each source must be weighted according to the proportion of the source in the total plant flow at the time the sample is collected.

(II) Water systems may analyze samples from each source separately and calculate a weighted average of the analysis results for each sampling date. The weighted average must be calculated by multiplying the analysis result for each source by the fraction the source contributed to total plant flow at the time the sample was collected and then adding these values.

(F) Additional requirements. Water systems must submit a description of their sampling location(s) to the Department at the same time as the sampling schedule required under subsection (5)(f) of this rule. This description must address the position of the sampling location in relation to the system's water source(s) and treatment processes, including pretreatment, points of chemical treatment, and filter backwash recycle. If the Department does not respond to a water system regarding sampling location(s), the system must sample at the reported location(s).

(h) Grandfathering previously collected data.

(A) Water systems may comply with the initial source water monitoring requirements of paragraph (5)(e)(A) of this rule by grandfathering sample results collected before the system is required to begin monitoring. To be grandfathered, the sample results and analysis must meet the criteria in this section and the Department must approve the previously sampled data.

(i) A filtered water system may grandfather Cryptosporidium samples to meet the monitoring requirements of paragraph (5)(e)(A) of this rule when the system does not have corresponding E. coli and turbidity samples.

(ii) A water system that grandfathers Cryptosporidium samples is not required to collect the E. coli and turbidity samples when the system completes the requirements for Cryptosporidium monitoring under paragraph (5)(e)(A) of this rule.

(B) The analysis of grandfathered E. coli and Cryptosporidium samples must meet the analytical method and approved laboratory requirements of subsections (1)(a) and (1)(c) of this rule.

(C) The sampling location of grandfathered samples must meet the conditions specified in subsection (5)(g) of this rule.

(D) Grandfathered Cryptosporidium samples must have been collected no less frequently than each calendar month on a regular schedule, and no earlier than January 1999. Sample collection intervals may vary for the conditions specified in subparagraph (5)(f)(B)(i) through (ii) of this rule if the system provides documentation of the condition when reporting monitoring results.

(i) The Department may approve grandfathering of previously collected data where there are time gaps in the sampling frequency if the water system conducts additional monitoring as specified by the Department to ensure that the data used to comply with the initial source water monitoring requirements of paragraph (5)(e)(A) of this rule are seasonally representative and unbiased.

(ii) Water systems may grandfather previously collected data where the sampling frequency within each month varied. If the Cryptosporidium sampling frequency varied, water systems must follow the monthly averaging procedure in OAR 333-061-0032(2)(d)(B) or (4)(f)(E) as applicable, when calculating the bin classification for filtered water systems or the mean Cryptosporidium concentration for unfiltered water systems.

(E) Reporting monitoring results for grandfathering. Water systems that request to grandfather previously collected monitoring results must report the following information by the applicable dates listed in this paragraph.

(i) Water systems must report that they intend to submit previously collected monitoring. This report must specify the number of previously collected results the system will submit, the dates of the first and last sample, and whether a system will conduct additional source water monitoring to meet the requirements of paragraph (5)(e)(A) of this rule. Water systems must report this information no later than the date the sampling schedule is required as prescribed by subsection (5)(f) of this rule.

(ii) Water systems must report previously collected monitoring results for grandfathering, along with the associated documentation listed in subparagraphs (5)(h)(E)(ii)(I) through (IV) of this rule, no later than two months after the applicable date listed in paragraph (5)(e)(C) of this rule.

(I) For each sample result, water systems must report the applicable data elements specified by OAR 333-061-0040(1)(m).

(II) Water systems must certify that the reported monitoring results include all results the system generated during the time period beginning with the first reported result and ending with the final reported result. This applies to samples that were collected from the sampling location specified for source water monitoring under this paragraph and analyzed in accordance with subsection (1)(a) of this rule.

(III) Water systems must certify that the samples were representative of a plant's source water(s) and that the source water(s) have not changed. Water systems must report a description of the sampling location(s), which must address the position of the sampling location in relation to the system's water source(s) and treatment processes, including points of chemical addition and filter backwash recycle.

(IV) For Cryptosporidium samples, the laboratory or laboratories that analyzed the samples must provide a letter certifying that the quality control criteria in accordance with subsection (1)(a) of this rule were met for each sample batch associated with the reported results. Alternatively, the laboratory may provide bench sheets and sample examination report forms for each field, matrix spike, IPR, OPR, and method blank sample associated with the reported results.

(F) If the Department determines that a previously collected data set submitted for grandfathering was generated during source water conditions that were not normal for the system, such as a drought, the Department may disapprove the data. Alternatively, the Department may approve the previously collected data if the water system reports additional source water monitoring data, as determined by the Department, to ensure that the data set used under OAR 333-061-0032(4)(f) or 0032(2)(d) represents average source water conditions for the system.

(G) If a water system submits previously collected data that fully meets the number of samples required for initial source water monitoring required by paragraph (5)(e)(A) of this rule, and some of the data is rejected due to not meeting the requirements of this subsection, systems must conduct additional monitoring to replace rejected data on a schedule the Department approves. Water systems are not required to begin this additional monitoring until two months after notification that data has been rejected and that additional monitoring is necessary.

ADMINISTRATIVE RULES

(6) Microbiological contaminants:

(a) Routine sampling for pathogens is not required but may be required by the Department when specific evidence indicates the possible presence of such organisms.

(b) Samples shall be collected and analyzed for the purpose of determining compliance with the maximum contaminant levels for coliform bacteria as follows:

(A) Samples shall be collected from points which are representative of conditions, including impacts of multiple sources, within the distribution system at regular time intervals throughout the reporting period.

(B) The standard sample volume required for total coliform analysis, regardless of analytical method used, is 100 ml.

(C) Community water systems utilizing surface water, groundwater under the direct influence of surface water, or ground water sources must monitor at a frequency no less than set forth in Table 39. [Table not included. See ED. NOTE.]

(D) Non-Transient Non-Community, Transient Non-Community, and State Regulated water systems using surface water, or groundwater under the direct influence of surface water must monitor at a frequency no less than set forth in Table 39. Monitoring must begin at this frequency immediately for systems using surface water sources, or no later than 6 months after the Department has determined that the groundwater source is under the direct influence of surface water when applicable. [Table not included. See ED. NOTE.]

(E) Non-Transient Non-Community and Transient Non-Community water systems utilizing groundwater sources, and serving more than 1000 persons per day, must monitor at a frequency no less than set forth in Table 39. [Table not included. See ED. NOTE.]

(F) For Non-Transient Non-Community and Transient Non-Community water systems utilizing ground water sources and serving 1000 persons or fewer per day, and State Regulated water systems using groundwater sources, the analyses shall be made in each calendar quarter during which water is provided to the public.

(G) Public water systems must collect total coliform samples at sites which are representative of water throughout the distribution system according to a written sampling site plan. The plan must include, at a minimum, a brief narrative of the water system components, a map of the distribution system showing the representative routine and repeat sampling sites, and sampling protocols. These plans must be approved by the Department.

(H) Any public water system that uses surface water or groundwater under the direct influence of surface water and does not provide filtration treatment as defined by these rules must collect at least one sample at the first customer for each day the turbidity level of the source water measured as prescribed in OAR 333-061-0036(5)(a)(B) exceeds 1 NTU. This sample must be analyzed for the presence of total coliforms. When one or more turbidity measurements in any day exceed 1 NTU, the system must collect this coliform sample within 24 hours of the first exceedance or as early as possible the next business day, unless the Department determines that the system cannot have the sample analyzed within 30 hour of collection due to logistical reasons outside the system's control. Sample results from this coliform monitoring must be included in determining compliance with the microbiological MCL prescribed in OAR 333-061-0030(4).

(c) When a routine sample is total coliform-positive, a set of repeat samples must be collected within 24 hours of being notified of the positive results by the certified laboratory.

(A) Systems which collect more than one routine sample/month must collect at least three repeat samples for each total coliform-positive routine sample found.

(B) Systems which collect one routine sample/month or less must collect at least four repeat samples for each total coliform-positive sample found.

(d) The system must collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. If the original sampling site is at or near the end of the distribution system, the Department may waive the requirement to collect at least one repeat sample upstream or downstream of the original sampling site. All repeat samples must be collected on the same day.

(e) Systems with a single service connection may be allowed by the Department to collect the required set of repeat samples over a four-day period.

(f) The Department may extend the 24-hour limit in subsection (6)(c) of this rule on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control.

(g) Results of all routine and repeat samples not invalidated by the Department must be included in determining compliance with the MCL for total coliforms required in OAR 333-061-0030(4).

(h) If one or more repeat samples in the set is total-coliform positive, the public water system must collect an additional set of repeat samples in the manner specified in subsections (6)(c), through (e) of this rule. The additional samples must be collected within 24 hours of being notified of the positive result, unless the Department extends the limit as provided in subsection (6)(f) of this rule. The system must repeat this process until either total coliforms are not detected in one complete set of repeat samples or The Department determines that the MCL for total coliforms in OAR 333-061-0030(4) has been exceeded. After a system collects a routine sample and before it learns the results of the analysis of that sample, if it collects another routine sample(s) from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliforms, then the system may count the subsequent sample(s) as a repeat sample instead of a routine sample.

(i) If a system collecting fewer than five routine samples/month has one or more total coliform-positive samples and the Department does not invalidate the sample(s) under subsection (6)(k) of this rule, the system must collect at least five routine samples during the next month the system provides water to the public. The Department may waive this requirement if:

(A) The Department performs a site visit before the end of the next month the system provides water to the public and determines that additional monitoring and/or corrective action is not needed; or

(B) The Department determines why the sample was total coliform-positive and establishes that the system has corrected the problem before the end of the next month the system serves water to the public. The Department must document in writing this decision, have it approved and signed by the supervisor of the official who recommends such a decision, and make this document available to the public. The written documentation must describe the specific cause of the total coliform-positive sample and what action the system has taken and/or will take to correct this problem. The Department cannot waive this requirement solely on the grounds that all repeat samples are total-coliform negative. Under this paragraph, a system must still take at least one routine sample before the end of the next month it serves water to the public and use it to determine compliance with the MCL for total coliforms required in OAR 333-061-0030(4) unless the Department determines that the system has corrected the contamination problem before the system took the set of repeat samples required in subsections (6)(c) through (e) of this rule, and all repeat samples were total coliform negative.

(j) When the maximum microbiological contaminant level for total coliform is exceeded or when the maximum contaminant level for fecal coliform or fecal and total coliform is exceeded the water supplier shall report to the Department as prescribed in OAR 333-061-0040 and notify the public as prescribed in OAR 333-061-0042(2)(b)(A) for total coliform and 333-061-0042(2)(a)(A) for fecal coliform/E. Coli. If the water system has failed to comply with a coliform monitoring requirement, including the sanitary survey requirement, the system must report to the Department as prescribed in OAR 333-061-0040 and notify the public as prescribed in OAR 333-061-0042;

(k) The Department may invalidate a total coliform-positive sample if:

(A) The laboratory establishes that improper sample analysis caused the total coliform-positive result; or

(B) The Department determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem on the basis of the results of repeat samples collected as required by subsections (6)(c), through (e) of this rule. The Department cannot invalidate a sample on the basis of repeat sample results unless all repeat sample(s) collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected within five service connections of the original tap are total coliform-negative. (The Department cannot invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the public water system has only one service connection); or

(C) The Department has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case, the system must still collect all repeat samples required by subsections (6)(c) through (h) of

ADMINISTRATIVE RULES

this rule and use them to determine compliance with the microbiological MCL prescribed in OAR 333-061-0030(4). To invalidate a total coliform-positive sample under this paragraph, the decision with its rationale must be documented in writing, approved and signed by the supervisor of the Department official who recommended the decision. The Department must make this document available to the public. The written documentation must state the specific cause of the total coliform-positive sample and what action the system has taken, or will take, to correct this problem. The Department may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative.

(l) A certified laboratory must invalidate a total coliform sample (unless total coliforms are detected) if the sample produced a turbid culture in the absence of gas production using an analytical method where gas formation is examined (e.g., the Multiple-Tube Fermentation Technique), produces a turbid culture in the absence of an acid reaction in the Presence-Absence (P-A) Coliform Test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g., Membrane Filter Technique). If a certified laboratory invalidates a sample because of such interference, the system must collect another sample from the same location as the original sample within 24 hours of being notified of the interference problem, and have it analyzed for the presence of total coliforms. The system must continue to resample within 24 hours and have the samples analyzed until it obtains a valid result. The Department may waive the 24-hour time limit on a case-by-case basis.

(m) Any total coliform-positive sample invalidated under subsections (6)(k) or (l) of this rule shall not count towards meeting the minimum monitoring requirements as prescribed in subsections (6)(a) through (e) of this rule.

(n) If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine if fecal coliforms are present. The system may test for *E. coli* in lieu of fecal coliforms. If fecal coliforms or *E. coli* are present, the system must notify the Department by the end of the day when the system is notified of the test result or, if the Department office is closed, by the end of the next business day.

(o) The Department may allow a water system to forgo testing for fecal coliform or *E. coli* on total coliform-positive samples as prescribed in subsection (6)(n) of this rule if the system assumes that the total coliform-positive sample is fecal coliform-positive or *E. coli* positive. The system must notify the Department as specified in subsection (6)(n) of this rule and the provisions of OAR 333-061-0030(4) apply.

(p) Public water systems which do not collect five or more routine samples per month must undergo an initial sanitary survey by June 29, 1994 for Community water systems and June 29, 1999 for Non-Transient and Transient Non-Community water systems. Thereafter, systems must undergo another sanitary survey every five years, except that Non-Transient and Transient Non-Community water systems using only protected and disinfected groundwater as defined by the Department, must undergo subsequent sanitary surveys at least every ten years after the initial survey. The Department must review the results of each survey to determine whether the existing monitoring frequency is adequate and what additional measures, if any, the system needs to undertake to improve drinking water quality.

(q) Beginning on December 1, 2009, groundwater systems must conduct triggered source water monitoring if the conditions identified in paragraphs (6)(q)(A) and (6)(q)(B) of this rule exist.

(A) The groundwater system does not provide at least 4-log treatment of viruses before or at the first customer for each groundwater source; and

(B) The groundwater system is notified that a sample collected as prescribed in subsection (6)(b) of this rule is total coliform-positive and the sample is not invalidated as prescribed in subsection (6)(k) of this rule.

(r) If a groundwater system is notified, after November 30, 2009, that a sample collected in accordance with subsection (6)(b) of this rule is total coliform-positive, the water system must collect at least one source water sample, within 24 hours of the notification, from each groundwater source in use at the time the total coliform-positive sample was collected, except as provided in paragraph (6)(r)(B) of this rule.

(A) The Department may extend the 24-hour time limit on a case-by-case basis if the water system cannot collect the groundwater source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Department must specify how much time the water system has to collect the sample.

(B) If approved by the Department, water systems with more than one groundwater source may meet the requirements of subsection (6)(r) of this rule by sampling a representative groundwater source(s). If directed by the Department, water systems must submit for the Department's approval a

triggered source water monitoring plan that identifies one or more groundwater sources that the system intends to use for representative sampling as prescribed by this subsection, and that are representative of each monitoring site in the water system's coliform sampling plan as prescribed by paragraph (6)(b)(G) of this rule.

(C) A groundwater system serving 1,000 people or less may use a repeat sample collected from a groundwater source to meet the requirements of subsections (6)(c) and (6)(r) of this rule for that groundwater source. If the repeat sample collected from the groundwater source is *E. coli* positive, the system must comply with subsection (6)(s) of this rule.

(D) Any groundwater source sample required by this subsection must be collected at a location prior to any treatment of the groundwater source, unless the Department approves an alternative sampling location. If the water system's configuration does not allow for sampling at the groundwater source, the water system must collect a sample at a Department-approved location representative of source water quality.

(s) Beginning on December 1, 2009, if the Department does not require corrective action as prescribed by OAR 333-061-0032(6)(b) for an *E. coli* -positive source water sample collected in accordance with subsection (6)(r) of this rule and not invalidated as prescribed by subsection (6)(x) of this rule, the water system must collect five additional source water samples from the same groundwater source within 24 hours of being notified of the *E. coli*-positive sample.

(t) In addition to the other requirements of this rule, and beginning on December 1, 2009, a purchasing water system that has a total coliform-positive sample collected in accordance with subsection (6)(b) of this rule must notify the wholesale groundwater system(s) within 24 hours of being notified of the total coliform-positive sample.

(u) In addition to the other requirements of this rule, and beginning on December 1, 2009, a wholesale groundwater system must comply with this subsection.

(A) If a wholesale groundwater system receives notice from a purchasing water system it serves that a sample collected in accordance with subsection (6)(b) of this rule is total coliform-positive, it must collect a sample from its groundwater source(s) as prescribed in subsection (6)(r) of this rule and analyze it for the *E. coli* within 24 hours of being notified.

(B) If a sample collected in accordance with paragraph (A) of this subsection is *E. coli*-positive, the wholesale groundwater system must notify all purchasing water systems served by that groundwater source of the *E. coli*-positive source water sample within 24 hours of being notified of the positive sample result, and must also meet the requirements of subsection (6)(s) of this rule.

(v) A groundwater system is not required to comply with the source water monitoring requirements of subsections (6)(r) though (6)(u) of this rule if either of the following conditions exists:

(A) The Department determines, and documents in writing, that the total coliform-positive sample collected in accordance with subsection (6)(b) of this rule is caused by a distribution system deficiency; or

(B) The total coliform-positive sample is collected at a location that meets Department criteria for distribution system conditions that will cause total coliform-positive samples.

(w) Beginning on December 1, 2009, groundwater systems that use chlorine, ultraviolet light, or another oxidant for disinfection, but do not achieve 4-log inactivation of viruses, must conduct assessment monitoring of the groundwater source to determine the potential for viral contamination.

(A) Water systems monitoring in accordance with this subsection must:

(i) Collect at least one annual groundwater source sample; and

(ii) Collect samples from each groundwater source unless the water system obtains written approval from the Department to conduct monitoring at one or more representative groundwater sources within the system that draw water from the same hydrogeologic setting.

(B) A groundwater system conducting source water assessment monitoring may use a sample collected in accordance with subsection (6)(r) of this rule or a sample collected for determination of Groundwater Under the Direct Influence of Surface Water in accordance with OAR 333-061-0032(8), to meet the requirements of this subsection.

(C) Additional Source Water Assessment Monitoring:

(i) Water Systems must conduct additional source water assessment monitoring if at least one of the following conditions occur. These conditions include, but are not limited to:

(I) At least one total coliform-positive sample in the groundwater source water;

ADMINISTRATIVE RULES

(II) A groundwater source having been determined by the Department to be susceptible to fecal contamination through a Source Water Assessment (or equivalent hydrogeologic assessment wherein susceptibility is defined as a result of a highly sensitive source due to aquifer characteristics, vadose zone characteristics, monitoring history, or well construction) and the presence of a fecal contaminant source within the two-year time-of-travel zone, outreach area, and/or zone one area;

(III) A source that draws water from an aquifer that the department has identified as being fecally contaminated; or

(IV) A determination by the source water assessment or equivalent hydrogeologic analysis that the groundwater source is highly sensitive, and that the source is located within an area that has a high density of Underground Injection Control Wells.

(ii) Additional source water assessment monitoring must comply with the following:

(I) Collection of 12 consecutive monthly groundwater source samples for water systems that operate year-round, or monthly samples that represent each month the water system provides groundwater to the public for water systems that operate seasonally;

(II) Collection of a standard sample volume of at least 100 mL for *E. coli* analysis regardless of the analytical method used;

(III) Analysis of all groundwater source samples, for the presence of *E. coli*, using an analytical method as prescribed by section (1) of this rule;

(IV) Collection of groundwater source samples at a location prior to any treatment unless the Department approves a sampling location after treatment; and

(V) Collection of samples at the groundwater source, unless the water system's configuration does not allow for raw water sampling and the Department approves an alternate sampling location that is representative of the water quality of that groundwater source.

(D) The Department may require a groundwater source to be re-evaluated as prescribed by this subsection if geologic conditions, source pumping conditions, or fecal contaminant source conditions change over time.

(x) A groundwater system may obtain Department invalidation of a *E. coli*-positive groundwater source sample collected in accordance with subsection (6)(r) of this rule only under the following conditions:

(A) The water system provides the Department with written notice from the laboratory that improper sample analysis occurred; or

(B) The Department determines and documents in writing that there is substantial evidence that an *E. coli*-positive groundwater source sample is not related to source water quality.

(y) If the Department invalidates an *E. coli*-positive groundwater source sample, the groundwater system must collect another source water sample as prescribed by subsection (6)(r) of this rule within 24 hours of being notified of the invalidation. The Department may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Department must specify how much time the system has to collect the sample.

(z) The Department may direct any groundwater system placing a new groundwater source into service after November 30, 2009 to conduct source water assessment monitoring as prescribed by subsection (6)(w) of this rule. Source water assessment monitoring, as prescribed by this subsection, must begin before the groundwater source is used to provide water to the public.

(aa) The Department may require a groundwater system to provide any existing information that will enable the Department to perform an assessment to determine whether the groundwater system obtains water from a hydrogeologically sensitive aquifer.

(7) Radionuclides:

(a) Gross alpha particle activity, Radium 226, Radium 228, and Uranium:

(A) Initial Monitoring. Community Water Systems without acceptable historical data, as defined below, must conduct initial monitoring to determine compliance with OAR 333-061-0030(5) by December 31, 2007.

(i) Samples must be collected from each entry point to the distribution system during 4 consecutive quarters before December 31, 2007 according to the following schedule:

Population — Begin initial monitoring — Complete initial monitoring by
300 or More — First quarter 2005 — Fourth quarter 2005
100-299 — First quarter 2006 — Fourth quarter 2006
Less than 100 — First quarter 2007 — Fourth quarter 2007

(ii) New systems or systems using a new source must conduct initial monitoring beginning the first quarter of operation, followed by three consecutive quarterly samples.

(iii) The Department may waive the final two quarters of the initial monitoring at an entry point if the results of the samples from the first two quarters are below the method detection limit.

(iv) Grandparenting of historical data. A system may use monitoring data from each source or entry point collected between June 2000 and December 8, 2003 to satisfy the initial monitoring requirements.

(v) If the average of the initial monitoring results for a sampling point is above the MCL, the system must collect and analyze quarterly samples at the entry point until the system has results from four consecutive quarters that are at or below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Department.

(B) Reduced Monitoring. Radionuclide monitoring may be reduced to once every three years, once every six years, or once every nine years based on the following criteria:

(i) If the average of the initial monitoring result for each contaminant (gross alpha particle activity, radium-226, radium-228, and uranium) at a given entry point is below the detection limit, sampling for that contaminant may be reduced to once every nine years.

(ii) For gross alpha particle activity, combined radium 226 and radium 228, and uranium, if the average of the initial monitoring results is at or above the detection limit but at or below one-half the MCL, sampling for that contaminant may be reduced to once every six years.

(iii) For gross alpha particle activity, combined radium 226 and radium 228, and uranium, if the average of the initial monitoring results is above one-half the MCL but at or below the MCL, the system must collect one sample at that sampling point at least once every three years.

(iv) Systems must use the samples collected during the reduced monitoring period to determine the monitoring frequency for subsequent monitoring periods.

(v) If a system has a monitoring result that exceeds the MCL while on reduced monitoring, the system must collect and analyze quarterly samples at that entry point until the system has results from four consecutive quarters that are below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Department.

(C) Compositing of samples. A system may composite up to four consecutive quarterly samples from a single entry point if the analysis is done within a year of the first sample. If the analytical result from the composited sample is greater than one-half the MCL, the Department may direct the system to take additional quarterly samples before allowing the system to sample under a reduced monitoring schedule.

(D) Substitution of results.

(i) A gross alpha particle activity measurement may be substituted for the required radium-226 measurement if the gross alpha particle activity does not exceed 5 pCi/L.

(ii) A gross alpha particle activity measurement may be substituted for the required uranium measurement if the gross alpha particle activity does not exceed 15 pCi/L.

(iii) The gross alpha measurement shall have a confidence interval of 95 percent (1.65 where one-half is the standard deviation of the net counting rate of the sample) for radium-226 and uranium.

(iv) When a system uses a gross alpha particle activity measurement in lieu of a radium-226 and/or uranium measurement, the gross alpha particle activity analytical result will be used to determine the future monitoring frequency for radium-226 and/or uranium. If the gross alpha particle activity result is less than detection, the method detection limit will be used to determine compliance and the future monitoring frequency.

(b) Beta particle and photon radioactivity:

(A) Community water systems designated by the Department as "vulnerable" must sample for beta particle and photon radioactivity as follows. No waivers shall be granted:

(i) Initial samples must be collected by December 31, 2007.

(ii) Quarterly samples for beta emitters and annual samples for tritium and strontium-90 must be taken at each entry point to the distribution system. Systems already designated by the state must continue to sample until the state removes the designation.

(iii) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at a sample point has a running annual average less than or equal to 50 pCi/l, sampling for contaminants prescribed in subparagraph (6)(b)(A)(i) of this rule maybe reduced to once every three years.

(B) Community water systems designated by the Department as "contaminated" by effluents from nuclear facilities and must sample for beta particle and photon radioactivity as follows. No waivers shall be granted.

(i) Systems must collect quarterly samples for beta emitters as detailed below and iodine-131 and annual samples for tritium and stron-

ADMINISTRATIVE RULES

tium-90 at each entry point to the distribution system. Sampling must continue until the Department removes the designation.

(ii) Quarterly monitoring for gross beta particle activity is based on the analysis of monthly samples or the analysis of a composite of three monthly samples.

(iii) For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. More frequent monitoring may be required if iodine-131 is detected.

(iv) Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples.

(v) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at an entry point has a running annual average less than or equal to 15 pCi/l, the Department may reduce the frequency of monitoring for contaminants prescribed in subparagraph (6)(b)(B)(i) of this rule at that entry point to every three years.

(C) For systems in the vicinity of a nuclear facility, the Department may allow the substitution of appropriate environmental surveillance data taken in conjunction with operation of a nuclear facility for direct monitoring of man-made radioactivity by the water supplier where such data is applicable to a particular Community water system. In the event of a release, monitoring must be done at the water system's entry points.

(D) Systems may analyze for naturally occurring potassium-40 beta particle activity from the same or equivalent sample used for the gross beta particle activity analysis. Systems are allowed to subtract the potassium-40 beta particle activity value from the total gross beta particle activity value to determine if the screening level is exceeded. The potassium-40 beta particle activity must be calculated by multiplying elemental potassium concentrations (in mg/l) by a factor of 0.82.

(E) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity exceeds the screening level, an analysis of the sample must be performed to identify the major radioactive constituents present in the sample and the appropriate doses must be calculated and summed to determine compliance with OAR 333-061-0030(5). Doses must also be calculated and combined for measured levels of tritium and strontium to determine compliance.

(F) Systems must monitor monthly at the entry point(s) which exceed the MCL listed in OAR 333-061-0030(5) beginning the month after the exceedance occurs. Systems must continue monthly monitoring until the system has established, by a rolling average of three monthly samples, that the MCL is being met. Systems who establish that the MCL is being met must return to quarterly monitoring until they meet the requirements set forth in subparagraph (6)(b)(A)(ii) or (6)(b)(B)(v) of this rule.

(c) General monitoring and compliance requirements for radionuclides.

(A) The Department may require more frequent monitoring than specified in subsections (6)(a) and (b) of this rule, or may require confirmation samples at its discretion. The results of the initial and confirmation samples will be averaged for use in compliance determinations.

(B) Each system shall monitor at the time designated by the Department during each compliance period. To determine compliance with 333-061-0030(5), averages of data shall be used and shall be rounded to the same number of significant figures as the MCL of the contaminant in question.

(C) Compliance.

(i) For systems monitoring more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. If the average of any sampling point is greater than the MCL, then the system is out of compliance with the MCL.

(ii) For systems monitoring more than once per year, if any sample result will cause the running average to exceed the MCL at any entry point, the system is out of compliance with the MCL immediately.

(iii) Systems must include all samples taken and analyzed under the provisions of this section in determining compliance, even if that number is greater than the minimum required.

(iv) If a system does not collect all required samples when compliance is based on a running annual average of quarterly samples, compliance will be based on the running average of the samples collected.

(v) If a sample is less than the detection limit, zero will be used to calculate the annual average, unless a gross alpha particle activity is being used in lieu of radium-226 and/or uranium. In that case, if the gross alpha particle activity result is less than detection, one-half the detection limit will be used to calculate the annual average.

(D) The Department has the discretion to delete results of obvious sampling or analytical errors.

(E) When the average annual maximum contaminant level for radionuclides as specified in Table 6 is exceeded, the water supplier shall, within 48 hours, report the analysis results to the Department as prescribed in OAR 333-061-0040 and initiate the public notification procedures prescribed in 333-061-0042(2)(b)(A). [Table not included. See ED. NOTE.]

(8) Secondary contaminants:

(a) The levels listed in Table 7 of OAR 333-061-0030 represent reasonable goals for drinking water quality, but routine sampling for these secondary contaminants is not required. [Table not included. See ED. NOTE.]

(b) The Department may however, require sampling and analysis under the following circumstances:

(A) User complaints of taste, odor or staining of plumbing fixtures.

(B) Where treatment of the water is proposed and the levels of secondary contaminants are needed to determine the method and degree of treatment.

(C) Where levels of secondary contaminants are determined by the Department to present an unreasonable risk to health.

(c) If the results of the analyses do not exceed levels for secondary contaminants, listed in Table 7 of OAR 333-061-0030, subsequent sampling and analysis shall be at the discretion of the Department. [Table not included. See ED. NOTE.]

(d) If the results of the analyses indicate that the levels for secondary contaminants, listed in Table 7 of OAR 333-061-0030 are exceeded, the Department shall determine whether the contaminant levels pose an unreasonable risk to health or interfere with the ability of a water treatment facility to produce a quality of water complying with the Maximum Contaminant Levels of these rules and specify follow-up actions to be taken. [Table not included. See ED. NOTE.]

(e) During the period while any measures called for in subsection (7)(d) of this rule are being implemented, the water supplier shall follow the procedures relating to variances and permits which are prescribed in OAR 333-061-0045.

(9) Monitoring of disinfectant residuals in the distribution system

(a) Public water systems that practice continuous disinfection or disinfectant residual maintenance, as well as purchasing water systems that receive water from a public water system that practices continuous disinfection or disinfectant residual maintenance must maintain a detectable disinfectant residual throughout the distribution system and shall measure and record the residual:

(A) At one or more representative points; and (B) At a frequency that is sufficient to detect variations in chlorine demand and changes in water flow, but in no case less often than twice per week.

(b) Public water systems that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of contamination must ensure that the chlorine residual entering the distribution system after treatment is less than 4.0 mg/l.

(c) Where chlorine is used as the disinfectant, the measurement of residual chlorine shall be by the DPD or other EPA-approved method in accordance with Standard Methods for the Examination of Water and Waste-water, and shall measure the free chlorine residual or total chlorine residual as applicable;

(d) The water supplier shall maintain a summary report of the residual disinfectant measurements and shall retain this summary report at a convenient location within or near the area served by the water system.

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

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 23-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0040

Reporting and Record Keeping

(1) Reporting requirements:

(a) Any person who has reasonable cause to believe that his or her actions have led to contamination of a public water system shall report that fact immediately to the water supplier and the Department.

(b) Laboratory Reporting

(A) Analyses required by OAR 333-061-0036 and performed by an accredited laboratory as defined in OAR 333-061-0036(1)(c)(A)(i) or (ii) must be reported on a form produced by the accredited laboratory. The laboratory analysis report must be submitted to the Department within 10 days

ADMINISTRATIVE RULES

of the end of the month, or within 10 days of the end of the required monitoring period.

(B) Mandatory reporting requirements for primary laboratories as defined in OAR 333-061-0036(1)(c)(A)(i). These laboratories must:

(i) Validate the results of any sample analysis and report that analysis directly to the Department and to the water supplier within 48 hours or two business days of completing the analytical run if the samples analysis:

(I) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1); or

(II) Is positive for coliform bacteria.

(ii) Report any sample analysis directly to the Department and to the water supplier within 24 hours or on the next business day after validating a sample result that exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate.

(iii) Report any sample analysis directly to the Department and to the water supplier within 24 hours or on the next business day after obtaining a sample result from a subcontracted laboratory, if the sample analysis:

(I) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1) or is positive for coliform bacteria; or

(II) Exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate upon validating the sample analysis.

(C) Mandatory reporting requirements for subcontracted laboratories as defined in OAR 333-061-0036(1)(c)(A)(ii). These laboratories must:

(i) Validate the results of any sample analysis and report that analysis to their client laboratory within 48 hours or two business days of completing the analytical run if the analysis:

(I) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1); or

(II) Is positive for coliform bacteria.

(ii) Report any sample analysis to their client laboratory within 24 hours or on the next business day after validating a sample result that exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate.

(c) If the water system fails to conduct monitoring as required in OAR 333-061-0036 the water system must notify the public as prescribed in OAR 333-061-0042.

(d) The water supplier must report to the Department within (24) hours on any substance or pathogenic organisms found in the water that has caused or is likely to cause physical suffering or illness.

(e) The water supplier using a surface water source or a groundwater source under direct influence of surface water which provides filtration treatment shall report monthly beginning June 29, 1993 or when filtration is installed, whichever is later, to the Department the results of any test, measurement or analysis required by OAR 333-061-0036(5)(b) of these rules within 10 days after the end of the month.

(A) All systems using surface water or groundwater under the direct influence of surface water shall consult with the Department within 24 hours, after learning:

(i) That the turbidity exceeded 5 NTU;

(ii) Of a waterborne disease outbreak potentially attributable to that water system;

(iii) That the disinfectant residual concentration in the water entering the distribution system fell below 0.2 mg/l and whether or not the residual was restored to at least 0.2 mg/l within four hours.

(B) In addition to the reporting and recordkeeping requirements in paragraph (1)(e)(A) of this rule, a public water system which provides conventional filtration treatment or direct filtration serving at least 10,000 people must report monthly to the Department the information specified in subparagraphs (1)(e)(B)(i) and (ii) of this rule. Public water systems which provide filtration treatment other than conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration, regardless of population served, must also meet the requirements of paragraph (1)(e)(A) of this rule and must report monthly to the Department the information specified in subparagraph (1)(e)(B)(i) of this rule.

(i) Turbidity measurements as required by OAR 333-061-0030(3) must be reported within 10 days after the end of each month the system serves water to the public. Information that must be reported includes:

(I) The total number of filtered water turbidity measurements taken during the month;

(II) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified by OAR 333-061-0030(3)(b)(A) through (D);

(III) The date and value of any turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration

treatment or direct filtration, or which exceed the maximum level set by the Department specified in OAR 333-061-0030(3)(b)(D).

(IV) The date and value of any turbidity measurements taken during the month which exceed 5 NTU for systems using slow sand filtration or diatomaceous earth filtration.

(ii) Water systems must maintain the results of individual filter monitoring for at least three years. Water systems must report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Water systems must also report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in subparagraphs (1)(e)(B)(ii)(I) through (IV) of this rule. Water systems that use lime softening may apply to the Department for alternative exceedance levels for the levels specified in subparagraphs (1)(e)(B)(ii)(I) through (IV) of this rule if the water system can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(I) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must either produce a filter profile for the filter within seven days of the exceedance (if the water system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(II) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system must report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system must either produce a filter profile for the filter within seven days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(III) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(IV) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must arrange to have a comprehensive performance evaluation by the Department or a third party approved by the Department conducted no later than 30 days following the exceedance and have the evaluation completed and submitted to the Department no later than 90 days following the exceedance.

(iii) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system must inform the Department as soon as possible, but no later than the end of the next business day.

(iv) If at any time the turbidity in representative samples of filtered water exceed the maximum level set by the Department as specified in OAR 333-061-0030(3)(b)(D) for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the water system must inform the Department as soon as possible, but no later than the end of the next business day.

(C) In addition to the reporting and recordkeeping requirements in paragraph (1)(e)(A) of this rule, a public water system which provides conventional filtration treatment or direct filtration treatment serving less than 10,000 people must report monthly to the Department the information specified in subparagraphs (1)(e)(B)(i) of this rule and beginning January 1, 2005 the information specified in subparagraph (1)(e)(C)(i) of this rule. Public water systems which provide filtration treatment other than conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration regardless of population served must also

ADMINISTRATIVE RULES

meet the requirements of paragraph (1)(e)(A) of this rule and must report monthly to the Department the information specified in subparagraph (1)(e)(B)(i) of this rule.

(i) Water systems must maintain the results of individual filter monitoring for at least three years. Water systems must report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Water systems must also report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in subparagraphs (1)(e)(C)(i)(I) through (III) of this rule. Water systems that use lime softening may apply to the Department for alternative exceedance levels for the levels specified in subparagraphs (1)(e)(C)(i)(I) through (III) of this rule if the water system can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(I) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the water system must report to the Department by the 10th day of the following month the filter number(s), the turbidity value(s) that exceeded 1.0 NTU, the corresponding date(s) of occurrence, and the cause (if known) for the elevated turbidity values. The Department may request the water system produce a turbidity profile for the filter(s) in question.

(II) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart for three consecutive months, the water system must conduct a filter self-assessment within 14 days of the date the turbidity exceeded 1.0 NTU during the third month, unless a CPE is performed in lieu of a filter self-assessment. Systems with two filters monitoring the CFE must conduct a filter self-assessment for both filters. The self-assessment must consist of the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report. When a self-assessment is required, the water system must report the date the self-assessment was triggered, the date the self-assessment was completed, and the conclusion(s) of the self-assessment by the 10th of the following month or 14 days after the self-assessment was triggered only if the self-assessment was triggered during the last four days of the month.

(III) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart for two consecutive months, the water system must report these turbidity results to the Department by the 10th of the following month and arrange to have a comprehensive performance evaluation (CPE) by the Department or a third party approved by the Department conducted within 60 days of the date the turbidity exceeded 2.0 NTU during the second month. The CPE report must be submitted to the Department no later than 120 days following the date the turbidity exceeded 2.0 NTU during the second month. A CPE is not needed if the Department or approved third party has conducted a CPE within the last 12 months or the Department and the water system are jointly participating in an on-going Comprehensive Technical Assistance (CTA) project as part of the Composite Correction Program with the water system. When a CPE is required, the water system must report that a CPE is required and the date that the CPE was triggered by the 10th day of the following month.

(f) The water supplier using a surface water source or a groundwater source under direct influence of a surface source which does not provide filtration treatment shall report according to subsection (1)(e) of this rule in addition to the requirements of this subsection. Monthly reporting to the Department will begin January 1, 1991 for systems using surface water sources and January 1, 1991 or six months after the Department determines surface influence for systems using groundwater under the direct influence of surface water.

(A) Report to the Department within 10 days after the end of each month, the results or analysis of:

(i) Fecal coliform and/or total coliform bacteria test results on raw (untreated) source water.

(ii) Daily disinfection "CT" values including parameters such as pH measurements, temperature, and disinfectant residuals at the first customer used to compute the "CT" values.

(iii) Daily determinations using the "CT" values of the adequacy of disinfectant available for inactivation of *Giardia lamblia* or viruses as specified in OAR 333-061-0032(1)(a).

(B) Report to the Department within 10 days after the end of each Federal Fiscal year (September 30), the results of:

(i) The watershed control program requirements as specified in OAR 333-061-0032(2)(c)(B).

(ii) The on-site inspection summary requirements as specified in OAR 333-061-0032(2)(c)(C).

(g) Special reporting requirements for groundwater systems.

(A) Groundwater systems conducting compliance monitoring in accordance with OAR 333-061-0032(7)(b) must notify the Department any time the water system fails to meet any Department-specified operating requirements including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria, if operation in accordance with the specified criteria is not restored within four hours. The groundwater system must notify the Department as soon as possible, but in no case later than the end of the next business day.

(B) A groundwater system must notify the Department within 30 days of completing any corrective action as prescribed by OAR 333-061-0032(6).

(C) A groundwater system subject to the requirements of OAR 333-061-0036(6)(v)(B) must provide documentation to the Department within 30 days of a total coliform-positive sample that it met Department criteria for exceptions to triggered source water monitoring requirements because the total coliform-positive sample was attributed to distribution system conditions.

(D) A groundwater system conducting compliance monitoring as prescribed by OAR 333-061-0032(7)(b) must report the results of daily residual disinfectant concentration measurements at the entry point within 10 days after the end of each month.

(h) All Community and Non-Transient Non-Community public water systems shall report all of the following information pertaining to lead and copper to the Department in accordance with the requirements of this subsection.

(A) Except as provided in subparagraph (1)(h)(A)(vii) of this rule, a public water system shall report the information below for all tap water samples and for all water quality parameter samples within 10 days following the end of each applicable monitoring period. For monitoring periods with a duration less than six-months, the end of the monitoring period is the last date samples can be collected during that period.

(i) The results of all tap samples for lead and copper including the location of each site and the criteria under which the site was selected for the system's sampling pool. With the exception of initial tap sampling, the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed. By the applicable date specified in OAR 333-061-0036(2)(c)(D)(i) for commencement of initial monitoring, each Community Water System which does not complete its targeted sampling pool meeting the criteria for tier 1 sampling sites shall send a letter to the Department justifying its selection of tier 2 and/or tier 3 sampling sites. By the applicable date specified in OAR 333-061-0036(2)(c)(D)(i) for commencement of initial monitoring, each Non-Transient Non-Community water system which does not complete its sampling pool meeting the criteria for tier 1 sampling sites shall send a letter to the Department justifying its selection of sampling sites.

(ii) A certification that each first draw sample collected by the water system is one-liter in volume and, to the best of their knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least six hours. Where residents collected samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures according to OAR 333-061-0036(2)(c)(B)(ii).

(iii) The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica, and the results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters according to OAR 333-061-0036(2)(c)(F)(iii) through (vi).

(iv) Each water system that requests that the Department reduce the number and frequency of sampling shall provide the information required in OAR 333-061-0036(2)(c)(D)(iv).

(v) Documentation for each tap water lead and copper sample for which the water system requests invalidation.

ADMINISTRATIVE RULES

(vi) The 90th percentile lead and copper tap water samples collected during each monitoring period.

(vii) A water system shall report the results of all water quality parameter samples collected for follow-up tap monitoring prescribed in OAR 333-061-0036(2)(c)(F)(iv) through (vii) during each six-month monitoring period within 10 days following the end of the monitoring period unless the Department specifies a more frequent monitoring requirement.

(B) A water system shall report the sampling results for all source water samples collected for lead and copper within the first 10 days following the end of each source water monitoring period according to OAR 333-061-0036(2)(c)(G). With the exception of the first round of source water sampling, the system shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

(C) Corrosion control treatment reporting requirements. By the applicable dates according to OAR 333-061-0034(2)(a) through (e), systems shall report the following information: for systems demonstrating that they have already optimized corrosion control, the information required in OAR 333-061-0034(2)(d)(B) or (C); for systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment according to OAR 333-061-0034(3)(a); for systems required to evaluate the effectiveness of corrosion control treatments, the information required in OAR 333-061-0034(3)(c) of these rules; for systems required to install optimal corrosion control designated by the Department according to OAR 333-061-0034(3)(i), a letter certifying that the system has completed the installation.

(D) Source water treatment reporting requirements. By the applicable dates according to OAR 333-061-0034(4)(a), systems shall report the following information to the Department: the system's recommendation regarding source water treatment if required according to OAR 333-061-0034(4)(b)(A); for systems required to install source water treatment according to OAR 333-061-0034(4)(b)(B), a letter certifying that the system has completed the installation of the treatment designated by the Department within 24 months after the Department designated the treatment.

(E) Public education program reporting requirements.

(i) Any water system that is subject to the public education requirements in OAR 333-061-0034(5) shall, within 10 days after the end of each period in which the system is required to perform public education tasks in accordance with OAR 333-061-0034(5)(c), send written documentation to the Department that contains:

(I) A demonstration that the system has delivered the public education materials that meet the content and delivery requirements specified in OAR 333-061-0034(5)(a) through (c); and

(II) A list of all the newspapers, radio stations, television stations, and facilities and organizations to which the system delivered public education materials during the period in which the system was required to perform public education tasks.

(ii) Unless required by the Department, a system that previously has submitted the information in subparagraph (1)(g)(E)(i)(II) of this rule need not resubmit the information, as long as there have been no changes in the distribution list and the system certifies that the public education materials were distributed to the same list submitted previously.

(iii) No later than three months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the Department along with a certification that the notification has been distributed in a manner consistent with the requirements of OAR 333-061-0034(5)(e).

(F) Any system which collects sampling data in addition to that required by this subsection shall report the results to the Department within the first 10 days following the end of the applicable monitoring period under OAR 333-061-0036(2)(c)(A) through (H) during which the samples are collected.

(G) At a time specified by the Department prior to the addition of a new source or any long-term change in water treatment, a water system deemed to have optimized corrosion control, or is subject to reduced monitoring, shall submit written documentation to the Department describing the change or addition. The Department must review and approve the addition or change before it is implemented by the water system.

(H) Each ground water system that limits water quality parameter monitoring to a subset of entry points shall provide written correspondence to the Department that identifies the selected entry points and includes information sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system. This corre-

spondence must be submitted to the Department prior to commencement of such monitoring.

(i) The water supplier shall report to the Department the results of any test, measurement or analysis required by these rules that is performed on site (e.g. supplemental fluoride) by trained personnel within 10 days after the end of the month, except that reports which indicate that fluoride levels exceed 4.0 mg/l shall be reported within 48 hours:

(j) The water supplier shall submit to the Department within 10 days after completing any public notification action as prescribed in OAR 333-061-0042 a representative copy of each type of notice distributed to the water users or made available to the public and the media along with certification that the system has fully complied with the distribution and public notification requirements.

(k) Water systems required to sample for the contaminants listed in OAR 333-061-0036(4)(c) through (4)(f) and (4)(k) through (4)(n) must report the information listed in Tables 40 through 42 to the Department. Water systems monitoring quarterly or more frequently must report to the Department within 10 days after the end of each quarter in which samples were collected. Water systems required to sample less frequently than quarterly must report to the Department within 10 days after the end of each monitoring period in which samples were collected. Beginning on the date set forth in **Table 21** in OAR 333-061-0036(4)(d)(A), water systems are required to submit the information listed in Tables 40 through 42, within 10 days of the end of any quarter in which monitoring is required. [Table not included. See ED. NOTE.]

(A) Disinfection byproducts. Water systems must report the information specified in Table 40 as follows: [Table not included. See ED. NOTE.]

(B) Disinfectants. Water systems must report the information specified in **Table 41** as follows: [Table not included. See ED. NOTE.]

(C) Disinfection byproduct precursors and enhanced coagulation or enhanced softening. Water systems must report the information specified in **Table 42** as follows: [Table not included. See ED. NOTE.]

(D) The Department may choose to perform calculations and determine whether the MCL was exceeded or the system is eligible for reduced monitoring in lieu of having the system report that information.

(l) Systems using surface water or GWUDI sources must respond to the Department or local county health department within 45 days of receiving a sanitary survey report or comprehensive performance evaluation report that identifies significant deficiencies. The response must meet the criteria specified in OAR 333-061-0076(6)(a). Failure to report to the Department requires a Tier 2 public notice as prescribed in OAR 333-061-0042(2)(b)(D).

(m) Reporting source water monitoring results for Cryptosporidium and E. coli collected in accordance with OAR 333-061-0036(5)(e). Water systems must report results from the source water monitoring no later than 10 days after the end of the first month following the month when the sample is collected as prescribed by this subsection.

(A) Water systems must report the following data elements for each Cryptosporidium analysis: PWS ID, facility ID, sample collection date, sample type (field or matrix spike), sample volume filtered in Liters (to nearest 250 mL), whether 100 percent of the filtered volume was examined, and the number of oocysts counted.

(i) For matrix spike samples, water systems must also report the sample volume spiked and estimated number of oocysts spiked. These data are not required for field samples.

(ii) For samples in which less than 10 L is filtered or less than 100 percent of the sample volume is examined, systems must also report the number of filters used and the packed pellet volume.

(iii) For samples in which less than 100 percent of sample volume is examined, systems must also report the volume of re-suspended concentrate and volume of this re-suspension processed through immunomagnetic separation.

(B) Water systems must report the following data elements for each E. coli analysis: PWS ID, facility ID, sample collection date, analytical method number, method type, source type (flowing stream, lake/reservoir, or GWUDI), E. coli/100 mL, and turbidity (if required).

(n) Reporting requirements relating to Cryptosporidium protection.

(A) Water systems must report sampling schedules prescribed by OAR 333-061-0036(5)(f) and source water monitoring results in accordance with subsection (1)(m) of this rule unless they notify the Department that they will not conduct source water monitoring due to meeting the criteria of OAR 333-061-0036(5)(e)(D).

(B) Filtered water systems must report their Cryptosporidium bin classification as described in OAR 333-061-0032(4)(f).

ADMINISTRATIVE RULES

(C) Unfiltered water systems must report their mean source water *Cryptosporidium* level as described in OAR 333-061-0032(2)(d).

(D) Water systems must report disinfection profiles and benchmarks to the Department as prescribed by OAR 333-061-0036(4)(g) and 333-061-0060(1)(e) prior to making a significant change in disinfection practice.

(E) Water systems must report to the Department any microbial toolbox options as specified in Table 43 used to comply with treatment requirements under OAR 333-061-0032(2)(d), (3)(e) through (g), and (4)(g). Alternatively, the Department may approve a water system to operate within required parameters for treatment credit rather than reporting monthly operational data for toolbox options. [Table not included. See ED. NOTE.]

(o) Water systems must report the use of uncovered finished water storage facilities to the Department as described in OAR 333-061-0032(12).

(2) Record Maintenance by Water Suppliers:

(a) Water suppliers of public water systems shall retain records relating to the quality of the water produced and the condition of the physical components of the system. These records shall be kept at a convenient location within or near the area served by the water system;

(b) Records of microbiological analyses shall be kept for at least five years. Records of chemical analyses, secondary contaminants, turbidity, radioactive substances, and monitoring plans shall be kept for at least 10 years. Data may be transferred to tabular summaries provided the following information is included:

(A) Date, place and time of sampling, and the name of the person who collected the sample;

(B) Identification of the sample as to whether it was a routine finished water sample, repeat sample, raw water sample or special purpose sample;

(C) Date and time of the analysis, the laboratory and person performing the analysis; and, (D) Analytical method used and results of the analysis.

(c) Records of actions taken to correct items of non-compliance shall be kept for at least three years after the last action taken with respect to the particular violation;

(d) Reports, summaries or communications on sanitary surveys shall be kept for at least 10 years;

(e) Records concerning variances or permits shall be kept for at least five years after the expiration of the variance or permit;

(f) Records of residual disinfectant measurements shall be kept for at least two years.

(g) All public water systems subject to the requirements of subsection (1)(f) of this rule shall retain the original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, Department determinations, and any other information required for no fewer than 12 years.

(h) Copies of public notices issued pursuant to OAR 333-061-0042 and certifications made to the Department must be kept for three years after issuance.

(i) Water systems using surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment or direct filtration treatment and that recycles spent filter backwash water, thickener, supernatant, or liquids from dewatering processes must collect and retain on file recycle flow information specified in paragraphs (2)(i)(A) through (F) of this rule for review and evaluation by the Department beginning June 8, 2004:

(A) Copy of the recycle notification and information submitted to the Department as required by OAR 333-061-0032(10)(b);

(B) List of all recycle flows and the frequency with which they are returned;

(C) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes;

(D) Typical filter run length and a written summary of how filter run length is determined;

(E) The type of treatment provided for the recycle flow;

(F) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(j) In addition to the requirements of subsections (2)(a) through (h) of this rule, groundwater systems must maintain the following information in their records:

(A) Documentation of corrective actions for a period of not less than 10 years;

(B) Documentation of notice to the public as prescribed by OAR 333-061-0042(8) for a period of not less than three years;

(C) Records of decisions made in accordance with OAR 333-061-0036(6)(v)(B) and records of invalidation of *E. coli* -positive groundwater source samples in accordance with OAR 333-061-0036(6)(x) for a period of not less than five years;

(D) For purchasing water systems, documentation of notification to the wholesale system(s) of total-coliform positive samples not invalidated in accordance with OAR 333-061-0036(6)(k) for a period of not less than five years; and

(E) For any water system required to perform compliance monitoring in accordance with OAR 333-061-0032(7)(b):

(i) Records of the Department-specified minimum disinfectant residual for a period of not less than ten years;

(ii) Records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the Department-prescribed minimum residual disinfectant concentration for a period of more than four hours for a period of not less than five years; and

(iii) Records of Department-specified compliance requirements for membrane filtration, parameters specified by the Department for Department-approved alternative treatment, and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours for a period of not less than five years.

(k) For systems required to compile a disinfection profile, the results of the profile (including raw data and analysis) must be kept indefinitely as well as the disinfection benchmark (including raw data and analysis) determined from the profile.

(l) Recordkeeping requirements pertaining to *Cryptosporidium* protection. Water systems must keep:

(A) Results from the source water monitoring prescribed by OAR 333-061-0036(5)(e) for three years after bin classification in accordance with OAR 333-061-0032(4)(f) for filtered systems, or determination of the mean *Cryptosporidium* level in accordance with OAR 333-061-0032(2)(d) for unfiltered systems for the particular round of monitoring.

(B) Any notification to the Department that they will not conduct source water monitoring due to meeting the criteria specified in OAR 333-061-0036(5)(e)(D) for three years.

(C) The results of treatment monitoring associated with microbial toolbox options as prescribed by OAR 333-061-0032(14) through (18) and with uncovered finished water reservoirs in accordance with OAR 333-061-0032(12)(b), as applicable, for three years.

(m) IDSE reports (including Department modifications) must be kept for at least 10 years. IDSE standard monitoring plans and IDSE system specific study plans must be retained at least as long as the IDSE report or any Department modifications, whichever is longer. IDSE reports and any Department modification must be made available for review by the Department or the public.

(n) Water systems must retain a complete copy of any 40/30 certification submitted to the EPA for 10 years after the date the certification was submitted. The certification, all data upon which the certification is based, and any EPA notification must be available for review by the Department or the public.

(3) Records kept by the Department.

(a) Records of turbidity measurements must be kept for not less than one year. The information retained must be set forth in a form which makes possible comparison with the limits specified by OAR 333-061-0030, 0032, and 0036.

(b) Records of disinfectant residual measurements and other parameters necessary to document disinfection effectiveness in accordance with OAR 333-061-0032(3) or (4), 0036(5)(a)(C) through (F), or 0036(5)(b)(B) through (C) of these rules must be kept for not less than one year. Records of decisions made on a system-by-system and case-by-case basis must be made in writing and kept by the Department.

(c) Any decisions made in accordance with consultations made with the Department concerning modifications to disinfection practices including the status of the consultation.

(d) Records of decisions that a water system using alternative filtration technologies, as determined by OAR 333-061-0030(3)(b)(D), can consistently achieve a 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts, 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of *Cryptosporidium* oocysts. The decisions must include enforceable turbidity limits for each water system by the Department. A copy of the decision must be kept until the decision is reversed or revised. The Department must provide a copy of the decision to the water system.

ADMINISTRATIVE RULES

(e) Records of water systems required to do a filter self-assessment, required to conduct a comprehensive performance evaluation as required by subsection (1)(e) of this rule, or required to participate in the Composite Correction Program.

(f) Records of the Department's determinations, including all supporting information and an explanation of the technical basis for the control of disinfectants and disinfection byproducts. These records must also include interim measures toward installation.

(A) Records of water systems that are installing GAC or membrane technology in accordance with OAR 333-061-0030(3)(b)(D). These records must include the date by which the water system is required to have completed installation.

(B) Records of water systems required to meet alternative minimum TOC removal requirements or for whom the Department has determined that the source water is not amenable to enhanced coagulation in accordance with OAR 333-061-0032 (10)(e)(C) and (D), respectively. These records must include the alternative limits and rationale for establishing the alternative limits.

(C) Records of water systems using surface water or groundwater under the direct influence of surface water using conventional treatment meeting any of the alternative compliance criteria specified in OAR 333-061-0032(10)(d)(A).

(D) Any decisions made pursuant to the provisions of OAR 333-061-0036(4)(b), (4)(d), (4)(f), (4)(h), (4)(i), or (4)(q) and OAR 333-061-0040(1)(k) including, but not limited to:

(i) IDSE monitoring plans, plus any modifications required by the Department, must be kept until replaced by approved IDSE reports;

(ii) IDSE reports and 40/30 certifications, plus any modifications required by the Department, must be kept until replaced or revised in their entirety; and

(iii) Operational evaluations submitted by a system must be kept for 10 years following submission.

(E) Records of written determinations that a ground water system may discontinue 4-log treatment of viruses (using inactivation, removal, or a Department-approved combination of 4-log inactivation and removal).

(g) Monitoring plans for water systems using surface water or groundwater under the direct influence of surface water serving more than 3,300 persons in accordance with OAR 333-061-0036(4)(c)(C) or (4)(d)(D).

(h) Records of decisions made on a water system-by-water system and case-by-case basis under provisions of these rules must be made in writing and kept by the Department. Records of decisions made under this paragraph shall be kept for 40 years (or until one year after the decision is reversed or revised) and a copy of the decision must be provided to the water system. This includes decisions made to approve alternate recycle locations, require modifications to recycle return locations, or to require modifications to recycle practices.

(i) Records pertaining to Cryptosporidium protection including:

(A) Results of source water E. coli and Cryptosporidium monitoring;

(B) The bin classification after the initial and second round of source water monitoring for each filtered system, as described in OAR 333-061-0032(4)(f);

(C) Any change in treatment requirements for filtered systems due to watershed assessment during sanitary surveys, as described in OAR 333-061-0032(4)(g)(C)(ii);

(D) The determination of whether the mean Cryptosporidium level is greater than 0.01 oocysts/L after the initial and second round of source water monitoring for each unfiltered system, as described in OAR 333-061-0032(2)(d); and

(E) The treatment processes or control measures that water systems use to meet their Cryptosporidium treatment requirements as prescribed by OAR 333-061-0032(3)(e) or (4)(g).

(j) A list of water systems required to cover or treat the effluent of an uncovered finished water storage facility, as specified in OAR 333-061-0032(12).

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

Stat. Auth.: ORS 431 & 448

Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

Hist.: HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0212, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 3-1988(Temp), f. & cert. ef. 2-12-88; HD 17-1988, f. & cert. ef. 7-27-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0042

Public Notice

(1) The owner or operator of a public water system must provide public notice to persons served by the water system for all violations and situations established by these rules.

(a) Public water systems that provide drinking water to purchasing water systems are required to give public notice to the owner or operator of the purchasing water system who is responsible for providing public notice to the persons it serves.

(b) If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the Department may, in writing, allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance.

(c) A copy of any public notice must be sent to the Department as required in OAR 333-061-0040(1)(j).

(2) Public notice requirements are divided into three tiers to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved:

(a) Tier 1: A Tier 1 notice is required for violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure and include the following:

(A) Violation of the MCL for total coliforms when fecal coliforms or E. Coli are present in the water distribution system as specified in OAR 333-061-0030(4)(b) or when the water system fails to test for fecal coliforms or E. coli when any repeat sample tests positive for coliform as specified in OAR 333-061-0036(6)(n);

(B) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, or when the water system fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL;

(C) Violation of the MRDL for chlorine dioxide as prescribed in OAR 333-061-0031(1) when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water system does not take the required samples in the distribution system;

(D) Violation of the interim operating plan for turbidity for a surface water system that does not meet the exception criteria for avoiding filtration under OAR 333-061-0032 nor has installed filtration treatment as defined by these rules when the Department determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(E) Violation of the Surface Water Treatment Rule (SWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), or Interim Enhanced Surface Water Treatment Rule (IESWTR) treatment technique requirement as prescribed in OAR 333-061-0032, resulting from a single exceedance of the maximum allowable turbidity limit, where the Department determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(F) Occurrence of a waterborne disease outbreak or other waterborne emergency, such as a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination;

(G) Detection of E. coli in source water samples as specified in OAR 333-061-0036(6)(r) and OAR 333-061-0036(6)(w); and

(H) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short term exposure, as determined by the Department.

(b) Tier 2: required for all violations and situations with potential to have serious adverse effects on human health and include:

(A) All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required or where the Department determines that a Tier 1 notice is required.

(B) Violations of the monitoring and testing procedure requirements, where the Department determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation.

(C) Failure to comply with the terms and conditions of any variance or permit in place.

(D) Failure to respond to sanitary survey reports or comprehensive performance evaluation reports prepared by the Department as required in OAR 333-061-0076 and 333-061-0077.

ADMINISTRATIVE RULES

(E) Use of an emergency groundwater source that has been identified as potentially under the direct influence of surface water, but has not been fully evaluated.

(F) All violations of groundwater treatment technique requirements as specified in OAR 333-061-0032(6)(g) through (6)(i).

(c) Tier 3: required for other violations or situations not included in Tier 1 and 2 and include:

(A) Monitoring violations prescribed in these rules except where a Tier 1 notice is required or where the Department determines that a Tier 2 notice is required;

(B) Failure to comply with a testing procedure established in these rules except where a Tier 1 notice is required or where the Department determines that a Tier 2 notice is required;

(C) Operation under a variance or permit granted by the Department;

(D) Availability of unregulated contaminant monitoring results as required under section (6) of this rule;

(E) Exceedance of the fluoride secondary MCL as required under section (7) of this rule; and

(F) Disinfection profiling and benchmarking monitoring and testing violations.

(d) The Department may require public notice for violations or other situations not listed in this section, or a higher tier of public notice for specific violations and situations listed in this section.

(3) All public notices established by these rules shall be distributed in the form, manner and frequency as described in this section:

(a) Tier 1 notices: public water systems required to distribute Tier 1 notices must:

(A) Provide the notice as soon as practical, but no later than 24 hours after learning of the violation or situation;

(B) Initiate consultation with the Department as soon as practical, but no later than 24 hours after learning of the violation or situation;

(C) Comply with any additional notification requirements established as a result of consultation with the Department;

(D) The form and manner used by the public water system are to fit the specific situation, but must be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, one or more of the following forms of delivery must be used:

(i) Appropriate broadcast media such as radio and television;

(ii) Posting of the notice in conspicuous locations throughout the area served by the water system;

(iii) Hand delivery of the notice to persons served by the water system; or

(iv) Another delivery method approved in writing by the Department.

(b) Tier 2 notices: public water systems required to distribute Tier 2 notices must:

(A) Provide the public notice as soon as practical, but no later than 30 days after learning of the violation or situation. The Department may, in writing, extend additional time for the initial notice of up to three months in appropriate circumstances;

(B) If the public notice is posted, leave the notice in place as long as the violation or situation exists, but in no case for less than seven days, even if the violation or situation is resolved;

(C) Repeat the notice every three months as long as the violation or situation persists unless the Department determines in writing that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year.

(D) For the turbidity violations specified in subparagraphs (3)(b)(D)(i) and (ii) of this rule, public water systems must consult with the Department as soon as practical, but no later than 24 hours after learning of the violation to determine whether a Tier 1 public notice is required to protect public health. When consultation with the Department does not take place within the 24 hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours as prescribed in subsection (3)(a) of this rule:

(i) Violation of the interim operating plan for turbidity for a surface water system that does not meet the exception criteria for avoiding filtration under OAR 333-061-0032 nor has installed treatment as defined by these rules; or

(ii) Violation of the SWTR, LT1ESWTR, or IESWTR treatment technique requirement as prescribed in OAR 333-061-0032, resulting from a single exceedance of the maximum allowable turbidity limit.

(E) The form and manner used by the public water system for initial and repeat notices must be calculated to reach persons served by the system in the required time period. The form and manner may vary based on the

specific situation and type of water system, but it must at a minimum meet the following requirements:

(i) Unless directed otherwise by the Department in writing, community water systems must provide notice by:

(I) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(II) Any other method reasonably calculated to reach other persons regularly served by the water system who would not normally be reached by mail or direct delivery. Other methods may include: local newspapers, delivery of multiple copies for distribution, posting, e-mail and community organizations.

(ii) Unless directed otherwise by the Department in writing, non-community water systems must provide notice by:

(I) Posting the notice in conspicuous locations frequented by users throughout the distribution system, or by mail or direct delivery to each customer or connection; and

(II) Any other method reasonably calculated to reach other persons not normally reached by posting, mail or direct delivery. Other methods may include: local newspaper, newsletter, e-mail and multiple copies in central locations.

(c) Tier 3 notices: public water systems required to distribute Tier 3 notices must:

(A) Provide the public notice not later than one year after learning of the violation or situation or begins operating under a variance or permit. Following the initial notice, the system must repeat the notice annually for as long as the violation, variance, permit or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, permit, or other situation persists, but in no case less than seven days even if the violation or situation is resolved.

(B) Instead of individual Tier 3 public notices, a community public water system may use its annual Consumer Confidence Report (CCR) for the initial and all repeat notices detailing all violations and situations that occurred during the previous twelve months. This method may be used as long as it is distributed within the one year requirement in paragraph (3)(c)(A) of this rule, follows the public notice content required under section (4) of this rule and is delivered to users as required under paragraph (3)(c)(C) of this rule.

(C) The form and manner used by the public water system for initial and repeat notices must be calculated to reach persons served by the system in the required time period. The form and manner may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(i) Unless directed otherwise by the Department in writing, community water systems must provide notice by:

(I) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(II) Any other method reasonably calculated to reach other persons regularly served by the water system who would not normally be reached by mail or direct delivery. Other methods may include: local newspapers, delivery of multiple copies for distribution, posting, e-mail and community organizations.

(ii) Unless directed otherwise by the Department in writing, non-community water systems must provide notice by:

(I) Posting the notice in conspicuous locations frequented by users throughout the distribution system, or by mail or direct delivery to each customer or connection; and

(II) Any other method reasonably calculated to reach other persons not normally reached by posting, mail or direct delivery. Other methods may include: local newspaper, newsletter, e-mail and delivery of multiple copies in central locations.

(4) Content of Public Notice:

(a) When a public water system has a violation or situation prescribed in these rules requiring a public notice, each public notice must include the following elements:

(A) A description of the violation or situation, including the contaminant(s) of concern, and the contaminant level;

(B) When the violation or situation occurred;

(C) Any potential adverse health effects including the standard language required under paragraphs (4)(d)(A) and (B) of this rule;

(D) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;

(E) Whether alternative water supplies should be used;

ADMINISTRATIVE RULES

(F) What actions consumers should take, including when they should seek medical help, if known;

(G) What the system is doing to correct the violation or situation;

(H) When the water system expects to return to compliance or resolve the situation;

(I) The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

(J) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under paragraph (4)(d)(C) of this rule.

(b) Content of public notices for public water systems operating under a variance or permit:

(A) If a public water system has been granted a variance or permit, the public notice must contain:

(i) An explanation of the reasons for the variance or permit;

(ii) The date on which the variance of permit was issued;

(iii) A brief status report on the steps the system is taking to install treatment, find alternative sources of water or otherwise comply with the terms and schedules of the variance or permit; and

(iv) A notice of any opportunity for public input in the review of the variance or permit.

(B) If a public water system violates the conditions of a variance or permit, the public notice must contain the ten elements listed in subsection (4)(a) of this rule.

(c) Public notice presentation:

(A) Each public notice required by these rules must:

(i) Be displayed in a conspicuous way when printed or posted;

(ii) Not contain overly technical language or very small print;

(iii) Not be formatted in a way that defeats the purpose of the notice;

(iv) Not contain language which nullifies the purpose of the notice.

(B) Each public notice required by these rules must comply with multilingual requirements as follows:

(i) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Department, the public notice must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language.

(ii) In cases where the Department has not determined what constitutes a large proportion of non-English speaking consumers, the public water system must include in the public notice the same information required in subparagraph (4)(c)(B)(i) of this rule where appropriate to reach a large proportion of non-English speaking persons served by the water system.

(d) Standard language: public water systems are required to include the following standard language in their public notice:

(A) Public water systems must include in each public notice the specific health effects language as prescribed in OAR 333-061-0097 for each MCL, MRDL, and treatment technique violation and for each violation of a condition of a variance or permit.

(B) Public water systems must include the following language in their notice, including the language necessary to fill in the blanks, for all monitoring and testing procedure violations:

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During {compliance period}, we "did not monitor or test" or "did not complete all monitoring or testing" for {contaminant(s)}, and therefore cannot be sure of the quality of your drinking water during that time.

(C) Public water systems are required where applicable to include the following standard language to encourage the distribution of the public notice to all persons served:

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

(5) Notice to new billing units or new customers:

(a) Community water systems must give a copy of the most recent public notice for any continuing violation, the existence of a variance or permit, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.

(b) Non-community water systems must continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance or permit, or other situations requiring a public notice for as long as the violation, variance, permit, or other situation persists.

(6) Special notice of availability of unregulated contaminant monitoring results:

(a) The owner or operator of a community water system or non-transient, non-community water systems required by EPA to monitor for unregulated contaminants must notify persons served by the system of the availability of the results of such sampling no later than 12 months after the monitoring results are known.

(b) The form and manner of the public notice must follow the requirements for a tier 3 public notice as prescribed in paragraphs (3)(c)(B) and (C) of this rule. The notice must also identify a person and provide the telephone number to contact for information on the monitoring results.

(7) Special notice for exceedance of the SMCL for fluoride:

(a) Community water systems that exceed the fluoride secondary MCL of 2 mg/l, determined by the last single sample taken in accordance with OAR 333-061-0036(2), but do not exceed the MCL of 4 mg/l for fluoride must provide the public notice in subsection (7)(d) of this rule to persons served by the water system. Public notice must be provided as soon as practical but no later than 12 months from the day the water system learns of the exceedance. The public water system must repeat the notice at least annually for as long as the exceedance persists. The Department may require an initial notice sooner than 12 months and repeat notices more frequently than annually on a case-by-case basis;

(b) A copy of the notice must also be sent to all new billing units and new customers at the time service begins and to the Department. If the public notice is posted, the notice must remain in place for as long as the secondary MCL is exceeded, but in no case less than seven days, even if the exceedance is eliminated;

(c) The form and manner of the public notice, including repeat notices must follow the requirements for tier 3 public notice;

(d) The notice must contain the following language, including the language necessary to fill in the blanks:

This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 mg/l of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system (name) has a fluoride concentration of (insert value) mg/l.

Dental fluorosis, in its moderate or severe forms, may result in a brown staining and/or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water.

Drinking water containing more than 4 mg/l of fluoride (the U.S. EPA's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we're required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of this cosmetic dental problem.

For more information, please call (name of water system contact) of (name of community water system) at (phone number). Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.

(8) Special notice to the public for significant deficiencies or source water fecal contamination.

(a) A community water system that uses groundwater and that receives notification from the Department of a significant deficiency or of an E. coli-positive groundwater source sample, that is not invalidated in accordance with OAR 333-061-0036(6)(x), must inform the public served by the water system of the E. coli-positive source sample or the significant deficiency that has not been corrected as prescribed by OAR 333-061-0043(5). The water system must continue to inform the public annually until the significant deficiency is corrected, or the fecal contamination in the groundwater source is determined by the Department to be corrected in accordance with OAR 333-061-0032(6)(e).

(b) A non-community groundwater system that receives notice from the Department of a significant deficiency must inform the public served by the water system in a manner approved by the Department of the significant deficiency if it has not been corrected within 12 months of the notification by the Department. The water system must continue to inform the public annually until the significant deficiency is corrected. The information must include:

(A) The nature of the significant deficiency and the date the significant deficiency was identified by the Department;

(B) The Department-approved plan and schedule for correction of the significant deficiency, including any interim measures, progress to date, and any interim measures completed; and

(C) For water systems with a large proportion of non-English speaking consumers as determined by the Department, information must be

ADMINISTRATIVE RULES

distributed in the appropriate language(s) regarding the importance of the notice or a telephone number or address where consumers may contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

(c) If directed by the Department, a non-community water system with significant deficiencies that have been corrected must inform its customers of the significant deficiencies, how the deficiencies were corrected, and the dates of correction under subsection (8)(b) of this rule.

(9) Special notice for repeated failure to conduct monitoring of the source water for Cryptosporidium and for failure to determine bin classification or mean Cryptosporidium level.

(a) Special notice for repeated failure to monitor. The owner or operator of a community or non-community water system that is required to monitor source water in accordance with OAR 333-061-0036(5)(e) must notify persons served by the water system that monitoring has not been completed as required no later than 30 days after the system has failed to collect any three months of monitoring as specified in Table 38. The notice must be repeated as specified in subsection (3)(b) of this rule. [Table not included. See ED. NOTE.]

(b) Special notice for failure to determine bin classification or mean Cryptosporidium level. The owner or operator of a community or non-community water system that is required to determine a bin classification in accordance with OAR 333-061-0032(4)(f), or to determine a mean Cryptosporidium level as prescribed by OAR 333-061-0032(2)(d), must notify persons served by the water system that the determination has not been made as required no later than 30 days after the system has failed to report the determination in accordance with OAR 333-061-0032(2)(d)(A) through (D) or 333-061-0032(4)(f)(G) and (H).

(A) The notice must be repeated as specified in subsection (3)(b) of this rule.

(B) The notice is not required if the system is complying with a Department-approved schedule to address the violation.

(c) The form and manner of the special notice must follow the requirements for a Tier 2 public notice as prescribed in subsection (3)(b) of this rule. The special notice must be presented as required by subsection (4)(c) of this rule.

(d) The special notice must contain the following language, including system specific language for the text within the braces.

(A) The special notice for repeated failure to conduct monitoring must contain:

{Water system name} is required to monitor the source of your drinking water for Cryptosporidium. Results of the monitoring are to be used to determine whether water treatment at the {treatment plant name} is sufficient to adequately remove Cryptosporidium from your drinking water. We are required to complete this monitoring and make this determination by {required bin determination date}. We "did not monitor or test" or "did not complete all monitoring or testing" on schedule and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made to ensure adequate Cryptosporidium removal. Missing this deadline may, in turn, jeopardize our ability to have the required treatment modifications, if any, completed by the deadline required, {date}. For more information, please call {name of water system contact} of {water system name} at {phone number}.

(B) The special notice for failure to determine bin classification or mean Cryptosporidium level must contain the following language:

{Water system name} is required to monitor the source of your drinking water for Cryptosporidium in order to determine by {date} whether water treatment at the {treatment plant name} is sufficient to adequately remove Cryptosporidium from your drinking water. We have not made this determination by the required date. Our failure to do this may jeopardize our ability to have the required treatment modifications, if any, completed by the required deadline of {date}. For more information, please call {name of water system contact} of {water system name} at {phone number}.

(C) Each special notice must also include a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation.

(10) Public notification by the Department. The Department may give notice to the public required by this section on behalf of the owner or operator of the public water system. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this section are met.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0043

Consumer Confidence Reports

This rule establishes the minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. For the purpose of this rule, customers are defined as billing units or service connections to which water is delivered by a Community Water System.

(1) Delivery deadlines:

(a) Community water systems must deliver their reports by July 1, annually. The report must contain data collected during, or prior to, the previous calendar year;

(b) A new community water system must deliver its first report by July 1 of the year after its first full calendar year in operation and annually thereafter;

(c) A community water system that sells water to another community water system must deliver the applicable information to the buyer system:

(A) No later than April 1, annually; or

(B) On a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

(2) Content of the Reports:

(a) Each community water system must provide to its customers an annual report that contains the information specified in sections (2), (3), (4), and (5) of this rule;

(b) Each report must identify the source(s) of the water delivered by the community water system by providing information on:

(A) The type of water: e.g., surface water, ground water; and

(B) The commonly used name (if any) and location of the body (or bodies) of water.

(c) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant potential sources of contamination in the drinking water protection area if they have readily available information. Where a system has received a source water assessment from the Department, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the Department or written by the operator;

(d) Each report must contain the following definitions:

(A) Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety;

(B) Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(C) Variance: A system operating under a variance as prescribed in OAR 333-061-0045 must include the following definition in its report: Variances: State permission not to meet an MCL or a treatment technique under certain conditions;

(D) Treatment Technique or Action Level: A system which has a detection for a contaminant for which EPA has set a treatment technique or an action level must include one or both of the following definitions as applicable:

(i) Treatment Technique: A required process intended to reduce the level of a contaminant in drinking water;

(ii) Action Level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(E) Maximum Residual Disinfectant Level Goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(F) Maximum Residual Disinfectant Level or MRDL: The highest level of disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

(3) Detected Contaminants:

(a) The following information must be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium). Detected means at or above the detection level prescribed by each EPA approved analytical method set forth in 40 CFR 141:

(A) Contaminants and disinfection by-products subject to an MCL, action level, MRDL, or treatment technique (regulated contaminants); and

ADMINISTRATIVE RULES

(B) Unregulated contaminants for which monitoring is required.

(b) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(c) The data must be derived from data collected to comply with state monitoring and analytical requirements during the calendar year except that where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulation. No data older than five years need be included.

(d) For detected regulated contaminants (listed in Table 44 of this rule), the table(s) in the report must contain: [Table not included. See ED. NOTE.]

(A) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in Table 44); [Table not included. See ED. NOTE.]

(B) The MCLG for that contaminant expressed in the same units as the MCL;

(C) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph (2)(d)(D) of this rule;

(D) For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with OAR 333-061 and the range of detected levels, as follows:

(i) When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL;

(ii) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a monitoring location: the highest average at any of the monitoring location and the range of all monitoring location must be expressed in the same unit of measure as the MCL. For the MCL for TTHM and HAA5 as specified by OAR 333-061-0030(2)(b), water systems must include the highest locational running annual average for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same unit of measure as the MCL. If more than one location exceeds the MCL for TTHM or HAA5, the water system must include the locational running annual averages for all locations that exceed the MCL;

(iii) When compliance with the MCL is determined on a system wide basis by calculating a running annual average of all samples at all monitoring locations: the average and range of detections must be expressed in the same units as the MCL. The water system is required to include individual sample results for an IDSE conducted in accordance with OAR 333-061-0036(4)(b) of this rule when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken;

(iv) When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in Table 44 of this rule. [Table not included. See ED. NOTE.]

(e) Turbidity:

(A) When it is reported pursuant to OAR 333-061-0030(3)(a), 333-061-0032(2), and 333-061-0036(5)(a): the highest monthly value. The report should include an explanation of the reasons for measuring turbidity. This includes water systems currently without filtration treatment, but required to install filtration through a Notice of Violation and Remedial Order.

(B) When it is reported pursuant to OAR 333-061-0030(3): The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in OAR 333-061-0030(3) for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.

(f) Lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level and the lead-specific information as prescribed in subsection (4)(c) of this rule.

(g) Total coliform:

(A) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(B) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

(h) Fecal coliform: the total number of positive samples.

(i) The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in Table 45 which are most applicable to the system. [Table not included. See ED. NOTE.]

(j) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(k) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation, the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language in Table 45 of this rule. [Table not included. See ED. NOTE.]

(l) For detected unregulated contaminants for which monitoring is required (except *Cryptosporidium*), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

(m) Information on *Cryptosporidium*, radon, and other contaminants:

(A) If the system has performed any monitoring for *Cryptosporidium*, which indicates that *Cryptosporidium* may be present in the source water or the finished water, the report must include:

- (i) A summary of the results of the monitoring, and
- (ii) An explanation of the significance of the results.

(B) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

- (i) The results of the monitoring; and
- (ii) An explanation of the significance of the results.

(C) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, the system is strongly encouraged to report any results which may indicate a health concern. To determine if results may indicate a health concern, EPA recommends that systems find out if EPA has proposed a National Primary Drinking Water Regulation or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800-426-4791). EPA considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, EPA recommends that the report include:

- (i) The results of the monitoring; and
- (ii) An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

(n) Compliance with OAR 333-061: In addition to subsection (3)(k) of this rule, the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

(A) Monitoring and reporting of compliance data;

(B) Filtration and disinfection prescribed by OAR 333-061-0032: For systems which have failed to install adequate filtration or disinfection equipment or processes which constitutes a violation or have an equipment failure constituting a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches;

(C) Lead and copper control requirements: For systems which fail to take one or more actions prescribed by OAR 333-061-0034 the report must include the applicable language in Table 45 of this rule for lead, copper, or both; [Table not included. See ED. NOTE.]

(D) Treatment techniques for Acrylamide and Epichlorohydrin: For systems which violate the requirements of OAR 333-061-0030(7), the report must include the relevant health effects language in Table 45 of this rule. [Table not included. See ED. NOTE.]

(E) Recordkeeping of compliance data;

ADMINISTRATIVE RULES

(F) Special monitoring requirements prescribed by OAR 333-061-0036(2)(f) and for unregulated contaminants as required by EPA;

(G) Violation of the terms of a variance, administrative order or judicial order.

(o) Variances: If a system is operating under the terms of a variance as prescribed in OAR 333-061-0045, the report must contain:

(A) An explanation of the reasons for the variance;

(B) The date on which the variance was issued;

(C) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance; and

(D) A notice of any opportunity for public input in the review, or renewal, of the variance.

(p) Additional information:

(A) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language in subparagraphs (3)(p)(A)(i), (ii) and (iii) of this rule, or systems may use their own comparable language. The report also must include the language of subparagraph (3)(p)(A)(iv) of this rule.

(i) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity;

(ii) Contaminants that may be present in source water include:

(I) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife;

(II) Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming;

(III) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses;

(IV) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems;

(V) Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

(iii) In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. FDA regulations establish limits for contaminants in bottled water which must provide the same protection for public health;

(iv) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(B) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report;

(C) In communities with a large proportion of non-English speaking residents the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language;

(D) The report must include information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water;

(E) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

(4) Required additional health information:

(a) All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health

care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).

(b) A system which detects nitrate at levels above 5 mg/l, but does not exceed the MCL:

(A) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 mg/l is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

(B) May write its own educational statement, but only in consultation with the Department.

(c) Every report must include the following lead-specific information:

(A) A short informational statement about the lead in drinking water and its effects on children. The statement must include the following information: If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. {NAME OF WATER UTILITY} is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at <http://www.epa.gov/safewater/lead>.

(B) The water system may write its own educational statement, but only in consultation with the Department.

(5) Special requirements for groundwater systems:

(a) Any groundwater system that receives notification of a significant deficiency that is not corrected at the time of the next report, or of an E. coli-positive groundwater source sample that was not invalidated in accordance OAR 333-061-0036(6)(x) must inform its customers in the next report. The water system must continue to inform the public annually until the Department determines that the particular significant deficiency is corrected or that the fecal contamination in the groundwater source is addressed in accordance with OAR 333-061-0032(6). Each report must include the following elements:

(A) The nature of the particular significant deficiency or the source of the fecal contamination (if the source is known), and the date the significant deficiency was identified by the Department or the dates of the E. coli-positive groundwater source samples;

(B) If the fecal contamination in the groundwater source has been addressed as prescribed by OAR 333-061-0032(6) and the date of such action;

(C) The Department-approved plan and schedule for correction, including interim measures, progress to date, and any interim measures completed for any significant deficiency or fecal contamination in the groundwater source that has not been addressed as prescribed by OAR 333-061-0032(6); and

(D) The potential health effects language specified in OAR 333-061-0097(4)(b) if the system received notice of a E. coli-positive groundwater source sample that was not invalidated by the Department in accordance with OAR 333-061-0036(6)(x).

(b) The Department may require a water system with significant deficiencies that have been corrected before the next report is issued to inform its customers of the significant deficiency, how the deficiency was corrected, and the date of correction in accordance with subsection (5)(a) of this rule.

(6) Report delivery and recordkeeping:

(a) Except as provided in subsection (6)(g) of this rule, each community water system must mail or otherwise directly deliver one copy of the report to each customer.

(b) The system must make a good faith effort to reach consumers who do not get water bills, using means recommended by the Department. EPA expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers would include a mix of methods appropriate to the particular system such as: Posting the reports on the Internet; mailing to postal patrons in metropolitan areas; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunch rooms

ADMINISTRATIVE RULES

of public buildings; delivery of multiple copies for distribution by singularly-billed customers such as apartment buildings or large private employers; delivery to community organizations.

(c) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the Department, followed within three months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Department.

(d) No later than the date the system is required to distribute the report to its customers, each community water system must deliver the report to any other agency or clearinghouse identified by the Department.

(e) Each community water system must make its reports available to the public upon request.

(f) Each community water system serving 100,000 or more persons must post its current year's report to a publicly-accessible site on the Internet.

(g) The Governor of a State or his designee, can waive the requirement of subsection (6)(a) of this rule for community water systems serving fewer than 10,000 persons.

(A) Such systems must:

(i) Publish the reports in one or more local newspapers serving the area in which the system is located;

(ii) Inform the customers that the reports will not be mailed, either in the newspapers in which the reports are published or by other means approved by the State; and

(iii) Make the reports available to the public upon request.

(B) Systems serving 500 or fewer persons may forego the requirements of subparagraphs (6)(g)(A)(i) and (ii) of this rule if they provide notice at least once per year to their customers by mail, door-to-door delivery or by posting in an appropriate location that the report is available upon request.

(h) Any system subject to this rule must retain copies of its consumer confidence report for no less than five years.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150

Hist.: OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0045

Variations

(1) Variations from the maximum contaminant levels may be granted by the Department to public water systems under the following circumstances where:

(a) An evaluation satisfactory to the Department indicates that alternative sources of water are not reasonably available to the system;

(b) There will be no unreasonable risk to health;

(c) The water supplier has provided sufficient evidence to confirm that the best available treatment techniques which are generally available are unable to treat the water in question so that it meets maximum contaminant levels;

(d) The water supplier agrees to notify the water users at least once every three months, or more frequently if determined by the Department, that the water system is not in compliance;

(e) A compliance schedule is submitted which outlines how the water supplier intends to achieve compliance, and the water supplier agrees to review this schedule once every three years to determine whether changes have occurred in the conditions which formed the basis for the schedule; and

(f) A plan is submitted which outlines interim control measures including application of the best technology treatment technique to be implemented during the period that the variance is in effect.

(2) The Department shall document all findings of its determinations and if the Department prescribes a schedule requiring compliance with a contaminant level for which the variance is granted later than five years from the date of issuance of the variance the Department shall:

(a) Document the rationale for the extended compliance schedule;

(b) Discuss the rationale for the extended compliance schedule in the required public notice and opportunity for public hearing; and

(c) Provide the shortest practicable time schedule feasible under the circumstances.

(3) Before denying a request for a variance, the Department shall advise the water supplier of the reasons for the denial and shall give the

supplier an opportunity to present additional information. If the additional information is not sufficient to justify granting the variance, the variance shall be denied.

(4) If the Department determines that the variance should be granted, it shall announce its intention to either hold a public hearing in the affected area prior to granting the variance; or serve notice of intent to grant the variance either personally, or by registered or certified mail to all customers connected to the water system, or by publication in a newspaper in general circulation in the area. If no hearing is requested within 10 days of the date that notice is given, the Department may grant the variance.

(5) When a variance has been granted, and a water supplier fails to meet the compliance schedule, or fails to implement the interim control measures, or fails to undertake the monitoring required under the conditions of the variance, the Department may initiate enforcement action authorized by these rules.

(6) Variations from the maximum contaminant levels for volatile organic chemicals, organic chemicals and inorganic chemicals shall be issued by the Department as follows:

(a) The Department shall require Community water systems and Non-Transient Non-Community water systems to install and/or use any treatment method identified in OAR 333-061-0050(4)(b)(B), (E) and (F) as a condition for granting a variance except as provided in subsection (6)(b) of this rule. If, after the system's installation of the treatment method, the system cannot meet the MCL, that system shall be eligible for a variance.

(b) If a system can demonstrate through comprehensive engineering assessments, which may include pilot plant studies, that the treatment methods identified in OAR 333-061-0050(4)(b)(B), (E) and (F) would only achieve an insignificant reduction in contaminants, the Department may issue a schedule of compliance that requires the system being granted the variance to examine other treatment methods as a condition of obtaining the variance.

(c) If the Department determines that a treatment method identified in subsection (6)(b) of this rule is technically feasible, the Department may require the system to install and/or use that treatment method in connection with a compliance schedule. The Department's determination shall be based upon studies by the system and other relevant information.

(d) The Department may require a public water system to use bottled water, point-of-use devices, point-of-entry devices or other means as a condition of granting a variance to avoid an unreasonable risk to health.

(7) The variations from the maximum contaminant level for fluoride shall be granted by the Department as follows:

(a) The Department shall require a Community water system to install and/or use any treatment method identified in OAR 333-061-0050(4)(b)(C) as a condition for granting a variance unless the Department determines that such treatment method is not available and effective for fluoride control for the system. A treatment method shall not be considered to be "available and effective" for an individual system if the treatment method would not be technically appropriate and technically feasible for that system. If, upon application by a system for a variance, the Department determines that none of the treatment methods identified in OAR 333-061-0050(4)(b)(C) are available and effective for the system, that system shall be entitled to a variance. The Department's determination as to the availability and effectiveness of such treatment methods shall be based upon studies by the system and other relevant information. If a system submits information to demonstrate that a treatment method is not available and effective for fluoride control for that system, the Department shall make a finding whether this information supports a decision that such treatment method is not available and effective for that system before requiring installation and/or use of such treatment method.

(b) The Department shall issue a schedule of compliance that may require the system being granted the variance to examine the following treatment methods to determine the probability that any of the following methods will significantly reduce the level of fluoride for that system, and if such probability exists, to determine whether any of these methods are technically feasible and economically reasonable, and that the fluoride reductions obtained will be commensurate with the costs incurred with the installation and use of such treatment methods for that system: Modification of lime softening; Alum coagulation; Electrodialysis; Anion exchange resins; Well field management; Alternate source; or Regionalization.

(c) If the Department determines that a treatment method identified in subsection (6)(b) of this rule or any other treatment method is technically feasible, economically reasonable, and will achieve fluoride reductions commensurate with the costs incurred with the installation and/or use of such treatment method for the system, the Department shall require the

ADMINISTRATIVE RULES

system to install and/or use that treatment method in connection with a compliance schedule. The Department's determination shall be based upon studies by the system and other relevant information.

(8) Public water systems that use bottled water as a condition for receiving a variance must meet the following requirements.

(a) The public water system must develop and put in place a monitoring program approved by the Department that provides reasonable assurances that the bottled water meets all MCLs. The public water system must monitor a representative sample of the bottled water for all applicable contaminants under OAR 333-061-0036 the first quarter that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the Department annually.

(b) As an alternative to subsection (7)(a) of this rule, the public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR 129.3(a); the bottled water company has conducted monitoring in accordance with 21 CFR 129.80(g)(1) through (3); and the bottled water does not exceed any MCLs or quality limits as set out in 21 CFR 103.35, 110, and 129. The public water system shall provide the certification to the Department the first quarter after it supplies bottled water and annually thereafter.

(c) The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system, via door-to-door bottled water delivery.

(9) Public water systems that use point-of-use devices as a condition for obtaining a variance must meet the following requirements:

(a) It is the responsibility of the public water system to operate and maintain the point-of-use treatment system.

(b) The public water system must develop a monitoring plan and obtain Department approval for the plan before point-of-use devices are installed for compliance. This monitoring plan must provide health protection equivalent to a monitoring plan for central water treatment.

(c) Effective technology must be properly applied under a plan approved by the Department and the microbiological safety of the water must be maintained.

(d) The water system must submit adequate certification of performance, field testing and, if not included in the certification process, a rigorous engineering design review to the Department for approval prior to installation.

(e) The design and application of the point-of-use devices must consider the tendency for increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(f) All consumers shall be protected. Every building connected to the system must have a point-of-use device installed, maintained, and adequately monitored. The Department must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

(10) Public water systems shall not use bottled water to achieve compliance with an MCL. At the discretion of the Department, point-of-use devices may be used to achieve compliance with MCLs for radionuclides and arsenic. Bottled water or point-of-use devices may be used on a temporary basis to avoid an unreasonable risk to health.

(11) The Department may grant a variance from the requirements of OAR 333-061-0030(4) "Microbiological Contaminants" for any system that demonstrates to the satisfaction of the Department that violations of the total coliform MCL are due to persistent growth of total coliform in the distribution system rather than fecal or pathogenic contamination, a treatment lapse or deficiency, or a problem in the operation or maintenance of the distribution system. This demonstration, made by the system in writing and submitted to the Department for review, shall show that the system meets the following conditions:

(a) The system meets treatment level requirements of OAR 333-061-0032,

(b) The system shows no occurrence of coliforms at the entry point to the distribution system,

(c) The system meets the turbidity MCL,

(d) The system maintains a detectable disinfectant residual in the distribution system,

(e) The system has no history of waterborne disease outbreaks using the current treatment and source configuration,

(f) The system maintains regular contact with the Department to assess possible illness outbreaks,

(g) The system complies with coliform monitoring requirements and shows no occurrence of E. coli positive samples during the previous six months,

(h) The system has addressed requirements and recommendations of the previous sanitary survey conducted by the Department,

(i) The system fully complies with cross connection control program requirements contained in OAR 333-061-0070,

(j) The system agrees to submit a biofilm control plan to the Department within 12 months of the granting of the first request for a variance,

(k) The system monitors heterotrophic plate count weekly in conjunction with routine coliform sample collection and maintains HPC counts at levels less than 500 colonies per ml at any point where the disinfectant residual is less than 0.2 mg/l, and

(l) The system has a microbiological contaminant sampling plan approved by the Department.

(12) The Department is not permitted to issue any variances to the requirements of OAR 333-061-0030(3) and (4), 333-061-0032, or 333-061-0034 except as provided by section (13) of this rule. The Department is also not permitted to issue any variances to the requirements of OAR 333-061-0036 pertaining to the treatment of surface water and groundwater under the direct influence of surface water. In addition, no permits will be granted for OAR 333-061-0030(4), 333-061-0032(3)(c) or 333-061-0032(5)(b).

(13) The Department may grant variances from the standards specified in OAR 333-061-0032(3)(e) through (g) requiring the use of a specified water treatment technique if the Department determines that the use of a specified water treatment technique is not necessary to protect public health based on the nature of the raw water source for a public water system. A variance granted under this section shall be conditioned on such monitoring and other requirements as the Administrator of the U.S. Environmental Protection Agency or the Director of the Department of Human Services may prescribe.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.115, 448.135

Hist.: HD 9-1981(Temp), f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0213, HD 2-1983, f. & ef. 2-23-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0050

Construction Standards

(1) General:

(a) These standards shall apply to the construction of new public water systems and to major additions or modifications to existing public water systems and are intended to assure that the system facilities, when constructed, will be free of public health hazards and will be capable of producing water which consistently complies with the maximum contaminant levels;

(b) Public water systems which may not comply fully with these construction standards, shall be allowed to continue in operation and shall not be required to undertake alterations to existing facilities, unless the standard is listed as a significant deficiency as prescribed in OAR 333-061-0076(4), is a condition identified as a deficiency specified in OAR 333-061-0076(8) and that creates a public health hazard, or if maximum contaminant levels are being exceeded. Existing facilities are:

(A) Facilities at public water systems constructed or installed prior to August 21, 1981; and

(B) Facilities at public water systems which have been in continual use in or as a public water system and not inoperative for more than one year.

(c) Non-public water systems that are converted to public water systems shall be modified as necessary to conform to the requirements of this rule.

(d) Facilities at public water systems shall be designed and constructed in a manner such that contamination will be effectively excluded, and the structures and piping will be capable of safely withstanding external and internal forces acting upon them;

(e) Only materials designed for potable water service and meeting National Sanitation Foundation Standard 61, Section 9 — Drinking Water System Components — Health Effects (Revised September, 1994) or equivalent shall be used in those elements of the water system which are in contact with potable water;

ADMINISTRATIVE RULES

(f) New tanks, pumps, equipment, pipe valves and fittings shall be used in the construction of new public water systems, major additions or major modifications to existing water systems. The Department may permit the use of used items when it can be demonstrated that they have been renovated and are suitable for use in public water systems;

(g) Prior to construction of new facilities, the water supplier shall submit plans to the Department for approval as specified in OAR 333-061-0060(1)(a).

(h) Construction may deviate from the requirements of this section provided that documentation is submitted, to the satisfaction of the Department, that the deviation is equal to or superior to the requirements of this section as specified in OAR 333-061-0055 (variances from construction standards).

(i) A public water system or other Responsible Management Authority using groundwater, or groundwater under the direct influence of surface water, derived from springs, confined or unconfined wells that wish to have a state certified wellhead protection program shall comply with the requirements as specified in OAR 333-061-0057, 0060, and 0065, as well as OAR 340-040-0140 through 0200. Additional technical information is available in the Oregon Wellhead Protection Guidance Manual.

(j) All new groundwater sources are subject to consideration for potential direct influence of surface water as prescribed in OAR 333-061-0032(7).

(2) Groundwater:

(a) Wells:

(A) For the purpose of this rule, wells are defined as holes or other excavations that are drilled, dug or otherwise constructed for the purpose of capturing groundwater or groundwater in hydraulic connection with surface water as a source of public drinking water.

(B) The area within 100 feet of the well shall be owned by the water supplier, or a perpetual restrictive easement shall be obtained by the water supplier for all land (with the exception of public rights-of-way) within 100 feet of the well. The easement shall be recorded with the county in which the well is located and with the recorded deed to the property. A certified true copy shall be filed with the Department;

(C) Notwithstanding paragraph (2)(a)(A) of this rule, wells located on land owned by a public entity, (Federal, State, County, Municipality) which is not the water supplier, a permit issued by the public entity to the water supplier shall suffice in lieu of an easement. Said permit shall state that no existing or potential public health hazard shall be permitted within a minimum of 100 feet of a well site;

(D) Public or private roadways may be allowed within 100 feet of a confined well, provided the well is protected against contamination from surface runoff or hazardous liquids which may be spilled on the roadway and is protected from unauthorized access;

(E) The following sanitary hazards are not allowed within 100 feet of a well which serves a public water system unless waived by the Department: any existing or proposed pit privy, subsurface sewage disposal drain field; cesspool; solid waste disposal site; pressure sewer line; buried fuel storage tank; animal yard, feedlot or animal waste storage; untreated storm water or gray water disposal; chemical (including solvents, pesticides and fertilizers) storage, usage or application; fuel transfer or storage; mineral resource extraction, vehicle or machinery maintenance or long term storage; junk/auto/scrap yard; cemetery; unapproved well; well that has not been properly abandoned or of unknown or suspect construction; source of pathogenic organisms or any other similar public health hazards. No gravity sewer line or septic tank shall be permitted within 50 feet of a well which serves a public water system. Clearances greater than indicated above shall be provided when it is determined by the Department that the aquifer sensitivity and degree of hazard require a greater degree of protection. Above-ground fuel storage tanks provided for emergency water pumping equipment may be exempted from this requirement by the Department provided that a secondary containment system is in place that will accommodate 125 percent of the fuel tank storage;

(F) Except as in paragraph (2)(a)(A) and (2)(a)(E) of this rule, in those areas served by community gravity sanitary sewers, the area of ownership or control may be reduced to 50 feet;

(G) Wells shall not be located at sites which are prone to flooding. In cases where the site is subject to flooding, the area around the well shall be mounded, and the top of the well casing shall be extended at least two feet above the anticipated 100-year (1 percent) flood level;

(H) Except as otherwise provided herein, wells shall be constructed in accordance with the general standards for the construction and maintenance of water wells in Oregon as prescribed in OAR chapter 690, divisions 200 through 220;

(I) Wells as defined in paragraph (2)(a)(A) of this rule that are less than 12 feet in depth must be constructed so as to be cased and sealed from the surface to a minimum of three feet above the bottom of the well. The casing may consist of concrete or metal culvert pipe or other pre-approved materials. The seal shall be watertight, be a minimum of four inches in thickness and may consist of cement, bentonite or concrete (see concrete requirements prescribed in OAR 690-210-315). The construction and placement of these wells must comply with all requirements of this rule.

(J) Before a well is placed into operation as the source of supply for a public water system, laboratory reports as required by OAR 333-061-0036 shall be submitted by the water supplier;

(K) Water obtained from wells which exceed the maximum contaminant levels shall be treated as outlined in section (4) of this rule;

(L) The pump installation, piping arrangements, other appurtenances, and well house details at wells which serve as the source of supply for a public water system, shall meet the following requirements:

(i) The line shaft bearings of turbine pumps shall be water-lubricated, except that bearings lubricated with non-toxic approved food-grade lubricants may be permitted in wells where water-lubricated bearings are not feasible due to depth to the water;

(ii) Where turbine pumps are installed, the top of the casing shall be sealed into the pump motor. Where submersible pumps are installed, the top of the casing shall be provided with a watertight sanitary seal;

(iii) A casing vent shall be provided and shall be fitted with a screened return bend;

(iv) Provisions shall be made for determining the depth to water surface in the well under pumping and static conditions;

(v) A sampling tap shall be provided on the pump discharge line;

(vi) Piping arrangements shall include provisions for pumping the total flow from the well to waste;

(vii) A method of determining the total output of each well shall be provided. This requirement may be waived by the Department at confined wells which serve as the source of supply for Transient Non-Community water systems;

(viii) A reinforced concrete slab shall be poured around the well casing at ground surface. The slab shall be sloped to drain away from the casing;

(ix) The ground surface around the well slab shall be graded so that drainage is away from the well;

(x) The top of the well casing shall extend at least 12 inches above the concrete slab;

(xi) Provisions shall be made for protecting pump controls and other above-ground appurtenances at the well head. Where a wellhouse is installed for this purpose, it shall meet applicable building codes and shall be insulated, heated and provided with lights, except that where the wellhouse consists of a small removable box-like structure the requirement for lights may be waived by the Department;

(xii) The wellhouse shall be constructed so that the well pump can be removed.

(xiii) Wells equipped with pitless adaptors or units are not required to meet the requirements of subparagraphs (2)(a)(L)(iii) and (viii) of this rule.

(M) The area in the vicinity of a well, particularly the area uphill or upstream, shall be surveyed by the water supplier to determine the location and nature of any existing or potential public health hazards;

(N) The requirements with respect to land ownership, clearances from public health hazards, and protection against flooding for wells in an unconfined aquifer shall be the same or more restrictive than those prescribed for wells in confined aquifers, as determined by the Department.

(O) Before a well is placed into operation as the source of supply for a public water system, the following documents shall be submitted by the water supplier:

(i) Reports on pumping tests for yield and drawdown for unconfined wells;

(ii) Reports of laboratory analyses on contaminants in the water as required by OAR 333-061-0036;

(iii) Performance data on the pumps and other equipment;

(iv) Proposals for disinfection as required by section (5) of this rule, if applicable.

(v) Reports on determination of potential direct influence by surface water into groundwater source as prescribed in section (3) of this rule.

(b) Springs:

(A) In addition to those requirements under subsection (2)(a) of this rule, construction of spring supplies shall meet the following requirements:

(i) An intercepting ditch shall be provided above the spring to effectively divert surface water;

ADMINISTRATIVE RULES

(ii) A fence shall be installed around the spring area unless other provisions are made to effectively prevent access by animals and unauthorized persons;

(iii) The springbox shall be constructed of concrete or other impervious durable material and shall be installed so that surface water is excluded;

(iv) The springbox shall be provided with a screened overflow which discharges to daylight, an outlet pipe provided with a shutoff valve, a bottom drain, an access manhole with a tightly fitting cover, and a curb around the manhole.

(v) Spring collection facilities that meet the definition of well in paragraph (2)(a)(A) of this rule must comply with construction requirements specified in paragraph (2)(a)(I) of this rule.

(B) Reports on flow tests shall be provided to establish the yield of springs.

(3) Surface water and groundwater under direct surface water influence source facilities:

(a) In selecting a site for an infiltration gallery, or for a direct intake from a stream, lake, or impounding reservoir, consideration shall be given to land use in the watershed. A sanitary survey of the watershed shall be made by the water supplier to evaluate natural and man-made factors which may affect water quality and investigations shall also be made of seasonal variations in water quality and quantity. A report giving the results of this survey shall be submitted for review and approval by the Department.

(b) A determination shall be made as to the status of water rights, and this information shall be submitted to the Department for review.

(c) Impounding reservoirs shall be designed and constructed so that they include the following features:

(A) The capacity shall be sufficient to meet projected demands during drought conditions;

(B) Outlet piping shall be arranged so that water can be withdrawn from various depths; (C) Facilities shall be provided for releasing undesirable water.

(d) Direct intake structures shall be designed and constructed so that they include the following features:

(A) Screens shall be provided to prevent fish, leaves and debris from entering the system;

(B) Provisions shall be made for cleaning the screens, or self-cleaning screens shall be installed;

(C) Motors and electrical controls shall be located above flood level;

(D) Provisions shall be made to restrict swimming and boating in the vicinity of the intake;

(E) Valves or sluice gates shall be installed at the intake to provide for the exclusion of undesirable water when required.

(4) Water treatment facilities (other than disinfection):

(a) General

(A) Water treatment facilities shall be capable of producing water which consistently does not exceed maximum contaminant levels. The type of treatment shall depend on the raw water quality. The Department shall make determinations of treatment capabilities based upon recommendations in the USEPA SWTR Guidance Manual.

(B) Investigations shall be undertaken by the water supplier prior to the selection or installation of treatment facilities to determine the physical, chemical and microbiological characteristics of the raw water as appropriate. These investigations shall include a determination of the seasonal variations in water quality, as well as a survey to identify potential sources of contamination which may affect the quality of the raw water.

(C) Water obtained from wells constructed in conformance with the requirements of these rules and which is found not to exceed the maximum contaminant levels, may be used without treatment at public water systems;

(D) Laboratory equipment shall be provided so that the water supplier can perform analyses necessary to monitor and control the treatment processes.

(b) Best Available Technology

(A) Pilot studies or other supporting data shall be used to demonstrate the effectiveness of any treatment method other than that defined as best available technology. Pilot study protocol shall be approved beforehand by the Department. When point-of-use (POU) or point-of-entry (POE) devices are used for compliance, programs to ensure proper long-term operation, maintenance, and monitoring shall be provided by the water system to ensure adequate performance.

(B) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for volatile organic chemicals:

(i) Central treatment using packed tower aeration for all these chemicals.

(ii) Central treatment using granular activated carbon for all these chemicals except vinyl chloride.

(C) The Department identifies the following as the best available technology, treatment techniques or other means generally available for achieving compliance with the Maximum Contaminant Level for fluoride.

(i) Activated alumina absorption, centrally applied.

(ii) Reverse osmosis, centrally applied.

(D) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant level for total coliforms.

(i) Protection of wells from contamination by coliforms by appropriate placement and construction;

(ii) Maintenance of a disinfectant residual throughout the distribution system;

(iii) Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, and maintaining a minimum pressure of 20 psi at all service connections.

(iv) Filtration treatment and/or disinfection of surface water or groundwater under the direct influence of surface water, or disinfection of groundwater using strong oxidants such as chlorine, chlorine dioxide, or ozone; and

(v) For systems using groundwater, compliance with the requirements of a Department-approved wellhead protection program.

(E) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for organic chemicals.

(i) Central treatment using packed tower aeration for Dibromochloropropane, Ethylene Dibromide, Hexachlorocyclopentadiene and Di(2-ethylhexyl)adipate.

(ii) Central treatment using granular activated carbon for all these chemicals except Trihalomethanes and Glyphosate.

(iii) Central treatment using oxidation (chlorination or ozonation) for Glyphosate.

(F) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for inorganic chemicals. Preoxidation may be required to convert Arsenic III to Arsenic V.

(i) Central treatment using coagulation/filtration for systems with 500 or more service connections for Antimony, Arsenic V (for systems with populations 501-10,000), Asbestos, Beryllium, Cadmium, Chromium, Mercury (influent concentration $\geq 10\mu\text{g/L}$), and Selenium (Selenium IV only).

(ii) Central treatment using direct and diatomite filtration for Asbestos.

(iii) Central treatment using granular activated carbon for Mercury.

(iv) Central treatment using activated alumina for Arsenic V (for systems with populations 10,000 or less), Beryllium, Selenium and Thallium.

(v) Central treatment using ion exchange for Arsenic V (for systems with populations 10,000 or less), Barium, Beryllium, Cadmium, Chromium, Cyanide, Nickel, Nitrate, Nitrite and Thallium.

(vi) Central treatment using lime softening for systems with 500 or more service connections for Arsenic V (for systems with populations of 501-10,000), Barium, Beryllium, Cadmium, Chromium (Chromium III only), Mercury (influent concentration $\geq 10\mu\text{g/L}$), Nickel and Selenium.

(vii) Central treatment using reverse osmosis for Antimony, Arsenic V (for systems with populations of 501-10,000), Barium, Beryllium, Cadmium, Chromium, Cyanide, Mercury (influent concentration $\geq 10\mu\text{g/L}$), Nickel, Nitrate, Nitrite, and Selenium.

(viii) Central treatment using corrosion control for Asbestos and Lead and Copper.

(ix) Central treatment using electro dialysis for Arsenic V (for systems with populations of 501-10,000), Barium, Nitrate, and Selenium.

(x) Central treatment using alkaline chlorination ($\text{pH} \geq 8.5$) for Cyanide.

(xi) Central treatment using coagulation-assisted microfiltration for Arsenic V (for systems with populations 501-10,000).

(xii) Central treatment using oxidation/filtration for Arsenic V (to obtain high removals, iron to Arsenic ratio must be at least 20:1).

(xiii) Point-of-use treatment using activated alumina for Arsenic V (for systems with populations 10,000 or less).

(xiv) Point-of-use treatment using reverse osmosis for Arsenic V (for systems with populations 10,000 or less).

ADMINISTRATIVE RULES

(G) The Department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for disinfection byproducts:

(i) For TTHM and HAA5, when monitoring in accordance with OAR 333-061-0036(4)(c): enhanced coagulation, enhanced softening or GAC10, with chlorine as the primary and residual disinfectant.

(ii) For bromate concentrations: control of ozone treatment process to reduce production of bromate.

(iii) For chlorite concentrations: control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.

(iv) For TTHM and HAA5, for water systems that disinfect their source water and monitor in accordance with OAR 333-061-0036(4)(d): enhanced coagulation or enhanced softening plus GAC10; or nanofiltration with a molecular weight cutoff less than or equal to 1000 Daltons; or GAC20.

(v) For TTHMs and HAA5, for purchasing water systems with populations greater than or equal to 10,000 and that monitor in accordance with OAR 333-061-0036(4)(d) improved distribution system and storage tank management to reduce residence time, plus the use of chloramines for disinfectant residual maintenance. This applies only to the disinfected water that purchasing water systems receive from a wholesale system.

(vi) For TTHMs and HAA5, for purchasing water systems with populations less than 10,000 and that monitor in accordance with OAR 333-061-0036(4)(d): improved distribution system and storage tank management to reduce residence time. This applies only to the disinfected water that purchasing water systems receive from a wholesale system.

(H) The Department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum residual disinfectant levels: Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.

(I) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the MCLs for radionuclides.

(i) Central treatment using ion exchange for combined radium-226/228, beta particle/photon activity and uranium.

(ii) Central treatment using reverse osmosis for combined radium-226/228, gross alpha particle activity, beta particle/photon activity, and uranium (for systems with populations 501-10,000).

(iii) Central treatment using lime softening for combined radium-226/228, and uranium (for systems with populations 501-10,000).

(iv) Central treatment using enhanced coagulation/filtration for uranium.

(v) Central treatment using activated alumina for uranium (for systems with populations of 10,000 or less).

(vi) Central treatment using greensand filtration for combined radium-226/228.

(vii) Central treatment using electro dialysis for combined radium-226/228.

(viii) Central treatment using pre-formed hydrous manganese oxide filtration for combined radium-226/228.

(ix) Central treatment using co-precipitation with barium for combined radium-226/228.

(x) Point-of-use treatment using ion exchange for combined radium-226/228, beta particle/photon activity, and uranium.

(xi) Point-of use treatment using reverse osmosis for combined radium-226/228, gross alpha particle activity, beta particle/ photon activity, and uranium (for systems with populations of 10,000 or less).

(c) Filtration of Surface Water Sources and Groundwater Sources Under the Direct Influence of Surface Water

(A) All water systems using surface water or groundwater sources under the direct influence of surface water that fail to meet the criteria for avoiding filtration prescribed in OAR 333-061-0032(2) and (3) must meet all requirements of this subsection for installing filtration treatment.

(B) There are four standard filtration methods: conventional filtration, direct filtration, slow sand, and diatomaceous earth. Other filtration technologies are only acceptable if their efficiency at removing target organisms and contaminants can be demonstrated to be equal to or more efficient than these. The assumed log removals credited to filtration of *Giardia lamblia* and viruses will be based on recommendations in the USEPA SWTR Guidance Manual. In all cases, filtration processes must be designed and operated to achieve at least 2.0 log removal of *Giardia lamblia*. For membrane filtration, removal credits shall be verified by a challenge study according to paragraphs (4)(c)(H) and (I) of this rule. Bag and Cartridge

Filtration must have removal credits demonstrated in a challenge study according to paragraph (4)(c)(L) of this rule. The combination of filtration and disinfection must meet the inactivation levels prescribed in OAR 333-061-0032(1). Any water system wishing to challenge the assumed log removal credits must conduct demonstration studies based on the recommendations in the USEPA SWTR Guidance Manual and have the study protocol approved by the Department.

(C) Pilot studies shall be conducted by the water supplier to demonstrate the effectiveness of any filtration method other than conventional filtration. Pilot study protocol shall be approved in advance by the Department. Results of the pilot study shall be submitted to the Department for review and approval.

(D) Regardless of the filtration method used, the water system must achieve a minimum of 0.5-log reduction of *Giardia lamblia* and a 1.0-log reduction of viruses from disinfection alone after filtration treatment.

(E) All filtration systems shall be designed and operated so as to meet the requirements prescribed in OAR 333-061-0032(4) and (5). Design of the filtration system must be in keeping with accepted standard engineering references acknowledged by the Department such as the Great Lakes Upper Mississippi River "Recommended Standards for Water Works" technical reports by the International Reference Center for Community Water Supply and Sanitation, or publications from the World Health Organization. A list of additional references is available from the Department upon request.

(F) Systems using conventional or direct filtration that employ multiple filters shall be designed such that turbidity measurements are monitored for each filter independently of the other filter(s). Each filter shall have a provision to discharge effluent water as waste.

(G) Additional requirements for membrane filtration. Each membrane filter system must have a turbidimeter installed after each filter unit for continuous indirect integrity monitoring. Once operating, direct and indirect integrity testing must be conducted on each unit as described in OAR 333-061-0036(5)(e). The operation and maintenance manual must include a diagnosis and repair plan such that the ability to remove pathogens is not compromised.

(H) Challenge Study criteria for Membrane Filtration. Water systems receive *Cryptosporidium* treatment credit for membrane filtration, as defined in OAR 333-061-0020(122), that meets the criteria of this paragraph. The level of treatment credit a water system receives is equal to the lower of the values determined in this paragraph.

(i) The removal efficiency demonstrated during challenge testing conducted under the conditions in accordance with paragraph (4)(c)(I) of this rule.

(ii) The maximum removal efficiency that can be verified through direct integrity testing of the membrane filtration process under the conditions prescribed by paragraph (4)(c)(J) of this rule.

(I) Challenge Testing. The membrane filter used by the water system must undergo challenge testing to evaluate removal efficiency, and results of the challenge testing must be reported to the Department. Challenge testing must be conducted according to the criteria specified in this paragraph. Water systems may use data from challenge testing conducted prior to June 1, 2009 if the prior testing was consistent with the criteria specified in this paragraph.

(i) Challenge testing must be conducted on a full-scale membrane module, identical in material and construction to the membrane modules used in the water system's treatment facility, or a smaller-scale membrane module, identical in material and similar in construction to the full-scale module. A module is defined as the smallest component of a membrane unit in which a specific membrane surface area is housed in a device with a filtrate outlet structure.

(ii) Challenge testing must be conducted using *Cryptosporidium* oocysts or a surrogate that is removed no more efficiently than *Cryptosporidium* oocysts. *Cryptosporidium* or the surrogate used during challenge testing is referred to as the challenge particulate. The concentration of the challenge particulate, in both the feed and filtrate water, must be determined using a method capable of discretely quantifying the specific challenge particulate used in the test; gross measurements such as turbidity may not be used.

(iii) The maximum feed water concentration that can be used during a challenge test is based on the detection limit of the challenge particulate in the filtrate and must be determined according to the following equation: Maximum Feed Concentration = $3.16 \times 106 \times (\text{Filtrate Detection Limit})$

(iv) Challenge testing must be conducted according to representative hydraulic conditions at the maximum design flux and maximum design process recovery specified by the manufacturer for the membrane module. Flux is defined as the throughput of a pressure driven membrane process

ADMINISTRATIVE RULES

expressed as flow per unit of membrane area. Recovery is defined as the volumetric percent of feed water that is converted to filtrate over the course of an operating cycle uninterrupted by events such as chemical cleaning or a solids removal process (i.e., backwashing).

(v) Removal efficiency of a membrane module must be calculated from the challenge test results and expressed as a log removal value according to the following equation:

$$\text{LRV} = \text{LOG}_{10}(\text{Cf}) - \text{LOG}_{10}(\text{Cp})$$

Where:

LRV = log removal value demonstrated during the challenge test;
Cf = the feed concentration measured during the challenge test; and
Cp = the filtrate concentration measured during the challenge test. Equivalent units must be used for the feed and filtrate concentrations. If the challenge particulate is not detected in the filtrate, the term Cp is set equal to the detection limit for the purpose of calculating the LRV. An LRV must be calculated for each membrane module evaluated during the challenge test.

(vi) The removal efficiency of a membrane filtration process demonstrated during challenge testing must be expressed as a log removal value (LRVC-Test). If fewer than 20 modules are tested, then LRVC-Test is equal to the lowest of the representative LRVs among the modules tested. If 20 or more modules are tested, then LRVC-Test is equal to the 10th percentile of the representative LRVs among the modules tested. The percentile is defined by $(i/(n+1))$ where i is the rank of n individual data points ordered lowest to highest. If necessary, the 10th percentile may be calculated using linear interpolation.

(vii) The challenge test must establish a quality control release value (QCRV) for a non-destructive performance test that demonstrates the Cryptosporidium removal capability of the membrane filtration module. This performance test must be applied to each production membrane module used by the system that was not directly challenge tested in order to verify Cryptosporidium removal capability. Production modules that do not meet the established QCRV are not eligible for the treatment credit demonstrated during the challenge test.

(viii) If a previously tested membrane is modified in a manner that could change the removal efficiency of the membrane or the applicability of the non-destructive performance test and associated QCRV, additional challenge testing to demonstrate the removal efficiency of, and determine a new QCRV for, the modified membrane must be conducted and submitted to the Department.

(J) Challenge Study requirements for Bag and Cartridge Filtration.

(i) The Cryptosporidium treatment credit awarded to bag or cartridge filters must be based on the removal efficiency demonstrated during challenge testing that is conducted according to the criteria specified in this paragraph. A factor of safety equal to 1-log for individual bag or cartridge filters and 0.5-log for bag or cartridge filters in series must be applied to challenge testing results to determine removal credit. Water systems may use results from challenge testing conducted prior to June 1, 2009 if the prior testing was consistent with the criteria specified in this paragraph.

(ii) Challenge testing must be performed on full-scale bag or cartridge filters and the associated filter housing or pressure vessel, that are identical in material and construction to the filters and housings the water system will use for removal of Cryptosporidium. Bag or cartridge filters must be challenge tested in the same configuration that the system will use, either as individual filters or as a series configuration of filters.

(iii) Challenge testing must be conducted using Cryptosporidium or a surrogate that is removed no more efficiently than Cryptosporidium. The microorganism or surrogate used during challenge testing is referred to as the challenge particulate. The concentration of the challenge particulate must be determined using a method capable of discreetly quantifying the specific microorganism or surrogate used in the test; gross measurements such as turbidity may not be used.

(iv) The maximum feed water concentration that can be used during a challenge test must be based on the detection limit of the challenge particulate in the filtrate (i.e., filtrate detection limit) and must be calculated using the following equation: Maximum Feed Concentration = $1 \times 10^4 \times$ (Filtrate Detection Limit)

(v) Challenge testing must be conducted at the maximum design flow rate for the filter as specified by the manufacturer.

(vi) Each filter evaluated must be tested for a duration sufficient to reach 100 percent of the terminal pressure drop, which establishes the maximum pressure drop under which the filter may be used to comply with the requirements of this paragraph.

(vii) Removal efficiency of a filter must be determined from the results of the challenge test and expressed in terms of log removal values using the following equation:

$$\text{LRV} = \text{LOG}_{10}(\text{Cf}) - \text{LOG}_{10}(\text{Cp})$$

Where:

LRV = log removal value demonstrated during challenge testing;

Cf = the feed concentration measured during the challenge test; and
Cp = the filtrate concentration measured during the challenge test. In applying this equation, the same units must be used for the feed and filtrate concentrations. If the challenge particulate is not detected in the filtrate, then the term Cp must be set equal to the detection limit.

(viii) Each filter tested must be challenged with the challenge particulate during three periods over the filtration cycle: within two hours of start-up of a new filter; when the pressure drop is between 45 and 55 percent of the terminal pressure drop; and at the end of the cycle after the pressure drop has reached 100 percent of the terminal pressure drop. An LRV must be calculated for each of these challenge periods for each filter tested. The LRV for the filter (LRV_{filter}) must be assigned the value of the minimum LRV observed during the three challenge periods for that filter.

(ix) If fewer than 20 filters are tested, the overall removal efficiency for the filter product line must be set equal to the lowest LRV_{filter} among the filters tested. If 20 or more filters are tested, the overall removal efficiency for the filter product line must be set equal to the 10th percentile of the set of LRV_{filter} values for the various filters tested. The percentile is defined by $(i/(n+1))$ where i is the rank of n individual data points ordered lowest to highest. If necessary, the 10th percentile may be calculated using linear interpolation.

(x) If a previously tested filter is modified in a manner that could change the removal efficiency of the filter product line, challenge testing to demonstrate the removal efficiency of the modified filter must be conducted and submitted to the Department.

(d) Criteria and procedures for public water systems using point-of-entry (POE) or point-of-use (POU) devices.

(A) Public water systems may use POE or POU devices to comply with maximum contaminant levels, where allowed, only if they meet the requirements of this subsection.

(B) It is the responsibility of the public water system to operate and maintain the POE or POU treatment system.

(C) The public water system must develop and obtain Department approval for a monitoring plan before POE or POU devices are installed for compliance. Under the plan approved by the Department, POE or POU devices must provide health protection equivalent to central water treatment. "Equivalent" means that the water would meet all Maximum Contaminant Levels as prescribed in OAR 333-061-0030 and would be of acceptable quality similar to water distributed by a well-operated central treatment plant. Monitoring must include contaminant removal efficacy, physical measurements and observations such as total flow treated and mechanical condition of the treatment equipment.

(D) Effective technology must be properly applied under a plan approved by the Department and the microbiological safety of the water must be maintained.

(i) The water supplier must submit adequate certification of performance, field testing, and, if not included in the certification process, a rigorous engineering design review of the POE or POU devices to the Department for approval prior to installation.

(ii) The design and application of the POE or POU devices must consider the tendency for increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(iii) The POE or POU device must be evaluated to assure that the device will not cause increased corrosion of lead and copper bearing materials located between the device and the tap that could increase contaminant levels of lead and copper at the tap.

(E) All consumers shall be protected. Every building connected to the system must have a POE or POU device installed, maintained, and adequately monitored. The Department must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

(5) Facilities for continuous disinfection and disinfectant residual maintenance:

(a) Water obtained from surface sources or groundwater sources under the direct influence of surface water shall, as a minimum, be provided with continuous disinfection before such water may be used as a source of supply for a public water system. Water obtained from wells constructed in conformance with the requirements of these rules and which is found not to exceed microbiological maximum contaminant levels, may be used without treatment at public water systems;

(b) Water obtained from wells or springs shall be considered groundwater unless determined otherwise by the Department. Wells and springs may be utilized without continuous disinfection if the construction require-

ADMINISTRATIVE RULES

ments of section (2) of this rule are met and analyses indicate that the water consistently meets microbiological standards. A well or spring that is inadequately constructed and shows a history of microbiological contamination shall first be upgraded to meet current construction standards, and if microbiological contamination still persists, then continuous disinfection shall be provided prior to use in public water systems.

(c) In public water systems where continuous disinfection is required as the sole form of treatment, or as one component of more extensive treatment to meet the requirements prescribed in OAR 333-061-0032(1), the facilities shall be designed so that:

(A) The disinfectant applied shall be capable of effectively destroying pathogenic organisms;

(B) The disinfectant is applied in proportion to water flow; and

(C) Disinfectants, other than ultraviolet light and ozone disinfection treatment, shall be capable of leaving a residual in the water which can be readily measured and which continues to serve as an active disinfectant; and

(D) Sufficient contact time shall be provided to achieve "CT" values capable of the inactivation required by OAR 333-061-0032(1). For ultraviolet light disinfection treatment, sufficient irradiance expressed in milliWatts per square centimeter (mWs/cm²) and exposure time expressed in seconds shall be provided to achieve UV dose levels expressed as (mWs/cm²) or milli-Joules per square centimeter (mJ/cm²) capable of the inactivation required by OAR 333-061-0032(1).

(d) When continuous disinfection, other than ultraviolet light disinfection, is required for reasons other than the treatment of surface water sources or groundwater sources under the direct influence of surface water, in addition to the requirements of paragraphs (5)(c)(A) through (C) of this rule, the facilities shall be designed so that:

(A) The primary disinfection treatment is sufficient to ensure at least 99.99 percent (4-log) inactivation and/or removal of viruses as determined by the Department, or;

(B) There is sufficient contact time provided to achieve disinfection under all flow conditions between the point of disinfectant application and the point of first water use:

(i) When chlorine is used as the primary disinfectant, the system shall be constructed to achieve a free chlorine residual of 0.2 mg/l after 30 minutes contact time under all flow conditions before first water use;

(ii) When ammonia is added to the water with the chlorine to form a chloramine as the disinfectant, the system shall be constructed to achieve a combined chlorine residual of at least 2.0 mg/l after three hours contact time under all flow conditions before first water use;

(e) Provisions shall be made to alert the water supplier before the chlorine supply is exhausted.

(f) For continuous disinfection only, provisions shall be made for sampling the water before and after chlorination;

(g) Testing equipment shall be provided to determine the chlorine residual;

(h) Chlorinator piping shall be designed to prevent the contamination of the potable water system by backflow of untreated water or water having excessive concentrations of chlorine;

(i) The disinfectant must be applied in proportion to water flow;

(j) Chlorine gas feeders and chlorine gas storage areas shall:

(A) Be enclosed and separated from other operating areas;

(B) Chlorine cylinders shall be restrained in position to prevent upset by chaining 100 and 150 pound cylinders two-thirds of their height up from the floor and by double chocking one ton cylinders;

(C) The room housing the feeders and cylinders shall be above ground surface, shall have doors which open outward and to the outside and shall be ventilated by mechanical means at floor level and shall have an air intake located higher than the exhaust ventilation;

(D) Be located so that chlorine gas, if released, will not flow into the building ventilation systems;

(E) Have corrosion resistant lighting and ventilation switches located outside the enclosure, adjacent to the door;

(F) Be provided with a platform or hydraulic scale for measuring the weight of the chlorine cylinders;

(G) Be provided with a gas mask or self contained breathing apparatus approved by the National Institute of Occupational Safety and Health (NIOSH) for protection against chlorine gas and kept in good working condition. Storage of such equipment shall be in an area adjoining the chlorine room and shall be readily available. (Also see the Oregon Occupational Health and Safety regulations contained in OAR chapter 437.)

(k) When continuous disinfection treatment is provided through ultraviolet light (UV) disinfection, the facilities shall be designed to meet the requirements of this subsection:

(A) The UV unit must achieve the dosage indicated in Table 37 for the required pathogen inactivation. [Table not included. See ED.NOTE.]

(B) Ultraviolet lamps are insulated from direct contact with the influent water and are removable from the lamp housing;

(C) The treatment unit must have an upstream valve or device that prevents flows from exceeding the manufacturer's maximum rated flow rate, an ultraviolet light sensor that monitors light intensity through the water during operation, and a visual and audible alarm with an automatic water flow shut-off if the ultraviolet light intensity drops below the failsafe set point;

(D) There must be a visual means to verify operation of all ultraviolet lamps;

(E) The lamps, lamp sleeves, housings and other equipment must be able to withstand a working pressure of at least 100 psig (689 kPa);

(F) The treatment facility must be sheltered from the weather and accessible for routine maintenance as well as routine cleaning and replacement of the lamp sleeves and cleaning of the sensor windows/lenses;

(G) The lamps must be changed as per the manufacturer's recommendation; and

(H) The treatment unit must have shut-off valves at both the inlet side and the outlet side of the treatment unit. There shall be no bypass piping around the treatment unit.

(I) Reactor validation testing. All water systems, except those specified in paragraph (5)(k)(J) of this rule, must use UV reactors that have undergone validation testing to determine the operating conditions under which the reactor delivers the UV dose required in OAR 333-061-0036(5)(c) (i.e., validated operating conditions). These operating conditions must include flow rate, UV intensity as measured by a UV sensor, and UV lamp status.

(i) When determining validated operating conditions, water systems must account for the following factors: UV absorbance by the water; lamp fouling and aging; measurement uncertainty of on-line sensors; UV dose distributions arising from the velocity profiles through the reactor; failure of UV lamps or other critical system components; and inlet and outlet piping or channel configurations of the UV reactor.

(ii) Validation testing must include the following: full scale testing of a reactor that conforms uniformly to the UV reactors used by the water system and inactivation of a test microorganism whose dose response characteristics have been quantified with a low pressure mercury vapor lamp.

(iii) The Department may approve an alternative approach to validation testing.

(J) Non-Community water systems using only groundwater sources, and having minimal distribution systems as determined by the Department, may use ultraviolet light as the only disinfectant when total coliforms have been detected in the source water and no E. coli has been detected. UV units must meet the specifications of a Class A UV system under the National Sanitation Foundation (NSF) standard 55. The minimum ultraviolet light failsafe dosage set point shall be equivalent to 40 mW-s/cm² (40 mJ/cm²) with a wavelength between 200 and 300 nanometers.

(6) Finished water storage:

(a) Distribution reservoirs and treatment plant storage facilities for finished water shall be constructed to meet the following requirements:

(A) They shall be constructed of concrete, steel, wood or other durable material capable of withstanding external and internal forces which may act upon the structure;

(B) Ground-level reservoirs shall be constructed on undisturbed soil, bedrock or other stable foundation material capable of supporting the structure when full;

(C) Steel reservoirs, standpipes and elevated tanks shall be constructed in conformance with the AWWA Standards D100 and D103;

(D) Concrete reservoirs shall be provided with sufficient reinforcing to prevent the formation of cracks, and waterstops and dowels shall be placed at construction joints. Poured-in-place wall castings shall be provided where pipes pass through the concrete;

(E) Wooden reservoirs shall be redwood or other equally durable wood and shall be installed on a reinforced concrete base. Where redwood reservoirs are used, separate inlet and outlet pipes are required and the water entering the reservoir must have a disinfectant continuously applied so as to result in a detectable residual in the water leaving the reservoir;

(F) Start-up procedures for new redwood tanks shall consist of filling the tank with a solution of water containing a minimum of two pounds of

ADMINISTRATIVE RULES

sodium carbonate per 1,000 gallons of water and retaining this solution in the tank a minimum of seven days before flushing;

(G) Where ground-level reservoirs are located partially below ground, the bottom shall be above the ground water table and footing drains discharging to daylight shall be provided to carry away ground water which may accumulate around the perimeter of the structure;

(H) The finished water storage capacity shall be increased to accommodate fire flows when fire hydrants are provided;

(I) Finished water storage facilities shall have watertight roofs;

(J) An access manhole shall be provided to permit entry to the interior for cleaning and maintenance. When the access manhole is on the roof of the reservoir there shall be a curbing around the opening and a lockable watertight cover that overlaps the curbing;

(K) Internal ladders of durable material, shall be provided where the only access manhole is located on the roof;

(L) Screened vents shall be provided above the highest water level to permit circulation of air above the water in finished water storage facilities;

(M) A drain shall be provided at the lowest point in the bottom, and an overflow of sufficient diameter to handle the maximum flow into the tank shall be provided at or near the top of the sidewall. The outlet ends of the drain and overflow shall be fitted with angle-flap valves or equivalent protection and shall discharge with an airgap to a watercourse or storm drain capable of accommodating the flow;

(N) A silt stop shall be provided at the outlet pipe;

(O) Where a single inlet/outlet pipe is installed and the reservoir floats on the system, provisions shall be made to insure an adequate exchange of water and to prevent degradation of the water quality and to assure the disinfection levels required in subparagraph (5)(c)(D)(i) of this rule;

(P) A fence or other method of vandal deterrence shall be provided around distribution reservoirs;

(Q) When interior surfaces of finished water storage tanks are provided with a protective coating, the coating shall meet the requirements of National Sanitation Foundation Standard 61, Section 9 — Drinking Water System Components — Health Effects (Revised September 1994) or equivalent.

(R) Reservoirs and clearwells that are to be used for disinfection contact time to treat surface water shall use a tracer study to determine the actual contact time. The Department must approve procedures and protocols for the tracer study prior to the initiation of the study. The Department recommends the USEPA SWTR Guidance Manual for tracer study procedure and protocol.

(S) Reservoirs and clearwells that are to be used for disinfection contact time to treat surface water shall have a means to adequately determine the flow rate on the effluent line.

(b) Pressure tanks for finished water shall meet the following requirements:

(A) Pressure tanks shall be installed above normal ground surface;

(B) Bypass piping around the pressure tank shall be provided to permit operation of the system while the tank is being maintained or repaired;

(C) Pressure tanks greater than 1,000 gallons shall be provided with an access manhole and a water sight-glass.

(D) All pressure tanks shall be provided with a drain, a pressure gauge, an air blow-off valve, means for adding air and pressure switches for controlling the operation of the pump(s);

(E) Pressure tanks shall be constructed of steel or an alternative material provided the tank is NSF 61 certified and shall be designed for pressure at least 50 percent greater than the maximum system pressure anticipated.

(7) Pumping facilities:

(a) Wherever possible, booster pumps shall take suction from tanks and reservoirs to avoid the potential for negative pressures on the suction line which result when the pump suction is directly connected to a distribution main;

(b) Pumps which take suction from distribution mains for the purpose of serving areas of higher elevation shall be provided with a low pressure cut-off switch on the suction side set at no less than 20 psi;

(c) Suction lift at pumping stations shall be avoided as far as possible, and pumps shall be installed so that the suction line is under a positive head. If suction lift cannot be avoided, provision shall be made for priming with water which does not exceed maximum contaminant levels;

(d) Pumping stations shall be located above maximum anticipated 100-year (1 percent) flood level, and the area around the pumping station shall be graded so that surface drainage is away from the station;

(e) Pumping stations shall be of durable construction so as to protect the equipment from the elements. The door to the pumping station shall be

lockable, and facilities for heating and lighting shall be provided. The floor of the pumping station shall be sloped to provide adequate drainage.

(8) Distribution systems:

(a) Wherever possible, distribution pipelines shall be located on public property. Where pipelines are required to pass through private property, easements shall be obtained from the property owner and shall be recorded with the county clerk;

(b) Pipe, pipe fittings, valves and other appurtenances utilized at Community water systems shall be manufactured, installed and tested in conformance with the latest standards of the American Water Works Association, National Sanitation Foundation or other equivalent standards acceptable to the Department;

(c) In Community water systems, distribution mains located in public roadways or easements, and the portion of the service connections from the distribution main to the customer's property line or service meter where provided are subject to the requirements of these rules. The piping from the customer's property line, or the meter where provided, to the point of water use (the building supply line) is subject to the requirements of the State Plumbing Code;

(d) In all Public Water Systems where the system facilities and the premises being served are both on the same parcel of property, requirements relating to pipe materials and pipe installation shall comply with the State Plumbing Code;

(e) Distribution piping shall be designed and installed so that the pressure measured at the property line in the case of Community water systems, or at the furthest point of water use, in the case of a Transient Non-Community water system of the type described in subsection (d) of this section, shall not be reduced below 20 psi;

(f) Distribution piping shall be carefully bedded and fully supported in material free from rocks and shall be provided with a cover of at least 30 inches. Select backfill material shall be tamped in layers around and over the pipe to support and protect it. Large rocks or boulders shall not be used as backfill over the pipe;

(g) Provision shall be made at all bends, tees, plugs, and hydrants to prevent movement of the pipe or fitting;

(h) Wherever possible, dead ends shall be minimized by looping. Where dead ends are installed, or low points exist, blow-offs of adequate size shall be provided for flushing;

(i) Air-relief valves shall be installed at high points where air can accumulate. The breather tube on air-relief valves shall be extended above ground surface and provided with a screened, downward facing elbow;

(j) Yarn, oakum, lead or other material which may impair water quality shall not be used where it will be in contact with potable water;

(k) Nonconductive water pipe (plastic or other material) that is not encased in conductive pipe or casing must have an electrically conductive wire or other approved conductor for locating the pipe when the pipeline is underground. The wire shall be No. 18 AWG (minimum) solid copper with blue colored insulation. Ends of wire shall be accessible in water meter boxes, valve boxes or casings, or outside the foundation of buildings where the pipeline enters the building. The distance between tracer lead access locations shall not be more than 1,000 feet. Joints or splices in wire shall be waterproof.

(l) Piping that is to be used for disinfection contact time shall be verified by plug flow calculations under maximum flow conditions.

(9) Crossings-Sanitary sewers and water lines:

(a) All reference to sewers in this section shall mean sanitary sewers;

(b) In situations involving a water line parallel to a sewer main or sewer lateral, the separation between the two shall be as indicated in Figure 1; [Figure not included. See ED NOTE.]

(c) In situations where a water line and a sewer main or sewer lateral cross, the separation between the two shall be as follows:

(A) Wherever possible, the bottom of the water line shall be 1.5 feet or more above the top of the sewer line and one full length of the water line shall be centered at the crossing;

(B) Where the water line crosses over the sewer line but with a clearance of less than 1.5 feet, the sewer line shall be exposed to the sewer line joints on both sides of the crossing to permit examination of the sewer pipe. If the sewer pipe is in good condition and there is no evidence of leakage from the sewer line, the 1.5-foot separation may be reduced. However, in this situation, the water supplier must center one length of the water line at the crossing and must prepare a written report of the findings and indicating the reasons for reducing the separation. If the water supplier determines that the conditions are not favorable or finds evidence of leakage from the sewer line, the sewer line shall be replaced with a full length of pipe centered at the crossing point, of PVC pressure pipe (ASTM D-2241, SDR

ADMINISTRATIVE RULES

32.5), high-density PE pipe (Drisco pipe 1000), ductile-iron Class 50 (AWWA C-51), or other acceptable pipe; or the sewer shall be encased in a reinforced concrete jacket for a distance of 10 feet on both sides of the crossing.

(C) Where the water line crosses under the sewer line, the water supplier shall expose the sewer line and examine it as indicated in paragraph (9)(c)(B) of this rule. If conditions are favorable and there is no evidence of leakage from the sewer line, the sewer line may be left in place, but special precautions must be taken to assure that the backfill material over the water line in the vicinity of the crossing is thoroughly tamped in order to prevent settlement which could result in the leakage of sewage. In this situation, the water supplier must center one length of the water line at the crossing and must prepare a written report recording the manner in which the sewer line was supported at the crossing and the material and methods used in backfilling and tamping to prevent settlement of the sewer. If the water supplier determines that conditions are not favorable or finds evidence of leakage from the sewer line, the provisions of paragraph (9)(c)(B) of this rule apply.

(d) When a water main is installed under a stream or other watercourse, a minimum cover of 30 inches shall be provided over the pipe. Where the watercourse is more than 15 feet wide, the pipe shall be of special construction with flexible watertight joints, valves shall be provided on both sides of the crossing so that the section can be isolated for testing or repair, and test cocks shall be provided at the valves.

(10) Disinfection of facilities:

(a) Following completion of new facilities and repairs to existing facilities, those portions of the facilities which will be in contact with the water delivered to users shall be disinfected with chlorine before they are placed into service. Other disinfectants may be used if it is demonstrated that they can also achieve the same result as chlorine;

(b) Prior to disinfection, the facilities shall be cleaned and flushed with potable water according to AWWA Standards C651 through C654;

(c) For wells, valves, pumps, water mains and service connections, disinfection by chlorination shall be accomplished according to AWWA standards C651 through C654 which includes, but is not limited to, the introduction of a chlorine solution with a free chlorine residual of 25 mg/l into the system in a manner which will result in a thorough wetting of all surfaces and the discharge of all trapped air. The solution shall remain in place for 24 hours. After the 24-hour period, the free chlorine residual shall be checked, and if it is found to be 10 mg/l or more, the chlorine solution shall be drained, the facility flushed with potable water and a minimum of two consecutive samples taken at least 24 hours apart shall be collected from the facility for microbiological analysis. If the results of the analysis indicate that the water is free of coliform organisms, the facility may be put into service. If the check measurement taken after the 24-hour contact period indicates a free chlorine residual of less than 10 mg/l, the facilities shall be flushed, rechlorinated and rechecked until a final residual of 10 mg/l or more is achieved. Likewise, if the microbiological analysis indicates the presence of coliform organisms, the flushing and disinfection must be repeated until a sample free of coliform organisms is obtained;

(d) For reservoirs and tanks, disinfection by chlorination shall be accomplished according to AWWA Standard C652 which includes, but is not limited to, the following methods:

(A) Filling the reservoir or tank and maintaining a free chlorine residual of not less than 10 mg/l for the appropriate 6 or 24 hour retention period; or

(B) Filling the reservoir or tank with a 50 mg/l chlorine solution and leaving for six hours; or

(C) Directly applying by spraying or brushing a 200 mg/l solution to all surfaces of the storage facility in contact with water if the facility were full to the overflow elevation.

(e) When the procedures described in paragraphs (10)(d)(A) and (B) of this rule are followed, the reservoir or tank shall be drained after the prescribed contact period and refilled with potable water, and a sample taken for microbiological analysis. If the results of the analysis indicate that the water is free of coliform organisms, the facility may be put into service. If not, the procedure shall be repeated until a sample free of coliform organisms is obtained;

(f) When the procedure described in paragraph (10)(d)(C) of this rule is followed, the reservoir or tank shall be filled with potable water and a sample taken for microbiological analysis. It will not be necessary to flush the reservoir or tank after the chlorine solution is applied by spraying or brushing. Microbiological analysis shall indicate that the water is free of coliform organisms before the facility can be put into service;

(g) When a reservoir is chlorinated following routine maintenance, inspection, or repair, it may be put back into service prior to receiving the

report on the microbiological analysis provided the water leaving the reservoir has a free chlorine residual of at least 0.4 mg/l or a combined chlorine residual of at least 2.0 mg/l.

(h) Underwater divers used for routine maintenance, inspection, or repair of reservoirs shall use a full body dry suit with hardhat scuba and an external air supply. The diver shall be disinfected by spraying a 200 mg/l solution of chlorine on all surfaces that will come into contact with drinking water.

(i) A water line may be returned to service, following repairs or routine maintenance, prior to receiving a report on the microbiological analysis if the following procedures have been completed.

(A) Customer meters were shut off prior to placing the water line out of service;

(B) The area below the water line to be repaired was excavated and dewatered;

(C) The exposed pipe was treated with a hypochlorite solution;

(D) The water line and any other appurtenance or item affected by the repair and/or maintenance was disinfected by chlorination according to AWWA standards C651 through C654;

(E) The water line was flushed thoroughly, and a concentration of residual chlorine has been re-established that is comparable to the level normally maintained by the water system, if applicable; and

(F) Microbiological analysis has been conducted as a record of repair effectiveness.

[ED. NOTE: Tables & Figures referenced are available from the agency.]

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273, 448.279

Hist.: HD 106, f. & ef. 2-6-76; HD 12-1979, f. & ef. 9-11-79; HD 10-1981, f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0215, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85 HD 3-1987, f. & ef. 2-17-87; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0055

Waivers from Construction Standards

The Department may grant waivers from the construction standards prescribed by these rules:

(1) When it is demonstrated to the satisfaction of the Department that strict compliance with the rule would be highly burdensome or impractical due to special conditions or causes; and

(2) When the public or private interest in the granting of the waiver is found by the Department to clearly outweigh the interest of the application of uniform rules; and

(3) When alternate measures are provided which, in the opinion of the Department, will provide adequate protection to the health and safety of the public including the ability to produce water which does not exceed the maximum contaminant levels listed in OAR 333-061-0030.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.131 & 448.135

Hist.: HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0216, HD 2-1983, f. & ef. 2-23-83; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0057

Voluntary Drinking Water Protection Program

(1) In accordance with OAR 340-040-0140 through 0200, a public water system or other responsible management authority that wishes to have a state certified drinking water protection program shall comply with the requirements prescribed in this rule.

(2) Delineation of the drinking water protection area (DWPA):

(a) Delineations will be accomplished for all Community, Non-transient Non Community and Transient Non Community water systems as part of the Safe Drinking Water Act's Source Water Assessment Program. Water systems may choose to complete or upgrade the delineations themselves. If so, they must comply with subsection (2)(b) of this rule;

(b) Delineation requirements for all groundwater sources are as follows:

(A) Delineations will be accomplished using a minimum TOT criterion of 10 years unless a hydrogeologic boundary is encountered at a shorter time of travel or as specified in subsection (2)(c) of this rule;

(B) Delineations will be accomplished by a registered geologist, engineering geologist or other licensed professional with demonstrated experi-

ADMINISTRATIVE RULES

ence and competence in hydrogeology in accordance with ORS 672.505 through 672.705;

(C) Except as noted in subsection (2)(c) of this rule, a conceptual ground water model shall be developed for all public water systems participating in the voluntary drinking water protection program. The model shall be based on available information including, but not limited to, well reports, published reports and available unpublished reports and theses, etc. Sources of this information include the Water Resources Department, U. S. Geological Survey, Department of Geology and Mineral Industries, Department of Environmental Quality, university libraries and the Department. The model shall include, but not be limited to, the identification and characterization of hydrogeologic units, determination of hydrogeologic boundaries, if any, areas of discharge and recharge and distribution of hydraulic head for the aquifer(s) of concern. The model shall also evaluate whether or not the porous media assumption is valid;

(D) The delineated DWPA and supporting documentation shall be submitted to the Department for review and certification;

(E) Within 60 days of the receipt of the delineated drinking water protection area and supporting documentation, the Department shall send a written acknowledgment of that receipt and an estimated date for review and certification of the delineation;

(F) The delineation techniques stipulated in this rule represent the minimum acceptable effort required for a state certified program. The use of a more sophisticated technique is acceptable.

(c) Springs. For water systems served by springs, hydrogeologic mapping shall be used to delineate the recharge area to the spring(s).

(d) Wells.

(A) All delineations for groundwater derived from wells shall use an adjusted pump rate (Q_a) that allows for potential growth using one of the methods described below, whichever yields the smallest value for Q_a :

(i) 125 percent of average pump rate as determined from the three months representing the highest usage; or

(ii) 125 percent of average pump rate as determined using a comparable community; or

(iii) The design capacity of the pump; or

(iv) 90 percent of the safe yield of the well.

(v) The water system's population times 200 gallons per day.

(B) For water systems serving a population ≤ 500 and using a single well, the minimum acceptable delineation method is a calculated fixed radius. Parameters considered in this technique include Q_a , effective porosity, open (screened or perforated) interval or thickness of the water-bearing zone(s), whichever is less, and a TOT of 15 years.

(C) For water systems serving a population of 501 to 3,300 or systems serving ≤ 500 with multiple wells, the DWPA(s) shall be delineated using a combination of an analytical technique and hydrogeologic mapping.

(D) For water systems serving a population $>3,300$, the conceptual model shall be refined using site-specific collected data. Data collected shall include, but not be limited to, measured static water levels for the purpose of generating a map of the appropriate potentiometric-or water table surface, and at a minimum a 24-hour constant-rate aquifer test. The well to be tested should remain idle for a period of 24 hours prior to the test. Water levels in the well should be monitored at appropriate intervals during the pre-pumping, pumping and recovery phases. Additional technical information is given in the Oregon Wellhead Protection Guidance Manual and the 1996 Oregon Source Water Assessment Guidance.

(E) For water systems serving a population of 3,301 to 50,000, the DWPA(s) shall be delineated as provided in subsection (2)(c) of this rule, with the exception of using the site specific data collected in accordance with subsection (2)(c) of this rule.

(F) For water systems serving a population $>50,000$ and using wells, the DWPA(s) shall be delineated using numerical models or comparable analytical methods. The model must be calibrated using field observations and measurements of appropriate hydrogeologic parameters.

(e) Susceptibility Analysis. To guide the development of management strategies, the aquifer's susceptibility within the DWPA may be determined using the methods described in the Use and Susceptibility Waiver Guidance Document, the 1996 Oregon Source Water Assessment Guidance or another pre-approved process. Additional technical information is available in the Oregon Wellhead Protection Guidance Manual.

(f) Delineation Update. The water system's DWPA delineation shall be re-examined every five years or during the sanitary survey for that system for potential revisions (OAR 340-040-0190). Factors that may require revision of a DWPA boundary include, but are not limited to the following:

(A) A significant change in the pumping rate;

(B) A significant change in recharge to the aquifer;

(C) Wells outside the control of the water system placed in a manner that could significantly modify the shape and/or orientation of the original DWPA.

(3) New and Future Groundwater Sources:

(a) New sources. With regard to the voluntary wellhead protection program, a new source is defined as an additional or modified well(s) and/or spring(s) that will be used by the water system.

(A) For new wells or springs outside an existing DWPA or deriving water from a different aquifer than that supplying other already delineated DWPA's, the following steps shall be completed:

(i) If more than one potential site is available, the water system or other responsible management authority shall conduct a provisional delineation and a preliminary potential contaminant source inventory for each site being considered in order to evaluate the long-term viability of each of the sites available; and

(ii) Delineate the chosen site as prescribed in section (2) of this rule. Further technical information is provided in the Oregon Wellhead Protection Guidance Manual.

(B) For new wells or springs inside an existing DWPA or potentially influencing an existing DWPA, the following steps shall be completed:

(i) Evaluate sites and delineate DWPA(s) as prescribed in subparagraphs (3)(a)(A)(i) and (ii) of this rule; and

(ii) Modify the existing wellhead protection plan to encompass modifications resulting from the new delineation.

(C) New wells or springs as defined in subsection (3)(a) of this rule shall comply with all appropriate construction standards as prescribed in OAR 333-061-0050 and shall comply with plan submission requirements as prescribed in OAR 333-061-0060.

(b) Future sources. A public water system or other responsible management authority that has recognized the need for future groundwater supplies beyond their current capacity may choose to identify the area where this future supply will be obtained in accordance with subparagraph (3)(a)(A)(i) of this rule.

(4) Contingency Planning:

(a) Public water systems shall develop or revise contingency plans for response to potential loss or reduction of their drinking water source(s). Key elements of the plan shall include, but not be limited to, the following:

(A) Inventory/prioritize all threats to the drinking water supply;

(B) Prioritize water usage;

(C) Anticipate responses to potential incidents;

(D) Identify key personnel and development of notification roster;

(E) Identify short-term and long-term replacement potable water supplies;

(F) Identify short-term and long-term conservation measures;

(G) Provide for plan testing, review and update;

(H) Provide for new and on-going training of appropriate individuals;

(I) Provide for education of the public; and

(J) Identify logistical and financial resources.

(b) Public water systems shall coordinate their contingency plan with the emergency response plans of the appropriate county and/or city and with the contingency plans developed by industries using hazardous materials within the wellhead protection area.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0058

Wellfield Determination

(1) Water systems possessing two or more wells that separately supply water to the distribution system may be eligible to have those wells considered as a wellfield source for monitoring purposes provided the requirements of this rule are met. Information pertinent to determining whether the wellfield designation is appropriate can be found in the water system's Source Water Assessment Report.

(2) To be classified as a wellfield, the wells must meet the following criteria:

(a) The wells must be within 2,500 feet of one another or as determined in a state approved hydrogeological study to minimize inter-well interference drawdowns. For wells located in a low-impact land use area, this criterion may be waived at the discretion of the Department.

(b) The wells must produce from the same and no other aquifer. This criterion is determined using source water assessment results, based on well reports, maps and other hydrogeological information.

(3) To be considered for wellfield designation, the water supplier is asked to submit the following to the Department:

ADMINISTRATIVE RULES

(a) A schematic drawing showing all sources, entry points and relevant sample taps;

(b) A map and description of the land use activities within the respective wellhead protection areas (using the inventory section of the Source Water Assessment Report); and

(c) A description of the pumping patterns.

(4) If a water system's wells are considered to comprise a wellfield, the susceptibility analysis conducted during the source water assessment is utilized to determine the sampling point(s). Table 46 summarizes the alternatives: [Table not included. See ED. NOTE.]

(5) To determine the most susceptible well, the area within the two-year time-of-travel is considered. The Department will consider the potential contaminant source inventory determined during the source water assessment, the aquifer sensitivity, pumping patterns and other pertinent hydrogeological information.

(6) The Department may still designate more than one entry point within the wellfield as a sampling point if well construction and/or land use practices warrant. For a large area containing numerous wells, sub-wellfields may be identified, each with its own sample site designation.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.131 & 448.268

Hist.: OH 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0060

Plan Submission and Review Requirements

(1) Plan Submission:

(a) Construction and installation plans shall be submitted to and approved by the Department before construction begins on new systems or major additions or modifications, as determined by the Department, are made to existing systems. Plans shall be drawn to scale;

(b) Preliminary plans, pilot studies, master plans and construction plans shall be prepared by a Professional Engineer registered in Oregon, and submitted to the Department unless exempted by the Department (See OAR 333-061-0060(4));

(c) Plans shall set forth the following:

(A) Sufficient detail, including specifications, to completely and clearly illustrate what is to be constructed and how those facilities will meet the construction standards set forth in these regulations. Elevation or section views shall be provided where required for clarity;

(B) Supporting information attesting to the quality of the proposed source of water;

(C) Vicinity map of the proposed project relative to the existing system or established landmarks of the area;

(D) Name of the owner of the water system facilities during construction and the name of the owner and operator of the facilities after completion of the project;

(E) Procedures for cleaning and disinfecting those facilities which will be in contact with the potable water.

(d) Prior to drilling a well, a site plan shall be submitted which shows the site location, topography, drainage, surface water sources, specifications for well drilling, location of the well relative to sanitary hazards, dimensions of the area reserved to be kept free of potential sources of contamination, evidence of ownership or control of the reserve area and the anticipated depth of the aquifer from which the water is to be derived. The Department will review well reports from the area and in consultation with the local watermaster and the well constructor as appropriate will recommend the depth of placement of the casing seal. After the well is drilled, the following documents shall be submitted to the Department for review and approval: Well driller's report, report of the pump test which indicates that the well has been pumped for a sufficient length of time to establish the reliable yield of the well on a sustained basis, including data on the static water level, the pumping rate(s), the changes in drawdown over the duration of the test, the rate of recovery after the pump was turned off, reports on physical, chemical and microbiological quality of the well water, performance data on the well pump, a plan of the structure for protecting above-ground controls and appurtenances, and a plan showing how the well will be connected to the water system. (See OAR 333-061-0050(2)).

(e) Any community, non-transient non-community, or transient non-community water system that treats surface water or groundwater under the influence of surface water and that desires to make a significant change to its disinfection treatment process as defined by paragraphs (1)(e)(A) through (1)(e)(D) of this rule, is required to develop a disinfection profile and calculate a disinfection benchmark according to OAR 333-061-0036(4)(g). The water system must consult with and provide any addition-

al information requested by the Department prior to making such a change. The water system must develop a disinfection profile for *Giardia lamblia* and viruses, calculate a disinfection benchmark, describe the proposed change in the disinfection process, and analyze the effect(s) of the proposed change on current levels of disinfection according to the USEPA Disinfection Profiling and Benchmarking Guidance Manual and/or the USEPA LT1-ESWTR Disinfection Profiling and Benchmarking Technical Guidance Manual and submit the information to the Department for review and approval. Significant changes to the disinfection treatment process include:

(A) Changes to the point of application;

(B) Changes to the disinfectants used in the treatment process;

(C) Changes to the disinfection process;

(D) Any other modification identified by the Department.

(f) A water system that uses either chloramines, chlorine dioxide, or ozone for primary disinfection, and that is required to prepare a disinfection profile for *Giardia lamblia* as prescribed by subsection (1)(e) of this rule, must also prepare a disinfection profile for viruses and calculate the logs of inactivation for viruses using the methods specified in OAR 333-061-0036(4)(g).

(2) Plan review.

(a) Upon receipt of plans, the Department shall review the plans and either approve them or advise that correction or clarification is required. When the correction or clarification is received, and the item(s) in question are resolved, the Department shall then approve the plans;

(b) Upon completion of a project, a professional engineer registered in Oregon shall submit to the Department a statement certifying that the project has been constructed in compliance with the approved plans and specifications. When substantial deviations from the approved plans are made, as-built plans showing compliance with these rules shall be submitted to the Department;

(c) Plans shall not be required for emergency repair of existing facilities. In lieu of plans, written notice shall be submitted to the Department immediately after the emergency work is completed stating the nature of the emergency, the extent of the work and whether or not any threats to the water quality exists or existed during the emergency.

(3) Plan review fees: Plans submitted to the Department shall be accompanied by a fee as indicated in Table 47. Those plans not accompanied by a fee will not be reviewed. [Table not included. See ED. NOTE.]

(4) Plan review exemptions:

(a) Water suppliers may be exempted from submitting plans of main extensions, providing they:

(A) Have provided the Department with a current master plan; and

(B) Certify that the work will be carried out in conformance with the construction standards of these rules; and

(C) Submit to the Department an annual summary of the projects completed; and

(D) Certify that they have staff qualified to effectively supervise the projects.

(b) Those water suppliers certifying that they have staff qualified to effectively plan, design and supervise their projects, may request the Department for further exemption from this rule. Such requests must be accompanied by a listing of staff proposed to accomplish the work and a current master plan. To maintain the exemption, the foregoing must be annually updated;

(c) At the discretion of the Department, Community, Transient and Non-Transient Non-Community and State Regulated water systems may be exempted from submitting engineered plans. They shall, however, submit adequate plans indicating that the project meets the minimum construction standards of these rules.

(5) Master plans.

(a) Community water systems with 300 or more service connections shall maintain a current master plan. Master plans shall be prepared by a professional engineer registered in Oregon and submitted to the Department for review and approval.

(b) Each master plan shall evaluate the needs of the water system for at least a twenty year period and shall include but is not limited to the following elements:

(A) A summary of the overall plan that includes the water quality and service goals, identified present and future water system deficiencies, the engineer's recommended alternative for achieving the goals and correcting the deficiencies, and the recommended implementation schedule and financing program for constructing improvements.

(B) A description of the existing water system which includes the service area, source(s) of supply, status of water rights, current status of

ADMINISTRATIVE RULES

drinking water quality and compliance with regulatory standards, maps or schematics of the water system showing size and location of facilities, estimates of water use, and operation and maintenance requirements.

(C) A description of water quality and level of service goals for the water system, considering, as appropriate, existing and future regulatory requirements, nonregulatory water quality needs of water users, flow and pressure requirements, and capacity needs related to water use and fire flow needs.

(D) An estimate of the projected growth of the water system during the master plan period and the impacts on the service area boundaries, water supply source(s) and availability, and customer water use.

(E) An engineering evaluation of the ability of the existing water system facilities to meet the water quality and level of service goals, identification of any existing water system deficiencies, and deficiencies likely to develop within the master plan period. The evaluation shall include the water supply source, water treatment, storage, distribution facilities, and operation and maintenance requirements. The evaluation shall also include a description of the water rights with a determination of additional water availability, and the impacts of present and probable future drinking water quality regulations.

(F) Identification of alternative engineering solutions, environmental impacts, and associated capital and operation and maintenance costs, to correct water system deficiencies and achieve system expansion to meet anticipated growth, including identification of available options for cooperative or coordinated water system improvements with other local water suppliers.

(G) A description of alternatives to finance water system improvements including local financing (such as user rates and system development charges) and financing assistance programs.

(H) A recommended water system improvement program including the recommended engineering alternative and associated costs, maps or schematics showing size and location of proposed facilities, the recommended financing alternative, and a recommended schedule for water system design and construction.

(I) If required as a condition of a water use permit issued by the Water Resources Department, the Master Plan shall address the requirements of OAR 690-086-0120 (Water Management and Conservation Plans).

(c) The implementation of any portion of a water system master plan must be consistent with OAR 333-061 (Public Drinking Water Systems, Department of Human Services), OAR 660-011 (Public Facilities Planning, Department of Land Conservation and Development) and OAR 690-086 (Water Management and Conservation Plans, Water Resources Department).

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273, 448.279

Hist.: HD 106, f. & ef. 2-6-76; HD 4-1980, f. & ef. 3-21-80; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0220, HD 2-1983, f. & ef. 2-23-83; HD 13-1985, f. & ef. 8-1-85; HD 9-1989, f. & cert. ef. 11-13-89; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0061

Capacity Requirements for Public Water Systems

(1) Water system capacity is defined as the technical, managerial, and financial capability of the water system necessary to plan for, achieve, and maintain compliance with applicable drinking water standards.

(2) Capacity requirements for new public water systems.

(a) Any new community, non-transient non-community, or transient non-community public water system commencing operations on or after October 1, 1999, must meet the applicable requirements in this rule prior to serving drinking water to the public. The owner of such water system shall submit evidence of meeting all applicable requirements to the Department for review and shall commence operation only after Department approval. This rule does not apply to water systems that were built and operating prior to October 1, 1999.

(b) Requirements for Technical Capacity

(A) The water system must comply with the local land use requirements of OAR 333-061-0062, including submission to the Department of evidence of approval by the local land use authority.

(B) The water system must comply with plan submission and review requirements of OAR 333-061-0060, and plans submitted must comply with construction standards in OAR 333-061-0050.

(C) The owner of a new water system must demonstrate a valid water right permit as required and prescribed by the Oregon Water Resources Department (ORS chapter 537).

(D) The water system must submit initial water quality test results demonstrating compliance with applicable Maximum Contaminant Levels (OAR 333-061-0030), and applicable treatment requirements and performance standards (OAR 333-061-0032 and 0034).

(E) Community water systems shall have water use meters installed at all service connections.

(F) Community water systems with 300 or more service connections shall have a master plan meeting the requirements of OAR 333-061-0060.

(c) Requirements for Managerial Capacity

(A) Community and non-transient non-community water systems must employ or contract for the services of a certified operator as required by OAR 333-061-0225.

(B) Community water systems within areas of Oregon where State or Federally listed sensitive, threatened or endangered fish species are located, shall consult with the Oregon Water Resources Department. If required by the Oregon Water Resources Department, community water systems shall have water management and conservation plans meeting the requirements of Oregon Water Resources Department OAR 690-086-0010 through 0920.

(d) Requirements for Financial Capacity. The water system must establish a water rate structure and billing procedure, or alternate financial plan, to assure that funds are collected and available to meet the anticipated operation, maintenance, and replacement costs of the water system.

(3) Capacity requirements for public water systems applying for a loan from the Drinking Water State Revolving Loan Fund.

(a) All public water systems qualifying for a Drinking Water State Revolving Loan must receive a capacity assessment for technical and managerial capacity from the Department, and financial capacity from the Oregon Economic & Community Development Department through the loan application process, prior to contract execution.

(b) All deficiencies identified in the capacity assessment must be corrected such that:

(A) Those deficiencies identified in the capacity assessment as major deficiencies must be corrected prior to contract execution. Major deficiencies include but are not limited to the following:

(i) Under technical capacity, major infrastructure deficiencies identified in the sanitary survey and not corrected as a part of this project or identified as a deficiency under paragraph (E) of this subsection; or

(ii) Under managerial capacity, no certified operator and no contract or agreement for operator services from another water system or management agency; or

(iii) Under financial capacity, inappropriate financial statements, lack of a capital financing program, or an inadequate rate structure to cover necessary system operation, debt service, or capital replacement.

(B) Those deficiencies identified in the capacity assessment as loan conditions must be corrected as a part of the contract prior to contract completion or on a schedule set and/or approved and tracked by the Department or its designee. Loan condition deficiencies are deficiencies which may take considerable staff or contractor time and possibly some funding to correct. Loan condition deficiencies include but are not limited to the following:

(i) Under technical capacity, inadequate or no water rights, incomplete installation of water use meters, incomplete or no engineering drawings of the water system, out-of-date or no master plan, or incomplete or no plan review on prior construction projects; or

(ii) Under managerial capacity, having an operator at a lower level than required in responsible charge of the water system, no written emergency response plan, no written water conservation program if required by the Water Resources Department under OAR 690-086-0010 through 690-086-0920, no written water system operations manual, or no cross connection program.

(C) Those deficiencies identified in the capacity assessment as short term deficiencies must be corrected prior to contract completion and will be tracked by the Department. Short term deficiencies are deficiencies which can be quickly corrected with additional staff attention. Short term deficiencies include but are not limited to the following:

(i) Under technical capacity, water quality monitoring is incomplete, no coliform sample plan or site map, or no written water quality monitoring plan; or

(ii) Under managerial capacity, no annual cross connection summary report if required, or no consumer confidence report if required.

ADMINISTRATIVE RULES

(D) Those deficiencies identified in the capacity assessment as corrected with the project will be considered by the Department as corrected with contract completion.

(E) All other deficiencies identified in the capacity assessment must be identified and established as a future construction project in the water system master plan, feasibility study, or other such document in order to be considered by the Department as corrected in the future.

(c) Funding to correct a deficiency identified as a loan condition under paragraph (b)(B) of this section may be included as part of the project contract under the Drinking Water State Revolving Fund, if that part of the project to correct the deficiency qualifies under the terms of the Drinking Water State Revolving Fund.

(4) Capacity requirements for other public water systems.

(a) All community, non-transient non-community, and transient non-community public water systems will receive capacity assessments conducted by or with the assistance of the Department.

(A) The capacity assessment consists of a written report identifying deficiencies in technical, managerial, and financial capacity, and a letter listing recommendations to correct the deficiencies. The findings of the capacity assessment and recommendations for correction will be presented to the management of the water system at a regular or special meeting.

(B) The frequency of capacity assessments for a public water system, as described in this subsection, is dependent on the risk to human health as determined by the Department.

(C) The recommendations for correction of deficiencies identified in capacity assessments are, or become requirements for any public water system, as described in this subsection, with multiple violations of the drinking water standards, in significant non-compliance with the drinking water standards, or an Administrative Order issued by the Department.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.273

Hist.: OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 2-2008, f. & cert. ef. 2-15-08; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0062

Land Use Coordination

(1) The purpose of this rule is to assure that Department of Human Services' actions taken pursuant to ORS 448.131 and OAR chapter 333, division 61, comply with state land use coordination requirements in ORS 197.180 and OAR chapter 660, divisions 30 and 31. This rule also implements applicable portions of the Department's state agency coordination program concerning the review and approval of plans and projects pursuant to ORS 448.131.

(2) The requirements of OAR 333-061, shall apply to Department approval of plans or projects submitted under ORS 448.131 for:

(a) New public water systems;

(b) Major additions, alterations, and extensions of water transmission mains;

(c) Development of new water sources; and

(d) Relocation of water treatment or storage facilities.

(3) In order to approve a plan or project listed under subsections (2)(a) through (d) of this rule, the Department shall find that it complies with the Statewide Planning Goals and is compatible with applicable acknowledged city and county comprehensive plan and land use regulations. To make its goal compliance and plan compatibility findings, the Department shall comply with sections (1) through (9) of this rule and shall also adhere to the procedures in the Department's state agency coordination program which is hereby adopted by reference.

(4) Except where the Department is required to directly address the Statewide Planning Goals, the Department shall make its goal compliance findings for each plan or project listed in subsections (2)(a) through (d) of this rule based on the land use compatibility information provided to the Department by the project applicant.

(5) An applicant seeking approval of a plan or project listed in subsections (2)(a) through (d) of this rule shall provide the Department with information documenting the plan or project's compatibility with the applicable acknowledged comprehensive plans and land use regulations. Such documentation shall be submitted in a manner as established by the Department and shall include one of the following:

(a) A copy of the local land use permit (e.g., conditional use permit, subdivision approval, zoning clearance, etc.) demonstrating that the plan or project has received land use approval from the jurisdiction; or

(b) Written information from an authorized representative of the affected city or county affirming that the proposed plan or project is compatible with the acknowledged comprehensive plan(s) for the area, but does not require specific land use approval by the jurisdiction; or

(c) Other written information acceptable to the Department equivalent to subsection (5)(a) or (b) of this rule demonstrating the plan or project's land use compatibility.

(6) The Department shall adopt findings directly against the Statewide Planning Goals if a situation ever arises where the Department must approve a plan or project, but is unable to rely upon or is not provided with the appropriate land use compatibility information by the applicant. In this instance, the Department shall comply with OAR 660-030-0065 and the corresponding procedures in the Department's state agency coordination program to adopt the necessary findings demonstrating the plan or project's compliance with the Statewide Goals.

(7) Where more than one unit of local government has land use approval authority over the plan or site of the proposed project, written information from the applicant must be submitted to the Department as provided in section (5) of this rule documenting the plan or project's compatibility with each of the affected jurisdiction's comprehensive plans.

(8) Information documenting land use compatibility in accordance with section (5) of this rule may be submitted to the Department for public water system master plans or portions thereof. In this section, no subsequent land use compatibility determination will be required for an individual project where the applicant demonstrated that the project is contemplated by and consistent with the previously approved master plan.

(9) The meaning of land use terms used in this rule shall be as defined in OAR 660-030-0005.

Stat. Auth.: ORS 197.180 & 448.131

Stats. Implemented: ORS 197.180 & 448.131

Hist.: HD 11-1982(Temp), f. & ef. 6-1-82; HD 23-1982, f. & ef. 11-15-82; HD 2-1983, f. & ef. 2-23-83; HD 21-1984, f. & ef. 10-23-84; HD 1-1985(Temp), f. & ef. 1-28-85; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0063

Environmental Review Process for The Safe Drinking Water Revolving Loan Fund Program

(1) Overview:

(a) These rules provide for environmental review of actions that are funded through the Safe Drinking Water Revolving Loan Fund (SDWRLF). These rules are to be applied in a manner that is consistent with 40 CFR Part 6, Subpart E and related subparts (July 1, 1997). An applicant for funding from the SDWRLF shall consult with the Department at an early stage in the preparation of an application to determine the required level of environmental review. Based on review of existing information, the Department shall assess the potential environmental effects of the proposed action and shall instruct the applicant either to:

(A) Submit a request for a categorical exclusion in a format specified by the Department;

(B) Prepare and submit an environmental information document (EID) in a format specified by the Department; or

(C) Prepare and submit an environmental impact report (EIR) in a format specified by the Department.

(2) Categorical exclusions:

(a) Categorical exclusions are categories of actions proposed for funding from the SDWRLF, which do not individually, cumulatively over time, or in conjunction with other actions, have a significant effect on the quality of the human environment, and have been identified by the Department as having no such effect. Such actions may be excluded by the Department from further environmental review requirements if the information provided by the water supplier and any additional information before the Department does not identify any environmental effects of the action that warrant additional environmental review by the Department. The following actions may be categorically excluded by the Department:

(A) Actions solely directed toward minor rehabilitation of existing facilities, functional replacement of equipment, or toward the construction of new ancillary facilities adjacent or appurtenant to existing facilities;

(B) Actions in sewerer communities with a population of 10,000, or less, which are for minor upgrading or minor expansion of existing drinking water systems. This category does not include actions that directly or indirectly involve new drinking water sources, or the extension of new water distribution systems;

(C) Actions in unsewered communities with a population of 10,000 or less, that do not include the development of new drinking water sources, and that will not result in any increase in or change to the rate, nature or location of water diversion or discharge to surface water.

(b) In addition to the criteria set forth in subsection (a) of this rule, categorical exclusions will not be granted if the proposed action meets the criteria for not granting such exclusions in 40 CFR 6.107(e) and/or 6.505(c) (July 1, 1997). In addition, in order to qualify for a categorical exclusion, the action must be compatible with applicable acknowledged comprehen-

ADMINISTRATIVE RULES

sive plans and land use regulations, which must be documented according to the requirements of OAR 333-061-0062(5) and (7).

(c) A categorical exclusion may be revoked by the Department and an environmental review required if the proposed action no longer meets the requirements for a categorical exclusion due to changes in the proposed action, or if the Department determines from new information that significant environmental effects may result from the proposed action.

(d) If a categorical exclusion is granted, and a notice of the exclusion has been published in a newspaper of general circulation in the geographical area of the proposed action, the action can proceed.

(3) Environmental review process:

(a) When issuance of a categorical exclusion is not appropriate, the applicant shall prepare an EID or an EIR, as required by the Department. The EID or EIR shall consider practicable alternatives to the proposed action (including a no-action alternative), as well as the proposed action.

(b) The EIR or EID shall contain an evaluation of applicable laws relating to significant environmental resources that may be affected by the proposed action and alternatives to the proposed action. The applicant shall consult with appropriate federal, state and local agencies regarding such laws.

(c) The EIR or EID shall consider a full range of relevant impacts (both direct and indirect, and current and future impacts) of the proposed action and alternatives to the proposed action, including measures to mitigate adverse impacts, cumulative impacts, and impacts that cause irreversible or irretrievable commitment of resources.

(d) If the Department requires an EID, the applicant shall prepare and the Department shall review a draft EID. Following its review, the Department shall either request additional information regarding potential impacts of the proposed action, or shall accept the EID as final. Once the Department accepts the EID, the Department shall prepare an environment assessment (EA) of the proposed action based on the EID and any other supplemental information deemed necessary by the Department. Based on the EA and any measures to mitigate or eliminate adverse effects of the proposed action on the environment (which measures shall be included as a condition of any loan award as set forth in section (4) of this rule), the Department will either prepare and issue a Finding of No Significant Impact (FNSI) or require the preparation of an EIR under subsection (3)(e) of this rule. In determining whether to issue a FNSI, the Department shall apply the criteria set forth in 40 CFR 6.509, 6.108(a) and 6.108 (c through g) (July 1, 1997). If the Department determines to issue a FNSI, notice of the FNSI shall be published in a newspaper of general circulation in the geographical area of the proposed action. Following a period of at least thirty (30) days after publication of the notice, and after any public concerns about the impacts of the proposed action are resolved to the extent determined to be appropriate by the Department, the Department may issue a final FNSI, and the action can proceed.

(e) If the Department requires an EIR:

(A) The applicant shall conduct a duly noticed public meeting regarding the proposed action, which may be combined with other public hearings or meetings regarding the proposed action;

(B) The applicant shall prepare and submit a draft EIR to all interested agencies and persons, for review and comment;

(C) The applicant shall prepare and submit a final EIR that responds to agency and public comments for Department review and decision;

(D) The Department, following its review of the EIR, shall determine whether the action may proceed. In the event the Department determines the action may proceed following completion of an EIR, it shall specify in writing what mitigation measures, if any, are to be required.

(4) In the event the Department determines the action may proceed following preparation of an EID or an EIR, the Department shall ensure that mitigation measures identified in its review as required for the issuance of a FNSI or otherwise, are implemented. This may be done by incorporating such measures as conditions of any loan agreement, or otherwise as the Department determines will best ensure their completion in a timely manner.

(5) Under appropriate circumstances, the Department may allow the partitioning of environmental review such that the environmental review will be required for only a component/portion of a planned system instead of completing an environmental review for the remainder of the system(s). In determining whether to approve partitioning of environmental review, the Department shall consider 40 CFR Section 6.507 (July 1, 1997).

(6) Waiver; validity:

(a) If environmental review for the proposed action has already been conducted by another government agency, the Department may, in its discretion, waive the requirements of this rule.

(b) Environmental reviews may be valid for up to five years. If a loan application is received for an action with an environmental review that is more than five years old, the Department shall require a new or supplemental environmental review in accordance with these rules.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.273(4)

Hist.: OHD 9-1998, f. & cert. ef. 9-23-98; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0064

Emergency Response Plan Requirements

All public water systems shall maintain a current emergency response plan.

(1) The emergency response plan shall be completed according to the following schedule and shall be reviewed and updated at least every five years.

(a) Completed by September 30, 2003 for public water systems serving 100,000 population or more.

(b) Completed by June 30, 2004 for public water systems serving a population of 50,000 or more but less than 100,000.

(c) Completed by December 31, 2004 for public water systems serving a population greater than 3,300 but less than 50,000.

(d) Completed by June 30, 2005 for public water systems serving a population of 3,300 or less.

(e) If a public water system applying for funds from the Safe Drinking Water Revolving Loan Fund Program is required to develop an emergency response plan as a part of a capacity assessment, then the emergency response plan is required to be completed before final payout of the loan.

(2) All public water systems shall complete a security vulnerability assessment and develop a prioritized plan for risk reduction.

(3) As evidence of completion, all public water systems shall submit a statement to the Department certifying that the Emergency Response Plan and vulnerability assessment have been completed according to the requirements of this rule and that staff have been instructed in the use of the emergency response plan. The emergency response plan/vulnerability assessment shall be made available for review by the Department and/or the County Health Department. All Community water systems > 3,300 population are required to submit a copy of their Vulnerability Assessment and certification of completion for their Emergency Response Plan and Vulnerability Assessment to EPA as required in the federal Bioterrorism Preparedness and Response Act of 2002.

(4) Community water systems shall coordinate with the lead County Emergency Coordinator when preparing or revising an emergency response plan.

(5) The emergency response plan shall include but is not limited to the following elements:

(a) Communications and authority

(A) Develop an emergency contacts list, and review and update this list at least annually.

(B) Decision-making authorities and responsibilities of water system personnel shall be determined and detailed in the emergency response plan.

(C) Procedure for notification of agencies, the water users, and the local media.

(b) Water system security Public water systems shall develop a security program. The security program shall include, but is not limited to, the following components: security management, physical activity, physical security, chemical storage and use, personnel, computer system, and program evaluation as defined in the State Model Emergency Response Plan.

(c) Water system hazard review

(A) Public water systems shall conduct an inspection of the water system annually to identify the hazards that could affect the water system.

(B) Public water systems shall correct construction deficiencies to eliminate hazards or potential hazards, correct major sanitary survey deficiencies as determined by the Department, and perform regular maintenance.

(d) Emergency equipment and water supplies.

(A) Public water systems shall make provisions for an auxiliary power supply if not a gravity system, and redundant equipment for critical components. Community water systems shall identify equipment that can be utilized in the event of an intentional attack which can render harmless or significantly lessen the impact of the attack on the public health and safety and supply of public drinking water.

(B) Public water systems shall develop a plan for emergency water to include the rationing of drinking water, identifying and utilizing alternative drinking water sources and supplies, and alternative distribution of drinking water.

ADMINISTRATIVE RULES

(e) Emergency response procedures

(A) Public water systems shall develop procedures for responding to emergencies most likely to strike the water system. Community water systems shall develop plans and procedures that can be implemented in the event of a terrorist or other intentional attack on the water system.

(B) The emergency response plan shall describe procedures to isolate all parts of the water system. Community water systems shall develop actions and procedures which can render harmless or significantly lessen the impact of terrorist attacks or other intentional actions on public health and safety and supply of public drinking water.

(C) The emergency response plan shall describe the emergency disinfection procedure, process for issuing a boil water advisory, and process for handling a waterborne disease outbreak.

(6) Water system staff shall be instructed and trained in the use of the emergency response plan.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.131, 448.160

Hist.: OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0065

Operation and Maintenance

(1) Public water systems shall be operated and maintained in a manner that assures continuous production and delivery of potable water by:

(a) Operating all phases and components of the system effectively in the manner for which they were designed;

(b) Assuring that all leaks are promptly repaired and, broken or malfunctioning equipment is promptly repaired or replaced;

(c) Making readily available and in good condition the proper equipment, tools and parts to make repairs to the system. When possible, notice shall be given to the water users of impending repairs that will affect the quality of the water or the continuity of the water service. All repairs must meet the construction standards of these rules and comply with disinfection requirements of OAR 333-061-0050 prior to reestablishing use of the repaired portion of the system;

(d) Implementing actions to assure safe drinking water during emergencies. Water systems wishing to have a state certified wellhead protection program shall comply with the contingency planning requirements as prescribed in OAR 333-061-0057(4).

(2) Personnel:

(a) Personnel responsible for maintenance and operation of public water systems shall be competent, knowledgeable of all the functions of that particular facility and shall have the training and experience necessary to assure continuous delivery of water which does not exceed the maximum contaminant levels;

(b) Certification in the Oregon Water System Operator's Certification Program is required for personnel in responsible charge of operations for all Community and Non-Transient Non-Community water systems. See Certification Rules OAR 333-061-0205 through 333-061-0295.

(c) Personnel in responsible charge of Transient Non-Community water systems that use surface water sources or ground sources under the direct influence of surface water are required to attend the Department's Small Water System Training Course or equivalent training.

(3) The identity of ownership of a water system shall be filed with the Department. Notification of changes in ownership shall be filed immediately with the Department upon completion of the transaction.

(4) All public water systems shall maintain a current water system operations manual.

(a) The water system operations manual shall be completed according to the requirements of the capacity assessment or sanitary survey and shall be reviewed and updated at least every five years. If a public water system applying for funds from the Safe Drinking Water Revolving Loan Fund Program is required to develop a water system operations manual as a part of a capacity assessment, then the water system operations manual is required to be completed before final payout of the loan.

(b) As evidence of completion, public water systems shall submit a statement to the Department certifying that the water system operations manual has been completed according to the requirements in this rule, and that staff have been instructed in the use of the water system operations manual.

(c) The water system operations manual shall include, but is not limited to, the following elements if they are applicable:

(A) Source operation and maintenance;

(B) Water treatment operation and maintenance;

(C) Reservoir operation and maintenance;

(D) Distribution system operation and maintenance; and

(E) Written protocols for on-site operators describing the operational decisions the operator is allowed to make under OAR 333-061-0225.

(d) Water system staff shall be instructed and trained in the use of the water system operations manual.

(5) Documents and records:

(a) The following documents and records shall be retained by the water supplier at the Community water system facility and shall be available when the system is inspected or upon request by the Department:

(A) Complete and current as-built plans and specifications of the entire system and such other documents as are necessary for the maintenance and operation of the system;

(B) Current operating manuals covering the general operation of each phase of the water system;

(C) A current master plan and/or revisions thereof;

(D) Data showing production capabilities of each water source and system component;

(E) Current records of the number, type and location of service connections;

(F) Current records of raw water quality, both chemical and microbiological;

(G) Current records of all chemicals and dosage rates used in the treatment of water;

(H) Reports on maintenance work performed on water treatment and delivery facilities;

(I) Records relating to the sampling and analysis undertaken to assure compliance with the maximum contaminant levels;

(J) Record of residual disinfectant measurements, where applicable;

(K) Records of cross connection control and backflow prevention device testing, where applicable;

(L) Records of customer complaints pertaining to water quality and follow-up action undertaken;

(M) Fluoridation records, where applicable;

(N) Other records as may be required by these rules.

(6) Chlorination and use of other chemicals:

(a) Chlorinators and other equipment used to apply chemicals at a public water system shall be operated and maintained in accordance with the manufacturers' specifications and recommendations for efficient operation and safety.

(b) When chlorine is used as the disinfectant, the procedures shall be as follows:

(A) Chlorine shall be applied in proportion to the flow;

(B) For reasons other than the treatment of surface water sources or groundwater sources under the direct influence of surface water, the rate of application shall be sufficient to result in a free chlorine residual of at least 0.2 mg/l after a 30-minute contact time and throughout the distribution system;

(c) When ammonia is added to the water with the chlorine to form a chloramine as the disinfectant, for reasons other than the treatment of surface water sources or groundwater sources under the direct influences of surface water, the rate of application shall result in a combined chlorine residual of at least 2.0 mg/l after a three-hour contact time;

(d) When corrosion control chemicals are applied to achieve compliance with the lead and copper rule, the point of application shall be after all other treatment processes unless determined otherwise by the Department.

(7) When an emergency arises within a water system which affects the quality of water produced by the system, the water supplier shall notify the Department immediately.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273 & 448.279

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0225, HD 2-1983, f. & ef. 2-23-83; HD 20-1983, f. 10-20-83, ef. 11-1-83; HD 1-1988, f. & cert. ef. 1-6-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0070

Cross Connection Control Requirements

(1) Water suppliers shall undertake cross connection control programs to protect the public water systems from pollution and contamination.

(2) The water supplier's responsibility for cross connection control shall begin at the water supply source, include all public treatment, storage, and distribution facilities under the water supplier's control, and end at the point of delivery to the water user's premise.

ADMINISTRATIVE RULES

(3) Water suppliers shall develop and implement cross connection control programs that meet the minimum requirements set forth in these rules.

(4) Water suppliers shall develop a procedure to coordinate cross connection control requirements with the appropriate local administrative authority having jurisdiction.

(5) The water supplier shall ensure that inspections of approved air gaps, approved devices, and inspections and tests of approved backflow prevention assemblies protecting the public water system are conducted:

(a) At the time of installation, any repair or relocation;

(b) At least annually;

(c) More frequently than annually for approved backflow prevention assemblies that repeatedly fail, or are protecting health hazard cross connections, as determined by the water supplier;

(d) After a backflow incident; or

(e) After an approved air gap is re-plumbed.

(6) Approved air gaps, approved devices, or approved backflow prevention assemblies, found not to be functioning properly shall be repaired, replaced or re-plumbed by the water user or premise owner, as defined in the water supplier's local ordinance or enabling authority, or the water supplier may take action in accordance with subsection (9)(a) of these rules.

(7) A water user or premise owner who obtains water from a water supplier must notify the water supplier if they add any chemical or substance to the water.

(8) Premise isolation requirements:

(a) For service connections to premises listed or defined in Table 48 (Premises Requiring Isolation), the water supplier shall ensure an approved backflow prevention assembly or an approved air gap is installed; [Table not included. See ED. NOTE.]

(A) Premises with cross connections not listed or defined in Table 48 (Premises Requiring Isolation), shall be individually evaluated. The water supplier shall require the installation of an approved backflow prevention assembly or an approved air gap commensurate with the degree of hazard on the premise, as defined in Table 49 (Backflow Prevention Methods); [Table not included. See ED. NOTE.]

(B) In lieu of premise isolation, the water supplier may accept an in-premise approved backflow prevention assembly as protection for the public water system when the approved backflow prevention assembly is installed, maintained and tested in accordance with the Oregon Plumbing Specialty Code and these rules.

(b) Where premise isolation is used to protect against a cross connection, the following requirements apply:

(A) The water supplier shall:

(i) Ensure the approved backflow prevention assembly is installed at a location adjacent to the service connection or point of delivery;

(ii) Ensure any alternate location used must be with the approval of the water supplier and must meet the water supplier's cross connection control requirements; and

(iii) Notify the premise owner and water user, in writing, of thermal expansion concerns.

(B) The premise owner shall:

(i) Ensure no cross connections exist between the point of delivery from the public water system and the approved backflow prevention assemblies, when these are installed in an alternate location; and

(ii) Assume responsibility for testing, maintenance, and repair of the installed approved backflow prevention assembly to protect against the hazard.

(c) Where unique conditions exist, but not limited to, extreme terrain or pipe elevation changes, or structures greater than three stories in height, even with no actual or potential health hazard, an approved backflow prevention assembly may be installed at the point of delivery; and

(d) Where the water supplier chooses to use premise isolation by the installation of an approved backflow prevention assembly on a one- or two-family dwelling under the jurisdiction of the Oregon Plumbing Specialty Code and there is no actual or potential cross connection, the water supplier shall:

(A) Install the approved backflow prevention assembly at the point of delivery;

(B) Notify the premise owner and water user in writing of thermal expansion concerns; and

(C) Take responsibility for testing, maintenance and repair of the installed approved backflow prevention assembly.

(9) In community water systems, water suppliers shall implement a cross connection control program directly, or by written agreement with

another agency experienced in cross connection control. The local cross connection program shall consist of the following elements:

(a) Local ordinance or enabling authority that authorizes discontinuing water service to premises for:

(A) Failure to remove or eliminate an existing unprotected or potential cross connection;

(B) Failure to install a required approved backflow prevention assembly;

(C) Failure to maintain an approved backflow prevention assembly; or
(D) Failure to conduct the required testing of an approved backflow prevention assembly.

(b) A written program plan for community water systems with 300 or more service connections shall include the following:

(A) A list of premises where health hazard cross connections exist, including, but not limited to, those listed in Table 48 (Premises Requiring Isolation); [Table not included. See ED. NOTE.]

(B) A current list of certified cross connection control staff members;

(C) Procedures for evaluating the degree of hazard posed by a water user's premise;

(D) A procedure for notifying the water user if a non-health hazard or health hazard is identified, and for informing the water user of any corrective action required;

(E) The type of protection required to prevent backflow into the public water supply, commensurate with the degree of hazard that exists on the water user's premise, as defined in Table 49 (Backflow Prevention Methods); [Table not included. See ED. NOTE.]

(F) A description of what corrective actions will be taken if a water user fails to comply with the water supplier's cross connection control requirements;

(G) Current records of approved backflow prevention assemblies installed, inspections completed, backflow prevention assembly test results on backflow prevention assemblies and verification of current Backflow Assembly Tester certification; and

(H) A public education program about cross connection control.

(c) The water supplier shall prepare and submit a cross connection control Annual Summary Report to the Department, on forms provided by the Department, before the last working day of March each year.

(d) In community water systems having 300 or more service connections, water suppliers shall ensure at least one person is certified as a Cross Connection Control Specialist, unless specifically exempted from this requirement by the Department.

(10) Fees: Community water systems shall submit to the Department an annual cross connection program implementation fee, based on the number of service connections, as follows:

Service Connections — Fee:

15–99 — \$30.

100–999 — \$75.

1,000–9,999 — \$200.

10,000 or more — \$350.

(a) Billing invoices will be mailed to water systems in the first week of November each year and are due by January first of the following year;

(b) Fees are payable to Department of Human Services by check or money order;

(c) A late fee of 50 percent of the original amount will be added to the total amount due and will be assessed after January 31 of each year.

(11) In transient or non-transient non-community water systems, the water supplier that owns and/or operates the system shall:

(a) Ensure no cross connections exist, or are isolated from the potable water system with an approved backflow prevention assembly, as required in section (12) of this rule;

(b) Ensure approved backflow prevention assemblies are installed at, or near, the cross connection; and

(c) Conduct a cross connection survey and inspection to ensure compliance with these rules. All building permits and related inspections are to be made by the Department of Consumer and Business Services, Building Codes Division, as required by ORS 447.020.

(12) Approved backflow prevention assemblies required under these rules shall be assemblies approved by the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research, or other equivalent testing laboratories approved by the Department.

(13) Backflow prevention assemblies installed before the effective date of these rules that were approved at the time of installation, but are not currently approved, shall be permitted to remain in service provided the assemblies are not moved, the piping systems are not significantly remodeled or modified, the assemblies are properly maintained, and they are commensurate with the degree of hazard they were installed to protect. The

ADMINISTRATIVE RULES

assemblies must be tested at least annually and perform satisfactorily to the testing procedures set forth in these rules.

(14) Tests performed by Department-certified Backflow Assembly Testers shall be in conformance with procedures established by the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research, Manual of Cross Connection Control, 9th Edition, December 1993, or other equivalent testing procedures approved by the Department.

(15) Backflow prevention assemblies shall be tested by Department-certified Backflow Assembly Testers, except as otherwise provided for journeyman plumbers or apprentice plumbers in OAR 333-061-0072 of these rules (Backflow Assembly Tester Certification). The Backflow Assembly Tester shall provide a copy of each completed test report to the water user or premise owner, and the water supplier:

(a) Within 10 working days; and

(b) The test reports will be in a manner and form acceptable to the water supplier.

(16) All approved backflow prevention assemblies subject to these rules shall be installed in accordance with OAR 333-061-0071 and the Oregon Plumbing Specialty Code.

(17) The Department shall establish an advisory board for cross connection control issues consisting of not more than nine members, and including representation from the following:

(a) Oregon-licensed Plumbers;

(b) Department-certified Backflow Assembly Testers;

(c) Department-certified Cross Connection Specialists;

(d) Water Suppliers;

(e) The general public;

(f) Department-certified Instructors of Backflow Assembly Testers or Cross Connection Specialists;

(g) Backflow assembly manufacturers or authorized representatives;

(h) Engineers experienced in water systems, cross connection control and/or backflow prevention; and

(i) Oregon-certified Plumbing Inspectors.

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

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

Stat. Auth.: ORS 431 & 448

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.271, 448.273, 448.279, 448.295 & 448.300

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0230, HD 2-1983, f. & ef. 2-23-83; HD 20-1983, f. 10-20-83, ef. 11-1-83; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 1-1988, f. & cert. ef. 1-6-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 1-1994, f. & cert. ef. 1-7-94; HD 1-1996, f. 1-2-96, cert. ef. 1-2-96; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0071

Backflow Prevention Assembly Installation and Operation Standards

(1) Any approved backflow prevention assembly required by OAR 333-061-0070 shall be installed in a manner that:

(a) Facilitates its proper operation, maintenance, inspection, and in-line testing using standard installation procedures approved by the Department, such as, but not limited to, University of Southern California, Manual of Cross-Connection Control, 9th Edition, the Pacific Northwest Section American Water Works Association, Cross Connection Control Manual, 6th Edition, or the local administrative authority having jurisdiction;

(b) Precludes the possibility of continuous submersion of an approved backflow prevention assembly, and precludes the possibility of any submersion of the relief valve on a reduced pressure principle backflow prevention assembly; and

(c) Maintains compliance with all applicable safety regulations and the Oregon Plumbing Specialty Code.

(2) For premise isolation installation:

(a) The approved backflow prevention assembly shall be installed at a location adjacent to the service connection or point of delivery; or

(b) Any alternate location must be with the advance approval of the water supplier and must meet the water supplier's cross connection control requirements; and

(c) The premise owner shall ensure no cross connections exist between the point of delivery from the public water system and the approved backflow prevention assembly.

(3) Bypass piping installed around any approved backflow prevention assembly must be equipped with an approved backflow prevention assembly to:

(a) Afford at least the same level of protection as the approved backflow prevention assembly being bypassed; and

(b) Comply with all requirements of these rules.

(4) All Oregon Plumbing Specialty Code approved residential multi-purpose fire suppression systems constructed of potable water piping and materials do not require a backflow prevention assembly.

(5) Stand-alone fire suppression systems shall be protected commensurate with the degree of hazard, as defined in Table 49 (Backflow Prevention Methods). [Table not included. See ED. NOTE.]

(6) Stand-alone irrigation systems shall be protected commensurate with the degree of hazard, as defined in Table 49 (Backflow Prevention Methods). [Table not included. See ED. NOTE.]

(7) An Atmospheric Vacuum Breaker (AVB) shall: [Figure 2 not included. See ED. NOTE.]

(a) Have absolutely no means of shut-off on the downstream or discharge side of the atmospheric vacuum breaker;

(b) Not be installed in dusty or corrosive atmospheres;

(c) Not be installed where subject to flooding;

(d) Be installed a minimum of six inches above the highest downstream piping and outlets;

(e) Be used intermittently;

(f) Have product and material approval under the Oregon Plumbing Specialty Code for non-testable devices.

(g) Not be pressurized for more than 12 hours in any 24-hour period; and

(h) Be used to protect against backsiphonage only, not backpressure.

(8) A Pressure Vacuum Breaker Backsiphonage Prevention Assembly (PVB) or Spill-Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly (SVB) shall: [Figure 3 not included. See ED. NOTE.]

(a) Be installed where occasional water discharge from the assembly caused by pressure fluctuations will not be objectionable;

(b) Have adequate spacing available for maintenance and testing;

(c) Not be subject to flooding;

(d) Be installed a minimum of 12 inches above the highest downstream piping and outlets;

(e) Have absolutely no means of imposing backpressure by a pump or other means. The downstream side of the pressure vacuum breaker backsiphonage prevention assembly or spill-resistant pressure vacuum breaker backsiphonage prevention assembly may be maintained under pressure by a valve; and

(f) Be used to protect against backsiphonage only, not backpressure.

(9) A Double Check Valve Backflow Prevention Assembly (DC) or Double Check Detector Backflow Prevention Assembly (DCDA): [Figure 4 not included. See ED. NOTE.]

(a) Shall conform to bottom and side clearances when the assembly is installed inside a building;

(b) May be installed vertically as well as horizontally provided the assembly is specifically listed for that orientation in the Department's Approved Backflow Prevention Assembly List.

(c) May be installed below grade in a vault, provided that water-tight fitted plugs or caps are installed in the test cocks, and the assembly shall not be subject to continuous immersion;

(d) Shall not be installed at a height greater than five feet unless there is a permanently installed platform meeting Oregon Occupational Safety and Health Administration (OR-OSHA) standards to facilitate servicing the assembly;

(e) May be installed with reduced clearances if the pipes are two inches in diameter or smaller, provided that they are accessible for testing and repairing, and approved by the appropriate local administrative authority having jurisdiction;

(f) Shall have adequate drainage provided except that the drain shall not be directly connected to a sanitary or storm water drain. Installers shall check with the water supplier and appropriate local administrative authority having jurisdiction for additional requirements;

(g) Shall be protected from freezing when necessary; and

(h) Be used to protect against non-health hazards under backsiphonage and backpressure conditions.

(10) A Reduced Pressure Principle Backflow Prevention Assembly (RP) or Reduced Pressure Principle-Detector Backflow Prevention Assembly (RPDA): [Figure 5 not included. See ED. NOTE.]

(a) Shall conform to bottom and side clearances when the assembly is installed inside a building. Access doors may be provided on the side of an above-ground vault;

(b) Shall always be installed horizontally, never vertically, unless they are specifically approved for vertical installation;

ADMINISTRATIVE RULES

(c) Shall always be installed above the 100-year (1 percent) flood level unless approved by the appropriate local administrative authority having jurisdiction;

(d) Shall never have extended or plugged relief valves;

(e) Shall be protected from freezing when necessary;

(f) Shall be provided with an approved air gap drain;

(g) Shall not be installed in an enclosed vault or box unless a bore-sighted drain to daylight is provided;

(h) May be installed with reduced clearances if the pipes are two inches in diameter or smaller, are accessible for testing and repairing, and approved by the appropriate local administrative authority having jurisdiction;

(i) Shall not be installed at a height greater than five feet unless there is a permanently installed platform meeting Oregon Occupational Safety and Health Administration (OR-OSHA) standards to facilitate servicing the assembly; and

(j) Be used to protect against a non-health hazard or health hazard for backsiphonage or backpressure conditions.

[ED. NOTE: Tables, Figures & Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.273, & 448.279

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 1-1994, f. & cert. ef. 1-7-94, Renumbered from 333-061-0099; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0072

Backflow Assembly Tester Certification

(1) The Department shall certify individuals who successfully complete all the requirements of these rules for testing backflow prevention assemblies. Only persons certified by the Department to test backflow prevention assemblies shall perform the required field-testing on backflow prevention assemblies, except as otherwise provided that:

(a) Journeyman plumbers defined as those who hold a certificate of competency issued under ORS 693 or apprentice plumbers, as defined under ORS 693.010; and

(b) Journeyman plumbers or apprentice plumbers who test backflow prevention assemblies shall satisfactorily complete a Department-approved Backflow Assembly Tester training course, according to rules adopted by the Director of Consumer and Business Services.

(2) Requirements for initial application for Backflow Assembly Tester certification shall include:

(a) Satisfactory completion of a Department-approved Backflow Assembly Tester training course within 12 months prior to the Department receiving the applicant's completed application;

(b) Satisfactory completion of all written and physical-performance examinations, including questions specific to OAR 333-061-0070 through 333-061-0073, administered by a Department-approved certification agency;

(A) A minimum score of 75 percent is required to pass the Department-approved Backflow Assembly Tester written examination;

(B) A minimum score of 90 percent is required to pass the Department-approved Backflow Assembly Tester physical-performance examination; and

(C) The Department will make available a list of approved certification training and testing sources.

(c) Registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(d) Submission of proof of high school graduation, GED, associate's degree, bachelor's degree, or PhD;

(e) Submission of a completed initial application with all required documentation as specified on the initial application form and in these rules; and

(f) Submission of an initial application fee as defined in OAR 333-061-0072(5).

(3) Requirements for Backflow Assembly Tester certification renewal shall include:

(a) All Backflow Assembly Tester certificates will expire on June 30 of every odd-numbered year, beginning June 30, 2005. Backflow Assembly Testers can only perform tests if they possess a current, valid certificate;

(b) Satisfactory completion of 0.5 CEU in backflow prevention-related fields taken at a Department-approved certification training agency within the two-year period immediately prior to the date of the certification renewal application;

(c) Satisfactory completion of all written and physical-performance examinations, including questions specific to OAR 333-061-0070 through

333-061-0073, administered by a Department-approved certification agency;

(A) A minimum score of 75 percent is required to pass the Department-approved Backflow Assembly Tester written examination;

(B) A minimum score of 90 percent is required to pass the Department-approved Backflow Assembly Tester physical-performance examination; and

(C) The Department will make available a list of approved certification training and testing sources.

(d) Registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(e) Submission of yearly test gauge calibration reports performed in the same month every year, as determined by the Backflow Assembly Tester;

(f) Submission of a completed renewal application with all required documentation as specified on the renewal application form and in these rules;

(g) Submission of a renewal application fee, as defined in OAR 333-061-0072(5);

(h) The Department may grant certification renewal without a reinstatement fee for up to 30 days after the expiration date of a certificate. A reinstatement fee of \$50 will be added to the renewal fee for all renewal application fees received after the 30-day period; and

(i) A Backflow Assembly Tester who does not renew within 12 months of the expiration date of his or her certificate will be required to meet all requirements of an initial applicant in section (2) of these rules.

(4) The Department may issue Backflow Assembly Tester certification based on reciprocity if the Department determines the issuing state or entity has certification training and testing standards and qualifications substantially equivalent to the Department's certification training and testing standards and qualifications, and the applicant/Backflow Assembly Tester meets all requirements set forth in these rules, including:

(a) Submission of current certification from a state or entity having substantially equivalent certification training and testing standards, as determined by the Department;

(b) Submission of attendance and successful completion of an Oregon Department-approved Backflow Assembly Tester certification renewal class, including questions specific to OAR 333-061-0070 through 333-061-0073, within the 12 months prior to submitting the completed reciprocity application;

(A) A minimum score of 75 percent is required to pass the Department-approved Backflow Assembly Tester written examination;

(B) A minimum score of 90 percent is required to pass the Department-approved Backflow Assembly Tester physical-performance examination; and

(C) The Department will make available a list of approved certification training and testing sources.

(c) Registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(d) Submission of proof of high school graduation or equivalent;

(e) Submission of yearly test gauge calibration reports performed in the same month every year, as determined by the Backflow Assembly Tester;

(f) Submission of a completed reciprocity application form with all required documentation as specified on the reciprocity application form and in these rules; and

(g) Submission of a reciprocity application fee, as defined in OAR 333-061-0072(5).

(5) Application fees for Backflow Assembly Tester certification.

(a) Applicants for certification shall pay an application fee, made payable to the Department of Human Services, Public Health Division;

(b) The Department will not refund any fees once it has initiated processing an application;

(c) The application fees are:

(A) Initial Certification (2-years) \$70;

(B) Certificate Renewal (2-years) \$70;

(C) Reciprocity Review \$35 + Initial Certification fee;

(D) Reinstatement \$50 + Certificate Renewal fee; and

(E) Combination Certificate Renewal \$110.

(d) Initial certification fees shall be prorated to the nearest year for the remainder of the 2-year certification period; and

(e) The Department shall apply the Combination Certificate Renewal fee when an applicant simultaneously applies for renewal of his or her Backflow Assembly Tester and Cross Connection Specialist certifications.

(6) Enforcement actions for applicant/Backflow Assembly Tester.

ADMINISTRATIVE RULES

(a) The Department may deny an initial application for certification, an application for renewal of certification, an application for certification based on reciprocity, or revoke a certification if the Department determines:

(A) The applicant/Backflow Assembly Tester provided false information to the Department;

(B) The applicant/Backflow Assembly Tester certification issued by another state or entity was revoked;

(C) The applicant/Backflow Assembly Tester has permitted another person to use his or her certificate number;

(D) The applicant/Backflow Assembly Tester has failed to properly perform backflow prevention assembly testing;

(E) The applicant/Backflow Assembly Tester has falsified a backflow assembly test report;

(F) The applicant/Backflow Assembly Tester has failed to obtain and maintain a Construction Contractor's Board registration or a Landscape Contractor's Board license, as required by ORS 448.279(2);

(G) The applicant/Backflow Assembly Tester has failed to comply with these rules or other applicable Federal, State or local laws or regulations; or

(H) The applicant/Backflow Assembly Tester performs backflow assembly tests with a gauge that was not calibrated for accuracy within the 12-month period prior to testing the assembly.

(b) A person whose initial or renewal application has been denied, whose application for reciprocity has been denied, or whose certification has been revoked, has the right to appeal under the provisions of chapter 183, Oregon Revised Statutes;

(c) Applicants or Backflow Assembly Testers who have been denied initial, renewal, or reciprocity certification or whose certifications have been revoked, may not reapply for certification for one year from the date of denial or revocation of certification; and

(d) Applicants or Backflow Assembly Testers may petition the Department prior to a year from the date of denial or revocation and may be allowed to reapply at an earlier date, at the discretion of the Department.

(e) Backflow Assembly Tester test reports shall be made available to the Department upon request.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.279, 448.280, 448.285, 448.290

Hist.: HD 1-1994, f. & cert. ef. 1-7-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0073

Cross Connection Specialist Certification

(1) The Department shall certify individuals who successfully complete all the requirements of these rules as Cross Connection Specialists. Only persons certified by the Department shall administer cross connection control programs for community water systems. Community water systems with 300 or more service connections are required to have a Cross Connection Specialist administer the water system's cross connection control program, unless specifically exempted from this requirement by the Department.

(2) Requirements for initial application for Cross Connection Specialist certification shall include:

(a) Satisfactory completion of a Department-approved Cross Connection Specialist training course within 12 months prior to the Department receiving the applicant's completed application;

(A) A minimum score of 85 percent is required to pass the Department-approved Cross Connection Specialist written examination; and

(B) The Department will make available a list of approved certification training and testing sources.

(b) Registration with the Construction Contractor's Board or licensure by the Landscape Contractor's Board, as required by ORS 448.279(2);

(c) Submission of proof of high school graduation, GED, associate's degree, bachelor's degree, or PhD;

(d) Submission of documentation of one year of experience in water systems or plumbing;

(e) Submission of a completed initial application with all required documentation, as specified on the initial application form and in these rules; and

(f) Submission of an initial application fee, as defined in OAR 333-061-0073(5).

(3) Requirements for Cross Connection Specialist certification renewal shall include:

(a) All Cross Connection Specialist certificates will expire on June 30 of every odd numbered year, beginning June 30, 2005;

(b) Satisfactory completion of a total of at least 0.6 CEU in cross connection-related fields taken within the two-year period immediately prior to the date of the certification renewal application. Training courses must be taken at Department-approved training agencies or be Oregon Environmental Services Advisory Council-approved courses;

(A) A minimum score of 85 percent is required to pass the Department-approved Cross Connection Specialist written examination; and

(B) The Department will make available a list of approved certification training and testing sources.

(c) Registration with the Construction Contractor's Board or licensure by the Landscape Contractor's Board, as required by ORS 448.279(2);

(d) Submission of a completed renewal application with all required documentation, as specified on the renewal application form and in these rules;

(e) Submission of a renewal application fee as defined in OAR 333-061-0073(5);

(f) The Department may grant certification renewal without a reinstatement fee for up to 30 days after the expiration date of a certificate. A reinstatement fee of \$50 will be added to the renewal fee for all renewal application fees received after the 30-day period; and

(g) A Cross Connection Specialist who does not renew within 12 months of the expiration date of his or her certificate will be required to meet all requirements of an initial applicant in section (2) of this rule.

(4) The Department may issue Cross Connection Specialist certification based on reciprocity if the Department determines the issuing state or entity has certification training and testing standards and qualifications substantially equivalent to the Department's certification training and testing standards and qualifications, and the applicant meets all requirements in these rules:

(a) Submission of current certification from a state or entity having substantially equivalent certification training and testing standards, as determined by the Department;

(b) Submission of attendance and successful completion of an Oregon Department-approved Cross Connection Specialist certification renewal class within the 12 months prior to submitting the completed application;

(A) A minimum score of 85 percent is required to pass the Department-approved Cross Connection Specialist written examination; and

(B) The Department will make available a list of approved certification training and testing sources.

(c) Registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(d) Submission of proof of high school graduation or equivalent;

(e) Submission of a completed reciprocity application form with all required documentation as specified on the reciprocity application form and in these rules; and

(f) Submission of a reciprocity application fee as defined in OAR 333-061-0073(5).

(5) Application fees for Cross Connection Specialist certification.

(a) Applicants shall pay an application fee, made payable to the Department of Human Services, Public Health Division;

(b) The Department will not refund any fees once it has initiated processing an application;

(c) The fees are:

(A) Initial Certification (2-years) \$70;

(B) Certificate Renewal (2-years) \$70;

(C) Reciprocity Review \$35 + Initial Certification fee;

(D) Reinstatement \$50 + Certificate Renewal fee; and

(E) Combination Certificate Renewal \$110.

(d) Initial certification fees shall be prorated to the nearest year for the remainder of the 2-year certification period; and

(e) The Department shall apply the Combination Certification Renewal fee when an applicant simultaneously applies for renewal of his or her Backflow Assembly Tester and Cross Connection Specialist certifications.

(6) Enforcement actions for applicant/Cross Connection Specialist.

(a) The Department may deny an initial application for certification, an application for renewal of certification, an application for certification based on reciprocity, or revoke a certification if the Department determines:

(A) The applicant/Cross Connection Specialist provided false information to the Department;

(B) The applicant/Cross Connection Specialist certification issued by another state or entity was revoked;

ADMINISTRATIVE RULES

(C) The applicant/Cross Connection Specialist has permitted another person to use his or her certificate number;

(D) The applicant/Cross Connection Specialist has falsified a survey/inspection/Annual Summary Report;

(E) The applicant/Cross Connection Specialist has failed to obtain and maintain a Construction Contractor's Board registration or a Landscape Contractor's Board license, as required by ORS 448.279(2); or

(F) The applicant/Cross Connection Specialist has failed to comply with these rules or other applicable Federal, State or local laws or regulations.

(b) A person whose initial or renewal application has been denied, whose application for reciprocity has been denied, or whose certification has been revoked, has the right to appeal under the provisions of chapter 183, Oregon Revised Statutes;

(c) Applicants or Cross Connection Specialists who have been denied initial, renewal, or reciprocity certification or who have had their certification revoked may not reapply for certification for one year from the date of denial or revocation of certification; and

(d) Applicants or Cross Connection Specialists may petition the Department prior to a year from the date of denial or revocation and may be allowed to reapply at an earlier date, at the discretion of the Department.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.273, 448.278, & 448.279

Hist.: OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0076

Sanitary Surveys

(1) All sanitary surveys as defined by OAR 333-061-0020(169) and this rule shall be conducted by the Department or contract county health department staff.

(2) Public water systems must provide the Department, upon request, any existing information that will enable the Department to conduct a sanitary survey.

(3) The sanitary survey report shall be completed by staff and sent to the water system following the site visit. The content of the sanitary survey report shall address, at a minimum, the following components of a water system: source of supply; treatment; distribution system; finished water storage; pumps, pump facilities and controls; monitoring, reporting and data verification; system management and operations; and operator certification compliance.

(4) The sanitary survey report must identify any significant deficiency prescribed in this section, or any violation of drinking water regulations, discovered in the on-site visit. For the purposes of sanitary surveys, significant deficiencies for all water systems are:

(a) Surface Water Treatment:

(A) Incorrect location for compliance turbidity monitoring;

(B) For systems serving more than 3,300 people, no auto-dial, call-out alarm or auto-plant shutoff for low chlorine residual;

(C) For conventional or direct filtration, no auto-dial, call-out alarm or auto-plant shutoff for high turbidity when no operator is on-site;

(D) For conventional filtration, settled water turbidity not measured daily;

(E) For conventional or direct filtration, turbidity profile not conducted on individual filters at least quarterly;

(F) For cartridge filtration, no pressure gauges before and after cartridge filter;

(G) For cartridge filtration, filters not changed according to manufacturer's recommended pressure differential; and

(H) For diatomaceous earth filtration, body feed not added with influent flow.

(b) Groundwater Well Construction:

(A) Sanitary seal and casing not watertight;

(B) Does not meet setbacks from hazards;

(C) Wellhead not protected from flooding;

(D) No raw water sample tap;

(E) No treated sample tap, if applicable; and

(F) If well vent exists, not screened.

(c) Groundwater Springbox Construction:

(A) Not constructed of impervious, durable material;

(B) No watertight access hatch/entry;

(C) No screened overflow;

(D) Does not meet setbacks from hazards;

(E) No raw water sample tap; and

(F) No treated sample tap, if applicable.

(d) Disinfection:

(A) No means to adequately determine flow rate on contact chamber effluent line;

(B) Failure to calculate CT values correctly; and

(C) No means to adequately determine disinfection contact time under peak flow and minimum storage conditions.

(e) Finished water storage:

(A) Hatch not locked;

(B) Roof and hatch not watertight;

(C) No flap-valve or equivalent over drain/overflow; and

(D) No screened vent.

(5) Sanitary survey fees. All community, non-transient non-community, transient non-community, and state regulated water systems are required to undergo a sanitary survey on a frequency determined by the Department and are subject to a fee payable to the Department on or before the due date specified in the invoice sent to the water system.

(a) For community water systems, the sanitary survey fee is based upon either the number of connections or the population served.

(A) For community water systems with more than 250 service connections, the sanitary survey fee shall be based upon the number of connections served by the system.

(B) For community water systems with 250 service connections or less, but serving more than 1,000 people, the sanitary survey fee shall be based upon the population served by the system. For wholesale community water systems in this category, the sanitary survey fee will be assessed as a community water system without water treatment (WT) as specified in the table below.

(b) Transient non-community water systems identified as campgrounds with multiple handpumps will be considered one water system and assessed a single fee for the purposes of this rule.

(c) Late fees. A late fee will be assessed to any water system which fails to pay its sanitary survey fee within 10 days of the due date in the invoice sent to the water system. The late fee may be waived at the discretion of the Department. Fees for sanitary surveys are listed in Table 50 below: [Table not included. See ED. NOTE.]

(6) Response required to address sanitary survey deficiencies:

(a) Water systems that use surface water sources or groundwater sources under the direct influence of surface water must respond in writing to the Department or county health department within 45 days of receiving the sanitary survey report.

(A) The response of the water system must include:

(i) The plan the water system will follow to resolve or correct the identified significant deficiencies;

(ii) The plan the water system will follow to resolve or correct any violations of drinking water regulations identified during the sanitary survey or at any other time; and

(iii) The schedule the water system will follow to execute the plan.

(B) The plans and schedules identified above in subparagraphs (6)(a)(A)(i) through (iii) of this rule must be approved by the Department.

(b) Beginning on December 1, 2009, water systems that use only groundwater sources must consult with the Department or county health department within 30 days of receiving written notice of a significant deficiency or a violation of a drinking water regulation identified during the sanitary survey.

(A) Water systems must have completed corrective action or be in compliance with a Department-specified corrective action plan within 120 days of receiving written notice of a significant deficiency, as specified in OAR 333-061-0032(6)(e).

(7) Public water systems that fail to respond to the Department or county health department within the timeframe specified, are required to issue a tier 2 public notice as prescribed in OAR 333-061-0042(2)(b)(D).

(8) Public water systems must correct the deficiencies or violations identified in the sanitary survey according to the Department-approved schedule identified in section (6) of this rule. Failure to do so constitutes a violation of these rules.

[ED. NOTE: Tables, Figures & Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 448.115, 448.131, 448.150, 448.175, 448.273

Hist.: OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0077

Composite Correction Program & Comprehensive Performance Evaluations

(1) All Comprehensive Performance Evaluation Reports (CPEs) as defined by OAR 333-061-0020(37) and this rule shall be conducted by the Department or contract county health department staff.

ADMINISTRATIVE RULES

(2) Any public water system using surface water or groundwater under direct surface water influence which treats the water using conventional or direct filtration treatment is subject to the Composite Correction Program, including CPEs, as determined necessary or appropriate by the Department.

(3) Any public water system using surface water or groundwater under direct surface water influence which treats the water using conventional or direct filtration treatment that has a measured filtered water turbidity level greater than 2.0 NTU from any individual filter in two consecutive measurements taken 15 minutes apart in each of two consecutive months as stated in OAR 333-061-0040(1)(d)(B) (ii)(IV) is required to have a CPE conducted on that public water system's water treatment facility.

(4) The CPE report shall be completed by staff and sent to the water system following the site visit. The content of the CPE report shall include, at a minimum, the following components: An assessment of the water treatment plant performance from current and historical water quality data, an evaluation of each major (treatment) unit process, an identification and prioritization of the water treatment plant performance limiting factors, and an assessment by the Department if additional comprehensive technical assistance would be beneficial to the water system. The CPE results must be written into a report and submitted to the public water system by the Department.

(5) The public water system receiving the CPE report must respond in writing to the Department or the local county health department within 45 days (for systems serving at least 10,000 people) or 120 days (for systems serving less than 10,000 people) of receiving the report as required by OAR 333-061-0040(1)(k). The response of the public water system must include:

(a) The plan the public water system will follow to resolve or correct the identified performance limiting factors that are within the water system's (and its governing body) ability to control; and

(b) The schedule the public water system will follow to execute the plan.

(6) The public water system must take corrective action through the CCP according to the schedule identified in subsection (5)(b) of this rule to resolve the performance limiting factors identified. Failure by the water system to take corrective action to resolve the performance limiting factors constitutes a violation of these rules.

Stat. Auth.: ORS 448.150

Stats. Implemented: ORS 431.123, 448.131, 448.175 & 448.273

Hist.: OHD 23-2001, f. & cert. ef. 10-31-01; PH 12-2003, f. & cert. ef. 8-15-03; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0090 Penalties

(1) Violation of these rules shall be punishable as set forth in ORS 448.990 which stipulates that violation of any section of these rules is a Class A misdemeanor.

(2) Pursuant to ORS 448.280, 448.285 and 448.290, any person who violates these rules shall be subject to a civil penalty. Each and every violation is a separate and distinct offense, and each day's violation is a separate and distinct violation.

(3) Under ORS 448.290, only the Administrator can impose penalties and the penalties shall not become effective until after the person is given an opportunity for a hearing.

(4) The civil penalty for the following violations shall not exceed \$1,000 per day for each violation:

(a) Failure to obtain approval of plans prior to the construction of water system facilities;

(b) Failure to construct water system facilities in compliance with approved plans;

(c) Failure to take immediate action to correct maximum contaminant level violations;

(d) Failure to comply with sampling and analytical requirements;

(e) Failure to comply with reporting and public notification requirements;

(f) Failure to meet the conditions of a compliance schedule developed under a variance or permit;

(g) Failure to comply with cross connection control requirements;

(h) Failure to comply with the operation and maintenance requirements;

(i) Failure to comply with an order issued by the Administrator.

(5) Civil penalties shall be based on the population served by public water systems and shall be in accordance with Table 51 below: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.120, 431.150, 448.150, 448.280, 448.285 & 448.290

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0245, HD 2-1983, f. & ef. 2-23-83; HD 3-1987, f. & ef. 2-17-87; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 3-2000, f. 3-8-00, cert. ef. 3-15-00; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0228

Certification Requirements For Small Water System Operators

(1) An applicant for initial certification as an operator of a small water system must meet one of the following requirements:

(a) Possess documentation of a high school diploma or Department approved equivalent; and

(b) Complete a Department approved training for small water system operation and water treatment processes; or

(c) Pass a Department approved written examination covering basic small water system operation and water treatment; or

(d) Be certified as prescribed by OAR 333-061-0235 through OAR 333-061-0265 for water distribution or water treatment.

(2) A small water system operator certificate expires on July 31 of every third year. A certificate will be renewed upon satisfactory evidence presented to the Department that the operator has completed six hours of Department approved continuing education since the issuance date of the last certificate and submittal of the designated application form. When renewed, the new certificate will be valid for three years from the expiration date of the prior certificate.

(3) An operator certified in accordance with section (1) of this rule whose certificate has expired cannot be in direct responsible charge of any small water system.

(4) Small water system operators are exempt from fees.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994

Hist.: OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0230

Contracting For Services

(1) Water systems may contract with a certified operator or a water system having certified operators to provide supervision. The contract operator must be certified at the level equal to or greater than the classification of the water system.

(2) The written contract must assure that the contracted operator will:

(a) Be available on 24-hour call and able to respond on-site upon request;

(b) Specify corrective action when the results of analyses or measurements indicate maximum contaminant levels have been exceeded or minimum treatment levels are not maintained and report the results of these analyses as prescribed by OAR 333-061-0040; and

(c) Assure that all operational decisions that affect public health are made in accordance with OAR 333-061-0225.

(3) Proof of the contract must be submitted to the Department by the water system owner within 30 days of hire.

(4) Contracts for operators that supervise small water systems as defined in OAR 333-061-0215 shall expire on July 31 of every third year.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0235

Operator Requirements Levels 1-4

Certificates are awarded at four levels in each classification of water treatment (WT) and water distribution (WD), as well as a Filtration Endorsement, and are subject to the following requirements:

(1) Water Treatment or Distribution Level 1 Operator Certification qualifications:

(a) Education: High School Diploma or equivalent;

(b) Experience: 12 months of qualifying operating experience;

(c) An Associate Degree in Water Technology may be substituted for six months of experience. No other education or substitution will be credited for this level.

(d) Successful completion of a Water Treatment or Distribution Level 1 examination.

(2) Water Treatment or Distribution Level 2 Operator Certification qualifications:

ADMINISTRATIVE RULES

(a) Education: High School Diploma or equivalent plus post high school education and/or qualifying operating experience in one of the following combinations:

(A) Three years of experience; or

(B) Two years of experience and one year of post high school education; and

(b) Successful completion of the Water Treatment or Distribution Level 2 or the Level 2 multiple-entry examination.

(3) Water Treatment or Distribution Level 3 Operator Certification qualifications:

(a) Education: High school Diploma or equivalent plus post high school education and/or qualifying operating experience in one of the following combinations:

(A) One year post high school education and five years experience, of which two and one-half years must have been involved in operational decision making; or

(B) Two years of post high school education and four years of experience, of which at least two years must have been involved in operational decision making; or

(C) Three years of post high school education and three years of experience, of which one and one-half years must have been involved in operational decision making; or

(D) For Distribution Level 3 only, eight years of experience, of which two and one-half years must have been involved in operational decision making; and

(b) Successful completion of the Water Treatment or Distribution Level 3 or the Level 3 multiple-entry examination.

(4) Water Treatment or Distribution Level 4 Operator Certification qualifications:

(a) Must be Oregon certified at Level 3; and

(b) Must have post high school education and/or qualifying operating experience in one of the following combinations:

(A) Four years post high school education and four years of experience, of which two years must have been involved in operational decision making; or

(B) Three years post high school education and five years experience, of which two and one-half years must have been involved in operational decision making; or

(C) Two years post high school education and six years experience, of which three years must have been involved in operational decision making; or

(D) For Distribution Level 4 only, 10 years of experience, of which three years must have been involved in operational decision making; and

(c) Successful completion of the Water Treatment or Distribution Level 4 examination.

(5) Filtration Endorsement qualifications:

(a) Must be certified at Water Treatment Level 2 or higher; and

(b) Must have one year qualifying experience in operational decision making at a Conventional or Direct Filtration Treatment Plant; and

(c) Must successfully pass an examination on conventional filtration treatment.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0245

Applications For Certification Levels 1-4

(1) Certification will be granted to applicants on the following basis:

(a) The information submitted on the application form as well as any information already on file with the Department;

(b) An evaluation of the applicant's qualifications to take the examination by the Department; and

(c) Successfully passing an examination approved and administered by the Department.

(2) Certification by reciprocity is based on current, valid certification in another state or province which has a recognized certification program. Certification may be granted at the level where the examination, experience, and education requirements are equivalent to those outlined in these rules.

(a) Individuals requesting reciprocity must submit a complete exam/reciprocity application and pay the reciprocity application fee for each certificate desired.

(b) Reciprocity applications are reviewed on a case-by-case basis.

(c) The Department may issue a certificate without examination, when, in the judgment of the Department, the certification examination requirements in the other state or province are substantially equivalent to, and the person's education and experience meet the requirements set forth herein.

(d) The applicant must pay an exam fee for any examination required.

(e) When reciprocity is granted, the person will be subject to the same requirements of renewal as any other persons certified under these rules.

(3) Each applicant for certification must meet the minimum requirements of experience and education as listed under OAR 333-061-0235 "Operator Requirements Levels 1-4" in order to be eligible for admission to an examination.

(4) Applicants denied admission to the certification examination or denied certification by reciprocity have the right to appeal such a decision to the Department.

(5) Transcripts or proof of satisfactory completion of all education and documentation of experience claimed must be submitted with the application.

(6) Experience and education qualifications are based on the following:

(a) One year of experience is equivalent to 12 months full-time with 100 percent of time spent on activities directly relating to the certificate type for which application is made.

(b) The Department may credit substitute experience, not to exceed one-half of the qualifying operating experience required, in any of the following areas:

(A) When applying for a Water Distribution Certificate:

(i) Wastewater Collection experience;

(ii) Water Treatment Plant experience; and

(iii) Cross Connection Control experience.

(iv) Industrial/commercial process water treatment experience.

(B) When applying for a Water Treatment Certificate:

(i) Wastewater Treatment Plant experience;

(ii) Wastewater Treatment Laboratory experience;

(iii) Water Distribution System experience; and

(iv) Industrial/commercial process water treatment experience.

(c) Post High School Education must be directly related to the field of water treatment/water distribution and either acceptable as college transfer or valid Continuing Education Units (CEUs).

(A) Each year of college education completed, (one year of college education is 30 semester hours or 45 quarter hours, or the equivalent) in the fields of engineering, chemistry, water/wastewater technology, or allied sciences.

(B) Forty-five valid CEUs is equivalent to one year of post high school education.

(C) Any combination of 45 college credits and CEUs can be used to total one year of post high school education.

(D) Any degree or accumulation of college credit hours must be from an educational institution accredited through an agency recognized by the U.S. Department of Education to be acceptable.

(d) Where education credit is earned for on-the-job training, the Department will consider experience or education, but not both, in qualifying experience for an applicant.

(7) All applications for a new certificate or certificate at a higher grade, and some applications for reciprocity, require an examination and must be accompanied by a fee payment equal to the sum of the appropriate application fee and exam fee as prescribed in OAR 333-061-0265.

(8) All applications for regular exams scheduled by the Department, must be accompanied by the appropriate exam fee, application fee, and documentation and be postmarked to the Department by the 15th day of March and the 15th day of August prior to the scheduled examination.

(9) The Department will review the qualifications of each applicant for the purpose of determining whether the applicant has met the minimum requirements for experience, education, and special training as described in these rules.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 11-1989(Temp), f. & cert. ef. 12-29-89; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 7-2010, f. & cert. ef. 4-19-10

ADMINISTRATIVE RULES

333-061-0265

Fees

(1) All fees are to be made payable to the Department of Human Services.

(2) Application fees are not refundable unless:

- (a) The Department has taken no action on a certification application;
- (b) The Department determines the wrong application has been filed.

(3) Applicants for initial certification by exam must submit the exam fee and application fee, along with a complete application. Examination fees may be refunded if:

- (a) The application is denied, or
- (b) The applicant notifies the Department no less than one week in advance of the exam that the applicant is unable to sit for the exam.

(4) Applications will be accepted for processing only when accompanied by the appropriate fees as indicated in the fee schedule below:

- (a) Certification Renewal — \$40;
- (b) Combination Certification-each additional — \$20;
- (c) Exam Fee-all — \$35;
- (d) Special Exam Fee — \$70;
- (e) Application Fee:
 - (A) Level 1 Distribution or Treatment — \$50;
 - (B) Level 2 Distribution or Treatment — \$70;
 - (C) Level 3 Distribution or Treatment — \$90;
 - (D) Level 4 Distribution or Treatment — \$110;
 - (E) Filtration Endorsement — \$50;
 - (f) Reciprocity Review (each certification) — \$100;
 - (g) Reinstatement \$50 + Certificate Renewal Fee;
 - (h) Late Fee \$30 + Certificate Renewal Fee;
 - (i) Document Replacement Fee — \$25.

(5) Operators having more than one certification pertaining to water systems (water treatment and water distribution) may receive a combination certification. The fee is the full certification renewal fee for one certification and a lesser fee for each additional certification.

(6) The filtration endorsement is an extension of an operator's water treatment certification, and no additional annual fee is required to maintain the endorsement.

(7) A document replacement fee must be paid at the time of request for a replacement document.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994
Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 11-1989(Temp), f. & cert. ef. 12-29-89; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; OHD 3-2000, f. 3-8-00, cert. ef. 3-15-00; OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0290

Penalties

(1) Violations of these rules shall be punishable as set forth in ORS 448.994, which states that any person who knowingly and willfully violates ORS 448.455(2) and any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under any of these rules shall upon conviction, be punished by a fine of not more than \$500 or by imprisonment for not more than six months, or both.

(2) Pursuant to ORS 448.280, 448.285 and 448.290, any person who violates these rules shall be subject to a civil penalty. Each and every violation is a separate and distinct offense, and each day's violation is a separate and distinct violation.

(3) Under ORS 448.290, only the Administrator can impose penalties.

(4) The civil penalty for the following violations shall not exceed \$1,000 per day for each violation.

(a) Failure to employ or otherwise utilize an operator to be in direct responsible charge who has an appropriate valid operator's certificate as prescribed in these rules.

(b) Failure to employ or otherwise utilize an operator to be in direct responsible charge who has maintained the required continuing education units.

(c) Failure to comply with an order issued by the Department.

(5) Civil penalties shall be based on the population served by the public water system and shall be in accordance with the following schedule:

Daily Population Served: — Maximum Civil Penalty:

- 10 to 100 — \$50/day
- 101 to 300 — \$100/day
- 301 to 1,500 — \$200/day
- 1,501 to 10,000 — \$500/day
- Over 10,000 — \$1,000/day

Stat. Auth.: ORS 448

Stats. Implemented: ORS 448.280, 448.285, 448.290 & 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 11-1989(Temp), f. & cert. ef. 12-29-89; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; OHD 3-2000, f. 3-8-00, cert. ef. 3-15-00; OHD 7-2002, f. & cert. ef. 5-2-02; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0305

Purpose

The purpose of these rules is to provide a basis for implementing ORS 448.271. This law became effective on July 24, 1989, and establishes a program to provide water quality monitoring of underground aquifers that are used for domestic purposes.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.271

Hist.: HD 24-1990, f. & cert. ef. 11-16-90; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0310

Scope

These rules apply to sellers in any transaction for the sale or exchange of real estate that includes a dug, drilled or driven well that supplies ground water for domestic purposes. Properties with springs that are used for domestic purposes are exempt from these rules. The seller is required to have certain tests done on the well water and send the results to the Department. Failure of seller to test will not interfere with the sale of the property. The Department may require tests for other contaminants under certain conditions.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.271

Hist.: HD 24-1990, f. & cert. ef. 11-16-90; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0324

Area of Public Health Concern

If the Department confirms, as a result of monitoring required by OAR 333-061-0036, monitoring or assessment activities conducted by the Department of Environmental Quality, or any other scientifically valid data approved by the Department, the presence of contaminants likely to cause adverse human health effects in groundwater supplies, then the Department may declare an area of public health concern. The declaration shall specify the following:

(1) The specific aquifer(s) or geographic boundaries subject to the contamination;

(2) The detected contaminant(s);

(3) The human health risks attributed to the contaminant;

(4) The expected duration of the contamination; and

(5) The suspected or confirmed source of the contamination.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.271

Hist.: PH 7-2010, f. & cert. ef. 4-19-10

333-061-0325

Domestic Well Tests

(1) In any transaction for the sale or exchange of real estate that includes a well that supplies ground water for domestic purposes, the seller of the real estate shall, upon accepting an offer to purchase that real estate, have the well water tested for arsenic, nitrate, and total coliform bacteria. If the well is in a designated area of public health concern, the Department may require additional testing.

(2) The seller, or seller's designee, must submit the results of the required tests to the Department and to the buyer within 90 days of receiving the results of the tests.

(3) If the seller, or seller's designee, fails to comply with sections (1) and (2) of this rule, this does not invalidate any of the documents needed to complete the sale of the real estate.

(4) The seller, or seller's designee, is responsible for making sure that the Department's Water Systems Data Sheet is completed and submitted to the Department with copies of the arsenic, nitrate, and total coliform bacteria lab slips.

(5) The Water Resources Department well identification number and a description of the property shall be entered on the water system data sheet for the seller to be considered in compliance with ORS 448.271. The description shall include township, range, section, street address, city, state and zip code.

(6) The lab tests required by ORS 448.271 cannot be waived even if the buyer agrees not to have the well tested.

(7) The lab tests for arsenic, nitrate, and coliform bacteria are considered valid for one year if they are associated with the sale of the property.

ADMINISTRATIVE RULES

(8) If the well is not on the property being sold, but the real property includes an interest to a well on adjacent property, including an easement, that interest would be considered part of the real property. Therefore the tests would be required.

(9) ORS 448.271 only applies to wells that have been made operational to supply groundwater for domestic purposes. Capped domestic wells on unimproved lots are not required to be tested.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 431.110, 431.150, 448.131 & 448.271
Hist.: HD 24-1990, f. & cert. ef. 11-16-90; HD 14-1997, f. & cert. ef. 10-31-97; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0330

Accredited Laboratories

Only laboratories accredited according to Oregon Environmental Laboratory Accreditation Program (ORELAP) standards, as prescribed by OAR 333-064-0005 through 0065, shall be used to conduct the water tests required by these rules.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 431.110, 431.150, 448.131 & 448.271
Hist.: HD 24-1990, f. & cert. ef. 11-16-90; HD 14-1997, f. & cert. ef. 10-31-97; PH 7-2010, f. & cert. ef. 4-19-10

333-061-0335

Sample Collection

(1) Only persons who have knowledge of the appropriate procedures for the collection and handling of the water samples for nitrates and total coliform bacteria and who have experience in this area shall collect the samples. These persons include Registered Sanitarians, certified water system operators, well drillers, pump installers, and lab technicians. Specific instructions for the collection, preservation, handling and transport of the samples may be obtained from certified laboratories, county health departments or the Department and must be strictly adhered to.

(2) The samples must be drawn from the source prior to any form of water treatment. Samples may be collected after treatment injection points where water treatment has been bypassed or temporarily disabled.

(3) In the event that the well has been shock chlorinated, no follow up samples shall be taken until five days have elapsed.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 431.110, 431.150, 448.131 & 448.271
Hist.: HD 24-1990, f. & cert. ef. 11-16-90; HD 14-1997, f. & cert. ef. 10-31-97; PH 7-2010, f. & cert. ef. 4-19-10

Rule Caption: Regulation of renovation, repair and painting (RRP) activities involving lead-based paint.

Adm. Order No.: PH 8-2010

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10

Notice Publication Date: 1-1-2010

Rules Adopted: 333-070-0075, 333-070-0080, 333-070-0085, 333-070-0090, 333-070-0095, 333-070-0100, 333-070-0105, 333-070-0110, 333-070-0115, 333-070-0120, 333-070-0125, 333-070-0130, 333-070-0135, 333-070-0140, 333-070-0145, 333-070-0150, 333-070-0155, 333-070-0160

Subject: The Department of Human Services, Public Health Division is permanently adopting administrative rules in chapter 333, division 70. These rules implement the provisions of HB 2134 (Oregon Laws 2009, chapter 757), which gives Oregon the statutory authority to administer and enforce new U.S. EPA rules that will be fully implemented on April 22, 2010. The EPA rules regulate renovation, repair and painting (RRP) activities involving target housing and child-occupied facilities built before 1978. The proposed rules, as written, will mirror the EPA rules that will go into effect April 22, 2010 and will be no more stringent than the EPA rules. The fees in our proposed rule will be the same as or less than those charged by EPA. The statutory change and proposed rules will meet EPA's requirements for Oregon to become authorized to administer and enforce the RRP rule in Oregon.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-070-0075

Authority, a Purpose, Applicability

(1) Authority. These rules are promulgated in accordance with and under the authority of ORS 431.920.

(2) Purpose:

(a) The purpose of these rules is to address Oregon's need for a qualified and properly trained workforce to perform renovation, repair and painting of target housing and child-occupied facilities, and to safeguard the environment and protect the health of building occupants from lead-based paint hazards.

(b) These rules prescribe the requirements for certification of individuals and certified renovation firms who perform for compensation renovation, repair and painting in target housing and child occupied facilities.

(c) These rules will establish work practice standards for the performance of renovation, repair and painting activities for individuals and certified renovation firms and will require that activities be performed only by certified renovators and certified renovation firms.

(d) These rules prescribe the requirements to ensure that owners and occupants of target housing and child-occupied facilities receive information on lead-based paint hazards before these renovations begin.

(3) Applicability:

(a) These rules apply to all individuals and certified renovation firms who perform for compensation renovation, repair and painting activities in target housing and child-occupied facilities as defined in OAR 333-070-0085, except individuals who:

(A) Perform these activities within residential dwellings that they own:

(i) Unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed; or

(ii) A child residing in the residential dwelling building has an elevated blood lead level.

(B) Have received a written determination from a State of Oregon certified lead inspector or risk assessor that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter (mg/cm²) or 0.5 percent by weight.

(C) Have a certified renovator test each component affected by the renovation using an EPA recognized test kit as defined in OAR 333-070-0085. The renovator must follow the kit manufacturer's instructions. This determines that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 mg/cm² or 0.5 percent by weight.

(b) The information distribution requirements in OAR 333-070-0095 do not apply to emergency renovation operations. Emergency renovations other than interim controls are also exempt from the warning sign, containment, waste handling, training, and certification requirements in OAR 333-070-0105 to the extent necessary to respond to the emergency. Emergency renovations are not exempt from the cleaning requirements of OAR 333-070-0090, which must be performed by certified renovators or individuals trained in accordance with OAR 333-070-0100, the cleaning verification requirements of OAR 333-070-0090, which must be performed by certified renovators, and the recordkeeping requirements of OAR 333-070-0115. Once the immediate emergency is over, lead safe work practices and all the requirements of these rules shall be in effect.

(c) The training requirements in OAR 333-070-0100 and the work practice standards for renovation activities in OAR 333-070-0090 apply to all renovations covered by this section, except for renovations in target housing for which the certified renovation firm performing the renovation has obtained a statement signed by the owner that the renovation will occur in the owner's residence, no child under age six resides there, no pregnant woman resides there, the housing is not a child-occupied facility, and the owner acknowledges that the certified renovation firm will not be required to use the work practices contained in EPA's renovation, repair, and painting rule. For the purposes of this subsection, a child is considered to reside in the primary residence of his or her custodial parents, legal guardians, and foster parents. A child also resides in the primary residence of an informal caretaker if the child lives and sleeps at the caretaker's residence.

(d) These rules:

(A) Require that renovation, repair and painting activities must be performed by certified renovators working for certified renovation firms.

(B) Prescribe the requirements for, and the manner of, certifying competency of applicants for certification as a certified renovator and of the certified renovation firms employing such individuals.

(C) Determine the work practice standards for renovation, repair and painting activities, and those actions or circumstances that constitute failure to achieve or maintain competency, or that otherwise are contrary to the public interest, for which the Department may deny, suspend, or revoke certification.

ADMINISTRATIVE RULES

(D) Establish the fees to the extent necessary to defray costs of those activities prescribed herein.

(e) A certified renovation firm who is licensed by the Construction Contractors Board (CCB) is not required to be certified by the Department under these rules, but is subject to the work practice standards in these rules as required by CCB.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920 & 431.922
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0080

Adoption by Reference

All standards, listings and publications referred to in these rules are, by those references, made a part of these rules as though fully set forth.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0085

Definitions

As used in these rules unless otherwise required by context:

(1) "Accredited training program" means a training program provisionally accredited or accredited by the Department either directly or through reciprocity, to provide training for individuals engaged in renovation, repair and painting activities.

(2) "Accreditation" means the process whereby the Department has reviewed and approved a training program's written application with associated materials for accreditation, and has conducted an onsite audit finding the training program in compliance as specified in these rules.

(3) "Approved" means approved in writing by the Department.

(4) "Audit" means a classroom evaluation of ongoing training. An audit involves verifying the course content, specific time requirements for each subject, hands-on training, classroom conditions, attendance size, etc. An audit is required once-a-year for each course type given.

(5) "Certificate of mailing" means a United States Postal Service document that indicates when a piece of mail was presented to the Postal Service for mailing.

(6) "Certified dust sampling technician" means a technician who has successfully completed a dust sampling course accredited by the Department, EPA or an EPA authorized program.

(7) "Certified renovation firm" means a company, partnership, corporation, sole proprietorship, association, or other entity that has been certified by the Department to conduct renovation under ORS 431.920 or licensed by the CCB under ORS 701.515.

(8) "Certified renovator" means a renovator who has successfully completed a renovator course accredited by the Department, EPA, or EPA authorized program.

(9) "Child-occupied facility" means a building, or a portion of a building, constructed prior to 1978, visited regularly by the same child, under age six, on at least two different days within any week (Sunday through Saturday), provided that each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours, and the combined annual visits last at least sixty 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. 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.

(10) "Cleaning verification card" means a card developed and distributed, or otherwise approved, by EPA for the purpose of determining, through comparison of wet and dry disposable cleaning cloths with the card, whether post-renovation cleaning has been properly completed.

(11) "Clearance examination standards" means a maximum of 40 micrograms of lead in dust per square foot on floors, 250 micrograms of lead in dust per square foot on interior window sills, and 400 micrograms of lead in dust on window troughs.

(12) "Common areas" means portion(s) of a building that are generally accessible to all occupants. This may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences. 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 rou-

tinely 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 common areas.

(13) "Common area group" means a group of common areas that are similar in design, construction, and function. Common area groups include, but are not limited to, hallways, stairwells, and laundry rooms.

(14) "Component or building component" means specific design or structural elements or fixtures of a building or residential dwelling that are distinguished from each other by form, function, and location. These include, but are not limited to: interior components such as ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, windowsills or stools and troughs, casings, sashes and wells, and air conditioners.

(15) "Concentration" means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

(16) "Containment" means a process or arrangement of materials to protect workers, occupants, the public, and the environment by controlling exposure to the lead-contaminated dust and debris created during renovation activities.

(17) "Course completion certificate" means documentation issued by an accredited training program to an individual as proof of successful completion of a Department-accredited renovator training course or refresher training course.

(18) "Course completion date" means the final date of classroom instruction and/or student examination of an accredited renovator training course.

(19) "Critical barrier" means a containment structure that allows for the passage of persons or materials while maintaining containment.

(20) "Demonstration testing" means the observation and scoring of a student's job task and equipment use skills taught during a course or refresher training course.

(21) "Department" means the Department of Human Services of the State of Oregon.

(22) "Desk audit" means an audit of the training providers office to document proper records keeping, filing procedures and notifications required by the Department.

(23) "Deteriorated paint" means any interior or exterior paint or other coating that is peeling, chipping, 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.

(24) "Distinct painting history" means the application history, as indicated by the visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

(25) "Documented methodologies" are written methods or protocols used to sample for the presence of lead in paint, dust, and soil as recommended in U.S. Department of Housing and Urban Development "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing", revised, October, 1997; "Agency Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil", September, 1995; and "EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling", March 1995. 40 CFR § 745.88, and EPA training courses.

(26) "Dripline" means the area within three feet surrounding the perimeter of a building.

(27) "Dry disposable cleaning cloth" means a commercially available dry, electro-statically charged, white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

(28) "Dust-lead hazard" means surface dust in a residential dwelling or child-occupied facility 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 window sills or 400 $\mu\text{g}/\text{ft}^2$ in troughs based on wipe samples.

(29) "Emergency" means a situation in which failure to act promptly would likely result in immediate harm to persons or property.

(30) "Emergency renovation operations" means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not

ADMINISTRATIVE RULES

immediately attended to, presents a safety or public health hazard, or threatens equipment or property with significant damage. Interim controls performed in response to an elevated blood lead level in a resident child are also emergency renovations.

(31) "EPA" means the United States Environmental Protection Agency.

(32) "EPA Authorized Program" means a state, tribal, or territorial program authorized by EPA to administer and enforce the provisions of 40 CFR § 745.324 and 40 CFR § 745.326.

(33) "Friction surface" means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

(34) "Guest instructor" means an individual who is responsible for providing less than 30 percent of training in any course.

(35) "Hands-on training" means training during which students practice skills that they will be expected to perform at the worksite.

(36) "HEPA vacuum" means a vacuum cleaner which has been designed with a high-efficiency particulate air (HEPA) filter as the last filtration stage. A HEPA filter is a filter that is capable of capturing particles of 0.3 microns with 99.97 percent efficiency. The vacuum cleaner must be designed so that all the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it.

(37) "Impact surface" means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

(38) "Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report, in writing, explaining the results of the investigation.

(39) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(40) "Interactive/participatory teaching methods" mean instruction which consists of active participation of the students, such as brainstorming, hands-on training, demonstration and practice, small group problem-solving, learning games, discussions, risk mapping, field visits, walk-throughs, problem-posing, group work assignments, homework review sessions, question-and-answer periods, skits, or role-playing sessions. Lecture is not considered an interactive/participatory teaching method.

(41) "Job tasks" mean the specific activities performed in the context of work.

(42) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

(43) "Lead-based paint hazard" means deteriorated lead-based paint, dust-lead hazard or soil-lead hazard as identified in these rules.

(44) "Lead-contaminated dust" means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the appropriate federal agency to pose a threat of adverse health effects in pregnant women or young children.

(45) "Minor repair and maintenance activities" means activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupts six square feet or less of painted surface per room for interior activities, or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by OAR 333-070-0090 are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days are the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

(46) "Multi-family housing" means a housing property consisting of more than four dwelling units.

(47) "Paint in poor condition" means more than 10 square feet of deteriorated paint on exterior components with large surface areas; or more than two square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than 10 percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (e.g., window sills, baseboards, soffits, trim).

(48) "Paint-lead hazard" means any of the following:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, or floor) are equal to or greater than the dust-lead hazard levels identified in these rules.

(b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame).

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks. (d) Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

(49) "Paint stabilization" means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

(50) "Pamphlet" means the EPA pamphlet titled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* (published March, 2008), or any state pamphlet approved by EPA pursuant to 40 CFR 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet (except for the addition or revision of state or local sources of information).

(51) "Permanent" means having an expected design life of 20 years.

(52) "Person" means individuals, corporations, associations, certified renovation firms, partnerships and joint stock companies as well as public entities of any character.

(53) "Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course.

(54) "Proficiency test" means any alternative to a conventional written examination that is used to measure a trainee's mastery of course content. An oral examination offered to a trainee with a disability is an example of a proficiency test.

(55) "Provisional accreditation" means the Department has reviewed and finds acceptable a training program's written application for accreditation, but has not conducted an on-site audit as specified in these rules.

(56) "Public agency" means an entity that functions as part of a governmental body or organization at the local, state, or federal level.

(57) "Reciprocity for training programs" means the accreditation of training programs based upon current accreditation from the EPA or any EPA authorized program.

(58) "Recognized test kit" means a commercially available kit recognized by EPA under 40 CFR 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter, or more than 0.5 percent lead by weight, in a paint chip, paint powder, or painted surface.

(59) "Refresher renovator training course" means a minimum training program accredited by the Department to update an individual's knowledge and skills so that they can effectively and safely continue to practice in the field.

(60) "Renovation" means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by these rules. The term renovation includes, but is not limited to, the removal or modification of painted surfaces or painted components (e.g., modification of painted doors, surface preparation activity such as sanding, scraping, or other such activities that may generate paint dust); the removal of large structures (e.g., walls, ceiling, large surface re-plastering, major re-plumbing); and window replacement, weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather-stripping), and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation under this subpart. The term renovation does not include minor repair and maintenance activities.

(61) "Residential building" means a building containing one or more residential dwellings.

(62) "Residential dwelling" means:

(a) A detached single family dwelling unit, including attached structures such as porches and stoops; or

(b) A single family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be occupied, in whole or in part, as the home or residence of one or more persons.

ADMINISTRATIVE RULES

(63) "Room" means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room.

(64) "RRP" means the U.S. EPA Renovation Repair and Painting Rule under 40 CFR § 745.

(65) "Site Visit" means a visit by the Department to a prospective training provider, prior to accreditation. The site visit involves verifying training location, classrooms, training tools.

(66) "Soil lead hazard" means 400 ppm of lead in child play areas or 1200 ppm in non-child play areas.

(67) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children under age six resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling.

(68) "These rules" mean OAR 333-070-0075 through 333-070-0160.

(69) "Training hour" means 60 minutes of lead-based paint related training which may include a break of not more than 10 minutes.

(70) "Training instructor" means the individual responsible for organization of the course and oversight of the teaching of all course material, and who teaches at least 70 percent of the course.

(71) "Training manager" means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

(72) "Train-the-trainer course" means a course that includes, but is not limited to, instruction in the planning and teaching of adult education, adult learning principles, designing training objectives, selecting and designing training activities, creating an effective learning environment, facilitating group involvement and discussions, and strategies for dealing with difficult training situations and difficult learners.

(73) "Visual inspection" means:

(a) For interiors, that a certified renovator determines whether dust, debris, or residue is still present.

(b) For exteriors, that a certified renovator determines whether dust or debris is still present in and below the work area, including windowsills and the ground.

(74) "Wet disposable cleaning cloth" means a commercially available, pre-moistened white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

(75) "Wet mopping system" means a device with the following characteristics: A long handle, a mop head designed to be used with disposable absorbent cleaning pads, a reservoir for cleaning solution, and a built-in mechanism for distributing or spraying the cleaning solution onto a floor, or a method of equivalent efficacy.

(76) "Work area" means the area that the certified renovator establishes to contain the dust and debris generated by a renovation.

Stat. Auth.: ORS 431.920

Stats. Implemented: ORS 431.918

Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0090

Work Practice Standards

All renovations must be performed in accordance with the work practice standards in this rule unless the renovation qualifies for one of the exceptions identified in OAR 333-070-0075(3)(a).

(1) Standards for renovation activities.

(a) Renovations must be performed by certified renovation firms using certified renovators as directed in OAR 333-070-0100.

(b) The responsibilities of certified renovation firms are set forth in OAR 333-070-0105.

(c) The responsibilities of certified renovators are set forth in OAR 333-070-0100.

(2) Occupant protection.

(a) A certified renovation firm shall:

(A) Post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area. To the extent practicable, these signs must be in the primary language of the occupants.

(B) Post signs before beginning the renovation and keep them in place and readable until the renovation and the post-renovation cleaning verification has been completed.

(C) Post signs at each entry to the renovation project work area, at a minimum.

(b) If warning signs have been posted in accordance with paragraph (2)(a)(A) of this rule, additional signs are not required.

(3) Containing the work area. A certified renovation firm shall:

(a) Isolate the work area so that no dust or debris leaves the work area while the renovation is being performed, before beginning the renovation;

(b) Maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced, and taking any other steps necessary to ensure that no dust or debris leaves the work area while the renovation is being performed; and

(c) Ensure that containment is installed in such a manner that it does not interfere with occupant and worker egress in an emergency.

(4) Interior renovations. A certified renovation firm shall:

(a) Remove all objects from the work area, including furniture, rugs, and window coverings, or cover them with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed;

(b) Close and cover all ducts opening in the work area with taped-down plastic sheeting or other impermeable material;

(c) Close windows and doors in the work area;

(d) Cover doors with plastic sheeting or other impermeable material. Doors used as an entrance to the work area must be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area;

(e) Cover the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater; and

(f) Use precautions to ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area.

(5) Exterior renovations. A certified renovation firm shall:

(a) Close all doors and windows within 20 feet of the renovation. On multi-story buildings, close all doors and windows within 20 feet of the renovation on the same floor as the renovation, and close all doors and windows on all floors below that are the same horizontal distance from the renovation;

(b) Ensure that doors within the work area that will be used while the job is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area;

(c) Cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering; and

(d) In adverse weather conditions (e.g. windy conditions), the certified renovation firm must take extra precautions in containing the work area to ensure that dust and debris from the renovation does not contaminate other buildings or other areas of the property or migrate to adjacent properties.

(6) Prohibited and restricted practices. The work practices listed below are prohibited during a renovation:

(a) Open-flame burning or torching of lead-based paint;

(b) The use of machines that remove lead-based paint through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, unless such machines are used with HEPA exhaust control; and

(c) Operating a heat gun on lead-based paint is prohibited unless the temperature is below 750 degrees Fahrenheit.

(7) Waste from renovations. A certified renovation firm shall:

(a) Contain waste from a renovation to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work area, it must be covered;

(b) Store and contain waste that has been collected from renovation activities in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris, at the conclusion of each work day and at the conclusion of the renovation; and

(c) Contain the waste to prevent release of dust and debris when transporting waste from renovation activities.

(8) Cleaning the work area. After a renovation has been completed, the certified renovation firm shall clean the work area until no dust, debris or residue remains.

ADMINISTRATIVE RULES

- (9) Interior and exterior renovations. A certified renovation firm shall:
- (a) Collect all paint chips and debris and, without dispersing any of it, seal this material in a heavy-duty bag;
 - (b) Remove the protective sheeting;
 - (c) Mist the sheeting before folding it, fold the dirty side inward, and either tape shut to seal or seal in heavy-duty bags. Sheeting used to isolate contaminated rooms from non-contaminated rooms must remain in place until after the cleaning and removal of other sheeting; and
 - (d) Dispose of sheeting as waste.

(10) Additional cleaning for interior renovations. A certified renovation firm shall clean all objects and surfaces in the work area and within two feet of the work area in the following manner, cleaning from higher to lower:

(a) Walls. Clean walls starting at the ceiling and working down to the floor by either vacuuming with a HEPA vacuum or wiping with a damp cloth. Dust bags from HEPA machines must be properly contained and disposed. Changing of vacuum bag must occur in containment and wrapped and taped in plastic for disposal.

(b) Remaining surfaces. Thoroughly vacuum all remaining surfaces and objects in the work area, including furniture and fixtures, with a HEPA vacuum. The HEPA vacuum must be equipped with a beater bar when vacuuming carpets and rugs.

(c) Wipe all remaining surfaces and objects in the work area, except for carpeted or upholstered surfaces, with a damp cloth. Mop uncarpeted floors thoroughly, using a mopping method that keeps the wash water separate from the rinse water, such as the two-bucket mopping method, or using a wet mopping system.

(11) Standards for post-renovation cleaning verification of interiors. A certified renovation firm shall have a certified renovator:

(a) Perform a visual inspection to determine whether dust, debris or residue is still present. If dust, debris or residue is present, these conditions must be removed by re-cleaning and another visual inspection must be performed.

(b) After a successful visual inspection:

(A) Verify that each windowsill in the work area has been adequately cleaned, using the following procedure:

(i) Wipe the windowsill with a wet disposable cleaning cloth that is damp to the touch. If the cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

(ii) If the cloth does not match and is darker than the cleaning verification card, re-clean the windowsill as directed in subparagraph (A)(i) of this subsection, then either use a new cloth or fold the used cloth in such a way that an unused surface is exposed, and wipe the surface again. If the cloth matches or is lighter than the cleaning verification card, that windowsill has been adequately cleaned.

(iii) If the cloth does not match and is darker than the cleaning verification card, wait for one hour or until the surface has dried completely, whichever is longer, and wipe the windowsill with a dry disposable cleaning cloth. After this wipe, the windowsill has been adequately cleaned.

(B) Wipe uncarpeted floors and countertops within the work area with a wet disposable cleaning cloth. Floors must be wiped using an application device with a long handle and a head to which the cloth is attached. The cloth must remain damp at all times while it is being used to wipe the surface for post-renovation cleaning verification. If the surface within the work area is greater than 40 square feet, the surface within the work area must be divided into roughly equal sections that are each less than 40 square feet. Wipe each such section separately with a new wet disposable cleaning cloth. If the cloth used to wipe each section of the surface within the work area matches the cleaning verification card, the surface has been adequately cleaned.

(i) If the cloth used to wipe a particular surface section does not match the cleaning verification card, re-clean that section of the surface as directed in paragraph (b)(B) of this section, then use a new wet disposable cleaning cloth to wipe that section again. If the cloth matches the cleaning verification card, that section of the surface has been adequately cleaned.

(ii) If the cloth used to wipe a particular surface section does not match the cleaning verification card after the surface has been re-cleaned, wait for one hour or until the entire surface within the work area has dried completely, whichever is longer.

(iii) After waiting for the entire surface within the work area to dry, wipe each section of the surface that has not yet achieved post-renovation cleaning verification with a dry disposable cleaning cloth. After this wipe, that section of the surface has been adequately cleaned.

(c) Remove the warning signs when the work area passes the post-renovation cleaning verification.

(12) Standards for post-renovation cleaning verification of exteriors. A certified renovation firm shall have a certified renovator:

(a) Perform a visual inspection to determine whether dust, debris or residue is still present on surfaces in and below the work area, including windowsills and the ground. If dust, debris or residue is present, these conditions must be eliminated and another visual inspection must be performed.

(b) Remove the warning signs when the area passes the visual inspection.

(13) Optional dust clearance testing. Cleaning verification need not be performed if the contract between the certified renovation firm and the person contracting for the renovation or another federal, state or local law or regulation requires:

(a) The certified renovation firm to perform dust clearance sampling at the conclusion of a renovation covered by this rule.

(b) The dust clearance samples are required to be collected by a certified inspector, risk assessor or dust sampling technician.

(c) The certified renovation firm is required to re-clean the work area until the dust clearance sample results are below the dust clearance standards in OAR 333-070-0085.

(14) Activities conducted after post-renovation cleaning verification. Activities that do not disturb paint, such as applying paint to walls that have already been prepared, are not regulated by this rule if they are conducted after post-renovation cleaning verification has been performed.

Stat. Auth.: ORS 431.920

Stats. Implemented: ORS 431.920 & 431.922

Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0095

Information Distribution Requirements for the Pre-Renovation Notification Rule (406).

(1) Renovations in dwelling units. No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, a certified renovation firm performing the renovation shall:

(a) Provide the owner of the unit with the pamphlet; and:

(A) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet; or

(B) Obtain a certificate of mailing at least seven days prior to the renovation.

(b) If the owner does not occupy the dwelling unit, in addition to the requirements in subsection (a) of this section, a certified renovation firm shall provide an adult occupant of the unit with the pamphlet; and:

(A) Obtain, from the adult occupant, a written acknowledgment that the occupant has received the pamphlet; or

(B) Certify in writing that a pamphlet has been delivered to the dwelling and that the certified renovation firm performing the renovation has been unsuccessful in obtaining a written acknowledgment from an adult occupant. A certification must include:

(i) The address of the unit undergoing renovation;

(ii) The date and method of delivery of the pamphlet;

(iii) The names of the persons delivering the pamphlet;

(iv) The reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available);

(v) The signature of a representative of the certified renovation firm performing the renovation; and

(vi) The date of signature.

(C) If receipt can not be obtained from the adult occupant, obtain a certificate of mailing at least seven days prior to the renovation.

(2) Renovations in common areas. No more than 60 days before beginning renovation activities in common areas of multi-unit target housing, the certified renovation firm performing the renovation shall:

(a) Provide the owner with the pamphlet, and:

(A) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet; or

(B) Obtain a certificate of mailing at least seven days prior to the renovation.

(b) Notify the affected units in writing of the proposed renovation and make the pamphlet available upon request prior to the start of renovation. Such notification shall be accomplished by distributing written notification to each affected unit. The notice shall:

(A) Describe the general nature and locations of the planned renovation activities;

(B) Include the expected started and ending dates; and

(C) Contain a statement of how the occupant can obtain the pamphlet, at no charge, from the certified renovation firm performing the renovation.

ADMINISTRATIVE RULES

(c) While the renovation is ongoing, post informational 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 units. The signs must be accompanied by a posted copy of the pamphlet or information on how interested occupants can review a copy of the pamphlet or obtain a copy from the renovation certified renovation firm at no cost to occupants.

(d) Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation activities and to provide the pamphlet.

(3) If the scope, locations, or expected starting and ending dates of the planned renovation activities change after the initial notification, and the certified renovation firm provided written initial notification to each affected unit, the certified renovation firm performing the renovation must provide further written notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification must be provided before the certified renovation firm performing the renovation initiates work beyond that which was described in the original notice.

(4) Renovations in child-occupied facilities. No more than 60 days before beginning renovation activities in any child-occupied facility, the certified renovation firm performing the renovation shall:

(a) Provide the owner of the building with the pamphlet, and:

(A) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet; or

(B) Obtain a certificate of mailing at least seven days prior to the renovation.

(b) In addition to the requirements in subsection (a) of this section, if the operator of the child-occupied facility is not the owner of the building, provide the operator of the child-occupied facility with the pamphlet, and:

(A) Obtain, from the operator, a written acknowledgment the operator has received the pamphlet;

(B) Certify in writing that a pamphlet has been delivered to the operator and that the certified renovation firm performing the renovation has been unsuccessful in obtaining a written acknowledgment from the operator. Such certification shall comply with the requirements in paragraph (1)(b)(B) of this rule; or

(C) Obtain a certificate of mailing at least seven days prior to the renovation.

(c) Provide the parents and guardians of children using the child-occupied facility with the pamphlet and information describing the general nature and locations of the renovation and the anticipated completion date by:

(A) Mailing or hand-delivering the pamphlet and the renovation information to each parent or guardian of a child using the child-occupied facility; or

(B) While the renovation is ongoing, post informational signs in areas where they can be seen by the parents or guardians of the children frequenting the child-occupied facility describing the general nature and locations of the renovation and the anticipated completion date and post a copy of the pamphlet or information on how interested parents or guardians can review a copy of the pamphlet or obtain a copy from the certified renovation firm at no cost to the parents or guardians; and

(C) 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) Written acknowledgment. A written acknowledgment required by paragraphs (1)(a)(A), (1)(b)(A), (2)(a)(A), (4)(a)(A) and (4)(b)(A) of this rule must:

(a) Include the owner or occupant's name and a statement from the owner or occupant acknowledging receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature;

(b) Be on a separate sheet of paper or part of any written contract or service agreement for the renovation; and

(c) Be written in the same language as the text of the contract or agreement for the renovation or, in the case of non-owner occupied target housing, in the same language as the lease or rental agreement or the pamphlet.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0100

Renovator Certification and Dust Sampling Technician Certification and Responsibilities

(1) Renovator certification allows a certified individual to perform renovations covered by these rules.

(2) Dust sampling technician certification allows the individual to perform dust clearance sampling under OAR 333-070-0090. Optional dust sampling, procedures and determinations are contained in rule OAR 333-069-0070(5)(j), paragraph (D); and sections (6) and (11).

(3) Renovator certification and dust sampling technician certification.

(a) To become a certified renovator or certified dust sampling technician, an individual must successfully complete the appropriate course accredited by the Department, EPA, or another authorized program. The course completion certificate serves as proof of certification.

(b) Individuals who have successfully completed an accredited abatement worker or supervisor course, or individuals who have successfully completed an EPA, HUD, or EPA/HUD model renovation training course may take an accredited refresher renovator training course in lieu of the initial renovator training course to become a certified renovator.

(c) To become a certified dust sampling technician, a certified inspector or risk assessor need only to take the dust sampling technician refresher course.

(d) To maintain renovator certification or dust sampling technician certification, an individual must complete a renovator or dust sampling technician refresher course accredited by the Department, EPA or an EPA authorized program within five years of the date the individual completed the initial course described in OAR 333-070-0100. If the individual does not complete a refresher course within this time, the individual must re-take the initial course to become certified again.

(4) Renovator responsibilities. Certified renovators are responsible for ensuring compliance with OAR 333-070-0090 at all renovations to which they are assigned. A certified renovator shall:

(a) Perform all of the tasks described in OAR 333-070-0090 and either perform or direct workers to perform, all of the tasks described in OAR 333-070-0090.

(b) Provide training to workers on the work practices they will be using in performing their assigned tasks.

(c) Be physically present at the work site:

(A) At the time the signs required by OAR 333-070-0090(2) are posted;

(B) While the work area containment required by OAR 333-070-0090(3) is being established; and

(C) While the work area cleaning required by OAR 333-070-0090(8) is performed.

(d) Regularly direct work being performed by other individuals to ensure that the work practices are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area.

(e) Be available, either on-site or by telephone, at all times that renovations are being conducted.

(f) Use an EPA recognized test kit when requested by the party contracting for renovation services to determine whether components to be affected by the renovation contain lead-based paint. If the components make up an integrated whole, such as the individual stair treads and risers of a single staircase, the renovator is required to test only one of the individual components, unless the individual components appear to have been repainted or refinished separately.

(g) Have, at the work site, copies of their initial course completion certificate and their most recent refresher course completion certificate.

(h) Prepare the records required by OAR 333-070-0115.

(5) Dust sampling technician responsibilities. When performing optional dust clearance sampling as referenced in OAR 333-069-0070(5)(j), paragraph (D); and sections (6) and (11) a certified dust sampling technician shall:

(a) Collect dust samples in accordance with 40 CFR §745.227(e)(8), send the collected samples to a laboratory recognized by the EPA under §405(b) of the Toxic Substances Control Act, National Lead Laboratory Accreditation Program, and compare the results to the clearance levels in accordance with 40 CFR §745.227(e)(8)(C)(vii); and

(b) Have, at the work site, copies of their initial course completion certificate and their most recent refresher course completion certificate.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

ADMINISTRATIVE RULES

333-070-0105

Certified Renovation Firm Certification and Responsibilities

(1) Initial certification.

(a) Certified renovation firms that perform renovations for compensation shall:

(A) Apply to the Department for certification to perform renovations or dust sampling by submitting a completed "Application for Certified Renovation Firms," signed by an authorized agent of the certified renovation firm; and

(B) Pay the correct amount of fees.

(b) An application will be considered complete if it contains all of the information requested on the form and includes the correct amount of fees.

(c) If the Department receives an incomplete application, it will request a certified renovation firm to submit the missing information or fee within 30 days. If an applicant fails to submit the requested information or the fee, the application will be returned to the applicant. An applicant who has had its application returned may reapply at any time.

(d) Within 30 days of declaring an application complete, the Department shall:

(A) Approve a certified renovation firm's application if the Department determines that the environmental compliance history of the certified renovation firm, its principals, or its key employees shows a willingness and ability to maintain compliance with environmental statutes or regulations; or

(B) Deny a certified renovation firm's application if the Department determines that the environmental compliance history of the certified renovation firm, its principals, or its key employees demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations.

(e) If the Department approves a certified renovation firm's application, the Department shall issue the certified renovation firm a certificate with an expiration date not more than five years from the date the application is approved.

(f) If the Department denies the application it shall send the certified renovation firm a letter giving the reason for denying the application.

(2) Re-certification.

(a) To maintain its certification, a certified renovation firm shall apply for re-certification every five years, by submitting a timely and complete "Application for Certified Renovation Firms" with the required fee to the Department.

(A) An application for re-certification is timely if it is postmarked 60 days or more before the date the certified renovation firm's current certification expires. If the certified renovation firm's application is complete and timely, the certified renovation firm's current certification will remain in effect until its expiration date or until the Department has made a final decision to approve or deny the re-certification application, whichever is later.

(B) If the certified renovation firm submits a complete re-certification application less than 60 days before its current certification expires, and the Department does not approve the application before the expiration date, the certified renovation firm's current certification will expire and the certified renovation firm will not be able to conduct renovations until the Department approves its re-certification application.

(C) If the certified renovation firm fails to obtain recertification before the certified renovation firm's current certification expires, the certified renovation firm may not perform renovations or dust sampling and must apply for initial certification under section (1) of this rule.

(b) An application will be considered complete if it contains all of the information requested on the form and includes the correct amount of fees.

(c) If the Department receives an incomplete application, it will request a certified renovation firm to submit the missing information or fee within 30 days. If an applicant fails to submit the requested information or the fee, the application will be returned to the applicant.

(d) Within 60 days of declaring an application for re-certification complete, the Department shall:

(A) Approve a certified renovation firm's application if the Department determines that the environmental compliance history of the certified renovation firm, its principals, or its key employees shows a willingness and ability to maintain compliance with environmental statutes or regulations; or

(B) Deny a certified renovation firm's application if the Department determines that the environmental compliance history of the certified renovation firm, its principals, or its key employees demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations.

(e) If the Department approves a certified renovation firm's application, the Department shall issue the certified renovation firm a certificate with an expiration date not more than five years from the date the application is approved.

(f) If the Department denies the application it shall send the certified renovation firm a letter giving the reason for denying the application.

(3) Amendment of certification.

(a) A certified renovation firm shall amend its application for certification within 30 days of the date a change occurs to information included in the certified renovation firm's most recent application.

(b) If the certified renovation firm fails to amend its certification within 30 days of the date the change occurs, the certified renovation firm may not perform renovations or dust sampling until its certification is amended.

(c) To amend a certification, a certified renovation firm must submit a completed "Application for Certified Renovation Firms," signed by an authorized agent of the certified renovation firm, noting on the form that it is submitted as an amendment and indicating the information that has changed, and pay the correct amount of fees as provided in OAR 333-070-0120.

(d) If additional information is needed to process the amendment, or the certified renovation firm did not pay the correct amount of fees, the Department will request the certified renovation firm to submit the necessary information or fees. The certified renovation firm's certification is not amended until the certified renovation firm submits all the required information and the fee, and the Department has approved the amendment.

(e) Amending a certification does not affect the certification expiration date.

(4) The Department will not refund the application fees if a certified renovation firm's application for initial or re-certification is denied.

(5) A certified renovation firm that is denied initial certification or recertification shall have the right to a contested case hearing under ORS chapter 183.

(6) A certified renovation firm that is denied initial or recertification may reapply for certification at any time by filing a new, complete application that includes the correct amount of fees.

(7) Certified renovation firm responsibilities. Certified renovation firms performing renovations shall ensure that:

(a) All individuals performing renovation activities on behalf of the certified renovation firm are either certified renovators or have been trained by a certified renovator as described in OAR.333-070-0090;

(b) A certified renovator is assigned to each renovation performed by the certified renovation firm and discharges all of the certified renovator responsibilities identified in OAR 333-070-0090;

(c) All renovations performed by the certified renovation firm are performed in accordance with the work practice standards in these rules;

(d) The pre-renovation education requirements of OAR 333-070-0095 have been performed;

(e) The recordkeeping requirements of OAR 333-070-0115 are met; and

(f) The certified renovator is in compliance with the responsibilities as identified in OAR 333-070-0100 and 333-070-0090.

Stat. Auth.: ORS 431.920

Stats. Implemented: ORS 431.920

Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0110

Certified Renovation Firm Recordkeeping and Reporting Requirements

(1) A certified renovation firm performing renovations must retain and, if requested, make available to the Department all records required by these rules necessary to demonstrate compliance with these rules for a period of three years following completion of the renovation.

(2) The three-year retention requirement does not supersede longer obligations required by other provisions for retaining the same documentation.

(3) Records that must be retained pursuant to this rule shall include (where applicable):

(a) Reports certifying that a determination had been made by an inspector or risk assessor that lead-based paint is not present on the components affected by the renovation;

(b) Signed and dated acknowledgments of receipts;

(c) Certifications of attempted delivery as described;

(d) Certificates of mailing;

(e) Records of notification activities performed regarding common area renovations;

ADMINISTRATIVE RULES

(f) Any signed and dated statements received from owner-occupants documenting that the requirements of RRP do not apply. These statements must include a declaration that the renovation will occur in the owner's residence, a declaration that no children under age six reside there, a declaration that no pregnant woman resides there, a declaration that the housing is not a child-occupied facility, the address of the unit undergoing renovation, the owner's name, an acknowledgment by the owner that the work practices to be used during the renovation will not necessarily include all of the lead-safe work practices contained in EPA's renovation, repair, and painting rule, the signature of the owner, and the date of signature. These statements must be written in the same language as the text of the renovation contract, if any.

(g) Documentation of compliance with the RRP, including documentation that a certified renovator was assigned to the project, that the certified renovator provided on-the-job training for workers used on the project, that the certified renovator performed or directed workers who performed all of the tasks as described in this rule and that the certified renovator performed the post-renovation cleaning verification. If the certified renovation firm was unable to comply with all of the requirements of this rule due to an emergency, the certified renovation firm must document the nature of the emergency and the provisions of the rule that were not followed. This documentation must include a copy of the certified renovator's training certificate, and a certification by the certified renovator assigned to the project that:

(A) Training was provided to workers (topics must be identified for each worker).

(B) Warning signs were posted at the entrances to the work area.

(C) If test kits were used, that the specified brand of kits was used at the specified locations and that the results were as specified.

(D) The work area was contained by:

(i) Removing or covering all objects in the work area (interiors).

(ii) Closing and covering all HVAC ducts in the work area (interiors).

(iii) Closing all windows in the work area (interiors) or closing all windows in and within 20 feet of the work area (exteriors).

(iv) Closing and sealing all doors in the work area (interiors) or closing and sealing all doors in and within 20 feet of the work area (exteriors).

(v) Covering doors in the work area that were being used to allow passage but prevent spread of dust.

(vi) Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater (interiors) or covering the ground with plastic sheeting or other disposable impermeable material anchored to the building extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering, weighted down by heavy objects (exteriors).

(vii) Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors).

(viii) Waste was contained on-site and while being transported off-site.

(E) The work area was properly cleaned after the renovation by:

(i) Picking up all chips and debris, misting protective sheeting, folding it dirty side inward, and taping it for removal.

(ii) Cleaning the work area surfaces and objects using a HEPA vacuum and/or wet cloths or mops (interiors).

(iii) The certified renovator performed the post-renovation cleaning verification (the results of which must be briefly described, including the number of wet and dry cloths used).

(iv) When test kits are used, the certified renovation firm must, within 30 days of the completion of the renovation, provide identifying information as to the manufacturer and model of the test kits used, a description of the components that were tested including their locations, and the test kit results to the person who contracted for the renovation.

(F) If dust clearance sampling is performed in lieu of cleaning verification as permitted by this rule, the certified renovation firm must provide, within 30 days of the completion of the renovation, a copy of the dust sampling report to the person who contracted for the renovation.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0115

Inspections and Enforcement

(1) The Department may:

(a) Enter private or public property at any reasonable time with consent of the owner or custodian of the property to inspect, investigate, eval-

uate or conduct tests or take specimens or samples for testing, as necessary to determine compliance with ORS 431.920;

(b) Issue subpoenas to determine compliance with ORS 431.920;

(c) Suspend, revoke or modify a certification to perform lead-based paint activities or renovation if the holder of the certification fails to comply with state or federal statutes or regulations related to lead-based paint;

(d) Suspend, revoke or modify a certified renovator's certification if the renovator fails to comply with state or federal statutes or regulations related to lead-based paint; and

(e) Issue civil penalties not to exceed \$5,000 per violation for a violation of ORS 431.920, or any of these rules, including failure or refusal to permit entry or inspection in accordance with this rule.

(A) In issuing civil penalties the Department shall consider whether:

(i) The Public Health Division (Division) made repeated attempts to obtain compliance;

(ii) The licensee has a history of noncompliance with health care facility licensing laws;

(iii) The violation poses a serious risk to the public's health;

(iv) The licensee gained financially from the noncompliance; and

(v) There are mitigating factors, such as a licensee's cooperation with an investigation or actions to come into compliance.

(B) The Division shall document its consideration of the factors in paragraph (1)(e)(A) of this rule.

(C) Each day a violation continues is an additional violation.

(D) A civil penalty imposed under this rule shall comply with ORS 183.745.

(2) A person who is issued a notice of suspension, revocation or modification shall have the right to a contested case hearing under ORS chapter 183.

(3) The Department shall maintain a publicly available list of persons whose certification has been suspended, revoked, modified, or reinstated.

(4) Unless a final order specifies otherwise:

(a) A person whose certification has been suspended must take a refresher training course (renovator or dust sampling technician) prior to certification being reinstated.

(b) A person whose certification has been revoked shall take an initial renovator or dust sampling technician course in order to become certified again.

(c) A certified renovation firm whose certification has been revoked may reapply for certification after one year from the date of revocation.

(d) If the certified renovation firm's certification has been suspended and the suspension ends less than five years after the certified renovation firm was initially certified or re-certified, the certified renovation firm does not need to do anything to re-activate its certification once the period of suspension has expired.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0120

Certification Fees and Refunds

(1) Fees for the certification of certified renovation firms.

(a) Certification: \$250

(b) Recertification: \$250

(2) Fee Waivers. A renovation firm that has applied to EPA for certification or is certified by the EPA may request a waiver of the certification fee if the firm:

(a) Is required to be certified by the Department; and

(b) Provides documentation that the date of application to EPA for certification or the date of certification is prior to the effective date of these rules.

(3) Refund policy.

(a) An incomplete application shall be returned with the application fee minus a \$50 administration fee.

(b) If an applicant requests that a complete application be withdrawn within 30 days of its receipt by the Department, the Department shall refund the applicant \$200 minus a \$50 administration fee.

(c) No fees will be refunded if the Department has begun to process an application.

(4) Lost certificate. A \$15 fee will be charged for the replacement of a certified renovation firm certificate.

(5) Certificate replacement. Certified renovation firms seeking certificate replacement must submit the replacement application form and a payment of \$15 in accordance with the instructions provided with the application package.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

ADMINISTRATIVE RULES

333-070-0125

Training Program Accreditation Required

(1) A training program may seek accreditation to offer courses in either of the following disciplines: renovator or dust sampling technician. A training program may also seek accreditation to offer refresher courses for each of the above listed disciplines.

(2) Application process. The following are procedures a training program must follow to receive the Department accreditation to offer renovator courses or dust sampling technician courses:

(a) A training program seeking accreditation shall submit a written application with the appropriate fee to the Department containing the following information:

(A) The training program's name, address, and telephone number;

(B) A list of courses for which it is applying for accreditation. For the purposes of this section, courses taught in different languages are considered different courses, and each must independently meet the accreditation requirements; and

(C) A statement signed by the training program manager certifying that the training program meets the requirements established in OAR 333-070-0140 and 333-070-0145. If a training program uses EPA model training materials, or training materials approved by an EPA authorized program, the training program manager shall include a statement certifying that as well.

(b) If a training program does not use EPA model training materials or training materials approved by an EPA authorized program, its application for accreditation shall also include:

(A) A copy of the student and instructor manuals, or other materials to be used for each course;

(B) A copy of the course agenda for each course; and

(C) When applying for accreditation of a course in a language other than English, a signed statement from a qualified, independent translator that they have compared the course to the English language version and found the translation to be accurate.

(c) All training programs shall include in their application for accreditation the following:

(A) A description of the facilities and equipment to be used for lecture and hands-on training;

(B) A copy of the course test blueprint for each course;

(C) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course; and

(D) A copy of the quality control plan as described in section (4) of OAR 333-070-0135.

(d) If the Department receives an incomplete application, it will request that the applicant submit the missing information or fee within 30 days. If an applicant fails to submit the requested information or the fee, the application will be returned to the applicant. An applicant who has had its application returned may reapply at any time.

(e) If a training program meets the requirements in section (5) of this rule, then the Department will approve the application for accreditation no more than 60 days after receiving a complete application from the training program. In the case of approval, a certificate of accreditation shall be sent to the applicant.

(f) If the Department denies the application it shall send the certified renovation firm a letter giving the reason for denying the application. A person whose application is denied shall have the right to a contested case hearing under ORS chapter 183.

(g) If a training program's application is denied, the program may reapply for accreditation at any time.

(3) A training program may apply for accreditation to offer courses or refresher courses in as many disciplines as it chooses. A training program may seek accreditation for additional courses at any time as long as the program can demonstrate that it meets the rules.

(4) A training program must not provide, offer, or claim to provide renovator or dust sampling technician courses without applying for and receiving accreditation from the Department.

(5) Refresher courses only.

(a) A training program seeking accreditation to offer refresher training courses only shall submit a written application to the Department containing the following information:

(A) The refresher training program's name, address, and telephone number;

(B) A list of courses for which it is applying for accreditation;

(C) A statement signed by the training program manager certifying that:

(i) The refresher training program meets the minimum requirements established by section (18) of OAR 333-070-0135; and

(ii) The training program uses EPA-developed model training materials, or training materials approved by a state or Indian tribe that has been authorized by the EPA under 40 CFR §745.324 to develop its refresher training course materials, if applicable.

(D) If the refresher training course materials are not based on EPA-developed model training materials or training materials approved by an authorized state or Indian tribe:

(i) A copy of the student and instructor manuals to be used for each course; and

(ii) A copy of the course agenda for each course.

(E) A description of the facilities and equipment to be used for lecture and hands-on training;

(F) A copy of the course test blueprint for each course;

(G) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable); and

(H) A copy of the quality control plan as described in section (4) of OAR 333-070-0135.

(b) If the Department receives an incomplete application, it will request that the applicant submit the missing information or fee within 30 days. If an applicant fails to submit the requested information or the fee, the application will be returned to the applicant. An applicant who has had its application returned may reapply at any time.

(c) If a refresher training program meets the requirements in section (5) of this rule, then the Department will approve the application for accreditation no more than 60 days after receiving a complete application from the training program. In the case of approval, a certificate of accreditation shall be sent to the applicant.

(d) If the Department denies the application it shall send the certified renovation firm a letter giving the reason for denying the application. An applicant who receives a denial shall have the right to a contested case hearing under ORS chapter 183.

Stat. Auth.: ORS 431.920

Stats. Implemented: ORS 431.920

Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0130

Minimum Personnel Requirements for Training Program Accreditation

For a training program to obtain accreditation from the Department to offer renovator courses or dust sampling technician courses, the program shall:

(1) Employ a training manager who has:

(a) At least two years of experience, education, or training in teaching workers or adults; or

(b) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or

(c) Two years of experience in managing a training program specializing in environmental hazards; and

(d) Demonstrated experience, education, or training in the construction industry including: lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

(2) Designate a qualified principal instructor for each course who has:

(a) Demonstrated experience, education, or training in teaching workers or adults;

(b) Successfully completed at least 16 hours of any EPA-accredited or EPA authorized training program; and

(c) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

(3) Have a principal instructor responsible for the organization of the course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(4) Have documents that serve as evidence that training managers and principal instructors have the education, work experience, training requirements or demonstrated experience, specifically listed in sections (1) and (2) of this rule. This documentation need not be submitted with the accreditation application, but, if not submitted, shall be retained by the training program as required by the recordkeeping requirements contained in OAR 333-070-0150. Those documents include the following:

ADMINISTRATIVE RULES

(a) Official academic transcripts or diploma as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.

(5) Ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0135

Minimum Curriculum Requirements for Training Program Accreditation

(1) In order to become accredited in the following disciplines a training program shall provide training courses that meet the following training hour requirements:

(a) The renovator course must provide a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities. Hands-on training activities must cover renovation methods that minimize the creation of dust and lead-based paint hazards, interior and exterior containment and cleanup methods, and post-renovation cleaning verification.

(b) The dust sampling technician course shall provide a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities. Hands-on training activities must cover dust sampling methodologies.

(2) A student shall be required to pass a course test or a proficiency test and a hands-on-skill assessment for each course offered.

(a) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment or proficiency test to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in sections (16), (17) and (18) of this rule.

(b) The training manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(c) The course test shall be developed in accordance with the test blueprint submitted with the training accreditation application.

(3) The training program shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

(a) The name, a unique identification number, and address of the individual;

(b) The name of the particular course that the individual completed;

(c) Dates of course completion/test passage; and

(d) For renovator and dust sampling technician course completion certificates, a photograph of the individual.

(4) The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of principal instructor competency.

(5) Courses offered by the training program must teach the work practice standards contained in OAR 333-070-0090, in such a manner that trainees are provided with the knowledge needed to perform the renovations they will be responsible for conducting.

(6) The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this rule.

(7) The Department may audit the training program to verify the contents of the application for accreditation as described in OAR 333-070-0135.

(8) The training manager shall provide the Department with notification of all renovator or dust sampling technician courses offered. The original notification must be received by the Department at least seven business days prior to the start date of any renovator or dust sampling technician course.

(9) The training manager shall provide the Department updated notification when renovator or dust sampling technician courses will begin on a date other than the start date specified in the notification, as follows:

(a) For renovator or dust sampling technician courses beginning prior to the start date provided to the Department, an updated notification must be received by the Department at least seven business days before the new start date.

(b) For renovator or dust sampling technician courses beginning after the start date provided to the Department, an updated notification must be received by the Department at least two business days before the start date.

(10) The training manager shall update the Department of any change in location of renovator or dust sampling technician courses at least seven business days prior to the start date.

(11) The training manager shall update the Department regarding any course cancellations, or any other change to the original notification. Updated notifications must be received by the Department at least two business days prior to the start date.

(12) Each notification required by sections (8) through (11) of this rule, including updates shall include the following:

(a) Notification type (original, update, cancellation);

(b) Training program name, the Department accreditation number, address, and telephone number;

(c) Course discipline, type (initial/ refresher), and the language in which instruction will be given;

(d) Date(s) and time(s) of training;

(e) Training location(s), telephone number, and address;

(f) Principal instructor's name; and

(g) Training manager's name and signature.

(13) Renovator or dust sampling training courses may not begin on a date, or at a location other than that specified in the original notification unless an updated notification identifying a new start date or location is submitted, in which case the course must begin on the new start date and/or location specified in the updated notification.

(14) The training manager shall provide the Department notification after the completion of any renovator or dust sampling technician course. This notice must be received by the Department no later than 10 business days following course completion. The notification shall include the following:

(a) Training program name, the Department accreditation number, address, and telephone number;

(b) Course discipline and type (initial/refresher);

(c) Date(s) of training; and

(d) The following information for each student who took the course:

(A) Name;

(B) Address;

(C) Date of birth;

(D) Course completion certificate number;

(E) Course test score;

(F) A digital photograph of the student; and

(G) Training manager's name and signature.

(15) Notifications required by this rule can be accomplished by using a Department approved form or can be provided in writing with the information.

(a) All notifications shall be in writing and submitted to the Department:

(A) By mail through the U.S. Postal Service or other commercial delivery service;

(B) By facsimile;

(C) In person; or

(D) Electronically via electronic mail or through the Department's web-based system if one is established.

(b) A training program providing notifications through the U.S. Postal Service should allow three additional business days for delivery in order to ensure that the Department receives the notification by the required date.

(c) Instructions for notifications and sample forms can be obtained from the Department at 971-673-0440, or on the Internet at www.healthoregon.org/leadpaint.

(16) Renovator Training Course. A renovator training course shall include the following subjects:

(a) Role and responsibility of a renovator;

(b) Background information on lead and its adverse health effects;

(c) Background information on, HUD, OSHA, and other federal, state, and local regulations and guidance that pertains to lead-based paint and renovation activities;

ADMINISTRATIVE RULES

(d) Procedures for using EPA recognized test kits to determine whether paint is lead-based paint;

(e) Renovation methods to minimize the creation of dust and lead-based paint hazards;

(f) Interior and exterior containment and cleanup methods;

(g) Methods to ensure that the renovation has been properly completed, including cleaning verification, and clearance testing;

(h) Waste handling and disposal;

(i) Providing on-the-job training to other workers; and

(j) Record preparation.

(17) Dust sampling technician. A dust sampling technician course shall include the following subjects:

(a) Role and responsibility of a dust sampling technician;

(b) Background information on lead and its adverse health effects;

(c) Background information on federal, state, and local regulations and guidance that pertains to lead-based paint and renovation activities;

(d) Dust sampling methodologies;

(e) Clearance standards and testing; and

(f) Report preparation.

(18) Requirements for the accreditation of refresher training programs. A training program may seek accreditation to offer refresher training courses in either of the following disciplines: renovator and dust sampling technician. To obtain the Department accreditation to offer refresher training, a training program shall meet the following minimum requirements:

(a) Each refresher course shall review the curriculum topics of the full-length courses listed under sections (16) and (17) of this rule, as appropriate. In addition, to become accredited to offer refresher training courses, training programs shall ensure that their courses of study include, at a minimum, the following:

(A) An overview of current safety practices relating to lead-based paint in general, as well as specific information pertaining to the appropriate discipline.

(B) Current laws and regulations relating to lead-based paint in general, as well as specific information pertaining to the appropriate discipline.

(C) Current technologies relating to lead-based paint in general, as well as specific information pertaining to the appropriate discipline.

(D) Refresher courses for renovator and dust sampling technician must last a minimum of four training hours.

(E) For each course offered, the training program shall conduct a hands-on assessment (if applicable), and at the completion of the course, a course test.

(19) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of a corresponding training course as described in OAR 333-070-0135(1).

Stat. Auth.: ORS 431.920

Stats. Implemented: ORS 431.920

Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0140

Re-Accreditation of Training Programs

(1) Unless re-accredited, a training program's accreditation (including refresher training accreditation) shall expire four years after the date of issuance. If a training program meets the requirements of this rule, the training program shall be re-accredited.

(2) A training program seeking re-accreditation shall submit an application to the Department no later than 60 days before its accreditation expires. If a training program does not submit its application for re-accreditation by that date, the Department cannot guarantee that the program will be re-accredited before the end of the accreditation period.

(3) The training program's application for re-accreditation shall contain:

(a) The training program's name, address, and telephone number.

(b) A list of courses for which it is applying for re-accreditation.

(c) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the student's ability to learn.

(d) A statement signed by the program manager stating:

(A) That the training program complies at all times with all requirements in OAR 333-070-0130 and OAR 333-070-0135 as applicable; and

(B) The recordkeeping and reporting requirements of OAR 333-070-0150 shall be followed.

(e) A payment of appropriate fees in accordance with these rules.

(4) The Department may audit the training program to verify the contents of the application for re-accreditation as described in OAR 333-070-0140.

(5) If the Department receives an incomplete application, it will request that the applicant submit the missing information or fee within 30 days. If an applicant fails to submit the requested information or the fee, the application will be returned to the applicant. An applicant who has had its application returned may reapply at any time.

(6) If a training program meets the requirements in section (2) of this rule, then the Department will approve the application for re-accreditation no more than 60 days after receiving a complete application from the training program. In the case of approval, a certificate of accreditation shall be sent to the applicant.

(7) If the Department denies the application it shall send the certified renovation firm a letter giving the reason for denying the application. An applicant whose application is denied shall have the right to a contested case hearing under ORS chapter 183.

Stat. Auth.: ORS 431.920

Stats. Implemented: ORS 431.920

Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0145

Suspending, Revoking, or Denying a Training Program's Accreditation; Civil Penalties

(1) The Department may:

(a) Enter private or public property at any reasonable time with consent of the owner or custodian of the property to inspect or investigate as necessary to determine compliance with Oregon Laws 2009, chapter 757, section 4;

(b) Issue subpoenas to determine compliance with Oregon Laws 2009, chapter 757, section 4;

(c) Suspend, revoke, or deny an accreditation if the holder of the accreditation fails to comply with state or federal statutes or regulations related to lead-based paint; and

(d) Issue civil penalties not to exceed \$5,000 per violation for a violation of Oregon Laws 2009, chapter 757, section 4, or any of these rules, including failure or refusal to permit entry or inspection in accordance with this rule.

(A) In issuing civil penalties the Department shall consider whether:

(i) The Division made repeated attempts to obtain compliance;

(ii) The licensee has a history of noncompliance with health care facility licensing laws;

(iii) The violation poses a serious risk to the public's health;

(iv) The licensee gained financially from the noncompliance; and

(v) There are mitigating factors, such as a licensee's cooperation with an investigation or actions to come into compliance.

(B) The Division shall document its consideration of the factors in paragraph (1)(d)(A) of this rule.

(C) Each day a violation continues is an additional violation.

(D) A civil penalty imposed under this rule shall comply with ORS 183.745.

(2) An accredited training program that is issued a notice of suspension, revocation or denial shall have the right to a contested case hearing under ORS chapter 183.

(3) The Department shall maintain a publicly available list of training programs whose certification has been suspended, revoked, denied, or reinstated.

(4) Unless a final order specifies otherwise:

(a) An accredited training program whose certification has been revoked may reapply for re-accreditation after one year from the date of revocation.

(b) If the training program's accreditation has been suspended and the suspension ends less than four years after the training program was initially accredited or re-accredited, the training program does not need to do anything to re-activate its accreditation once the period of suspension has expired.

Stat. Auth.: ORS 431.920

Stats. Implemented: ORS 431.920

Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0150

Training Program Record Keeping Requirements

An accredited training program shall:

(1) Maintain, and make available to the Department upon request, the following records:

(a) All documents that demonstrate the qualifications of the training manager and principal instructors.

(b) Current curriculum/course materials and documents reflecting any changes made to these materials.

(c) The course test blueprint.

ADMINISTRATIVE RULES

(d) Information regarding how the hands-on assessment is conducted including, but not limited to:

- (A) Who conducts the assessment;
- (B) How the skills are graded;
- (C) What facilities are used;
- (D) The pass/fail rate;
- (E) The quality control plan as described in section (4) of OAR 333-070-0135; and

(F) Results of the students' hands-on skills assessments and course tests, and a record of each student's course completion certificate.

(e) Any other material not listed above in this section that was submitted to the Department as part of the program's application for accreditation.

(2) Retain the records required at the address specified on the training program accreditation application or as amended for a minimum of three years and six months.

(3) If a training program modifies its application by changing its address, it shall also notify the Department in writing within 30 days of its intent to transfer records to the new address.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0155

Training Program Reciprocity

(1) The Department may accredit a training program who is accredited by the EPA or an authorized RRP state-run program, including tribes and territories.

(2) Each application for accreditation reciprocity is required to request reciprocity on the appropriate reciprocity form and pay the appropriate fees under OAR 333-070-0160.

(3) The Department shall evaluate the application for reciprocity accreditation to determine if the accredited program is as protective of health and the environment as the requirements for accreditation in Oregon.

(4) After review of the completed application, the Department may provisionally accredit applicants through reciprocity, providing appropriate fees are paid.

(5) Full accreditation may occur upon a successful audit completed within one year of the initial application.

(6) If the missing information is not submitted within 30 days, the application will be denied.

(7) An applicant whose application is denied is entitled to a contested case hearing under ORS chapter 183.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

333-070-0160

Accreditation Fees

The following fees are established:

(1) Course Fee Schedule: Course — Accreditation Fee — Re-Accreditation Fee: Renovator Initial — \$560 — \$340: Dust Sampling Technician Initial — \$560 — \$340: Renovator Refresher — \$400 — \$310: Dust Sampling Technician Refresher — \$400 - \$310

(2) Student Fee Schedule: Course — Fee; Renovator Initial — \$17: Renovator Refresher — \$17: Dust Sampling Technician Initial — \$17: Dust Sampling Refresher — \$17. The student fee is to be paid by the training program at the completion of each training course. The \$17 fee is per student that successfully completes the course. The fee shall be paid by the training program to the Department within 10 days after completion of the training course.

(3) Fee Waivers. A training program, that has applied for accreditation by the EPA to provide Renovator or Dust Sampling Technician training may request a waiver of the accreditation fees if the training program provides documentation that the date of application for accreditation by EPA or date of accreditation is prior to the effective date of these rules.

Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920
Hist.: PH 8-2010, f. & cert. ef. 4-26-10

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Department of Justice
Chapter 137

Rule Caption: Disclosure of information to Attorney General to monitor and enforce tobacco product manufacturer compliance.

Adm. Order No.: DOJ 9-2010(Temp)

Filed with Sec. of State: 4-19-2010

Certified to be Effective: 4-19-10 thru 10-15-10

Notice Publication Date:

Rules Adopted: 137-105-0050

Subject: The Attorney General regulates the sale of tobacco products in Oregon. ORS 323.862 authorizes the Department of Revenue to disclose to the Attorney General information submitted to the Department relating to cigarettes, tobacco product manufacturers, and tobacco retailers so the the Attorney General can "monitor and enforce compliance" by tobacco product manufacturers. OAR 137-105-0050 clarifies the meaning of the certain terms used in ORS 323.862, including "information" and "monitoring and enforcing compliance."

Rules Coordinator: Carol Riches—(503) 947-4700

137-105-0050

Monitoring and Enforcing Tobacco Product Manufacturer Compliance

(1) ORS 323.862 authorizes the Department of Revenue to disclose to the Attorney General, and such other parties as the Attorney General deems necessary, information submitted to the department relating to cigarettes, tobacco product manufacturers, and tobacco retailers to allow the Attorney General to monitor and enforce compliance by tobacco product manufacturers with ORS 323.800 to 323.806.

(2) For the purposes of ORS 323.862 and this rule:

(a) "Attorney General" includes attorneys employed by the Oregon Department of Justice;

(b) "Department" means the Department of Revenue;

(c) "Distributor" has the meaning given that term in ORS 180.405(3);

(d) "Information" and "information submitted to the department" means cigarette related documents and data submitted to the department, including but not limited to cigarette tax reports and returns filed by distributors, documents related to such tax reports and returns filed by distributors, and department audit documents relating to cigarette tax reports and returns. "Information" includes the amount of tax, penalty, interest, sales information, purchase information, and any other particulars, set forth or disclosed in a cigarette tax report or return or other cigarette related document submitted by a distributor to the Department;

(e) "Legal proceeding" includes but is not limited to lawsuits in state or federal court, proceedings relating to the Master Settlement Agreement, arbitrations, mediations and settlement conferences or negotiations;

(f) "Master Settlement Agreement" has the meaning given that term in ORS 323.800;

(g) "Monitoring and enforcing compliance" includes, but is not limited to:

(A) Investigating and calculating the amount of escrow a nonparticipating manufacturer must deposit in a qualified escrow fund;

(B) Investigating and determining whether a nonparticipating manufacturer has deposited sufficient funds in a qualified escrow fund;

(C) Investigating and determining whether a participating manufacturer is generally performing its obligations under the Master Settlement Agreement;

(D) Investigating and demonstrating enforcement by the Attorney General or the State of Oregon of ORS 323.800 to 323.806 in a legal proceeding relating to ORS 323.800 to 323.806, 180.400 to 180.405 or the Master Settlement Agreement;

(E) Investigating and assessing whether a tobacco product manufacturer is in compliance with ORS 323.800 to 323.806 for the purposes of ORS 180.400 to 180.455;

(h) "Nonparticipating Manufacturer" has the meaning given that term in ORS 323.800;

(i) "Participating Manufacturer" has the meaning given that term in ORS 180.405;

(j) "Particulars" has the meaning given that term in ORS 314.835(2)(b);

(k) "Qualified escrow fund" has the meaning given that term in ORS 323.800;

(l) "Tobacco product manufacturer" has the meaning given that term in ORS 323.800.

Stat. Auth.: ORS 323.865
Stats. Implemented: ORS 323.862
Hist.: DOJ 9-2010(Temp), f. & cert. ef. 4-19-10 thru 10-15-10

ADMINISTRATIVE RULES

Department of Revenue Chapter 150

Rule Caption: Inheritance tax claims for estates eligible for natural resource property benefits (2010 HB 3696).

Adm. Order No.: REV 6-2010(Temp)

Filed with Sec. of State: 5-7-2010

Certified to be Effective: 5-7-10 thru 9-30-10

Notice Publication Date:

Rules Adopted: 150-118.NOTE

Subject: 2010 Oregon Laws chapter 107, section 87 directs the Department of Revenue to adopt rules that describe procedures and deadlines for estates claiming refunds of inheritance tax. Affected estates are those that were negatively impacted by the 2009 repeal of section 68, chapter 843, Oregon Laws 2007. This rule directs estates to file claims using forms provided by the department and sets deadlines for claims.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-118.NOTE

Natural Resource Property Inheritance Tax Refund

(1) Application for refund of inheritance tax authorized by 2010 Oregon Laws, Chapter 107 must be made on a form prescribed by the department.

(2) Refund applications must be postmarked by the later of the following:

(a) December 31, 2010; or

(b) The expiration of the statute of limitations period described in

ORS 118.227.

Stat. Auth.: ORS 305.100 & 2010 OL Ch. 107

Stats. Implemented: 2010 OL Ch. 107

Hist.: REV 6-2010(Temp), f. & cert. ef. 5-7-10 thru 9-30-10

Department of Transportation, Driver and Motor Vehicle Services Division Chapter 735

Rule Caption: Driver License Cancellations — Not Entitled to Driving Privileges.

Adm. Order No.: DMV 9-2010

Filed with Sec. of State: 4-28-2010

Certified to be Effective: 4-28-10

Notice Publication Date: 3-1-2010

Rules Amended: 735-070-0000

Subject: OAR 735-070-0000 describes when driving privileges will be canceled because a person is not entitled to the privileges. DMV previously amended Section (2) of this rule to include a reference to ORS 807.173, which along with several other statutory references sets forth eligibility requirements for driving privileges. ORS 807.173 is specific to the eligibility requirements to be issued a hazardous materials endorsement. After that rule amendment it was determined that the inclusion of ORS 807.173 in 735-070-0000(2) could be interpreted as meaning that in order to be eligible for any driving privileges, a person must meet the requirements to be issued a hazardous materials endorsement. This was not DMV's intent and to clarify this rule DMV has amended 735-070-0000(2) by deleting the reference to ORS 807.173.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-070-0000

Driver License Cancellations — Not Entitled to Driving Privileges

(1) DMV will, under the provisions of ORS 807.350 and 809.310(1), cancel a person's driving privileges if DMV determines the person is not entitled to or no longer qualified for a driver permit or driver license.

(2) A person is not entitled to a driver permit or driver license if the person does not meet the eligibility requirements of ORS 807.024, 807.040, 807.060, 807.062, 807.065, 807.066 and 807.070.

(3) A person is not entitled to a driver permit or driver license if the person's driving privileges are suspended or revoked in any jurisdiction.

Stat. Auth.: ORS 184.616, 184.619 & 802.010

Stats. Implemented: ORS 802.540, 807.040, 807.050, 807.060, 807.070, 807.120, 807.150, 807.400 & 809.310

Hist.: MV 16-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0061; MV 11-1988(Temp), f. & cert. ef. 4-1-88; MV 19-1988, f.

& cert. ef. 6-1-88; MV 8-1989, f. & cert. ef. 2-1-89; MV 14-1992, f. & cert. ef. 10-16-92; MV 16-1992, f. & cert. ef. 12-16-92; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 24-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 9-2010, f. & cert. ef. 4-28-10

Department of Transportation, Highway Division Chapter 734

Rule Caption: Rest Areas.

Adm. Order No.: HWD 3-2010(Temp)

Filed with Sec. of State: 4-28-2010

Certified to be Effective: 4-28-10 thru 10-15-10

Notice Publication Date:

Rules Amended: 734-030-0005, 734-030-0010, 734-030-0015, 734-030-0020

Subject: Chapter 99, 2009 Laws (HB 2234) allows the Oregon Transportation Commission to adopt rules governing health and safety in rest areas and scenic overlooks under the jurisdiction of the Department of Transportation and provides a penalty for violation of those rules. These rule amendments will update the existing rule language and incorporate the penalty for violation of the amended rules.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-030-0005

Definitions

The following definitions apply to OAR 734-030-0005 through 734-030-0025:

(1) "Rest Area" includes safety rest areas, scenic overlooks and similar roadside areas which are under the jurisdiction of the Department of Transportation. Other than when issuing "free coffee" permits under OAR 734-030-0025, when a rest area is sited on both sides of the highway, the two sides will be considered a single rest area.

(2) "Rest Area Attendant" means a Department of Transportation employee or contractor working in or responsible for the rest area; or for rest areas listed in Chapter 865, section 32, 2009 laws, a Travel Information Council employee or contractor working in or responsible for the rest area.

(3) "Visitor" means a person within the rest area who is not a Department of Transportation or Travel Information Council employee, law enforcement officer or a Rest Area Attendant.

Stat. Auth.: ORS 184.616, 184.619, 366.205, 374, 377, 390 & 815

Stats. Implemented: ORS 810.030

Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76; 2HD 5-1984, f. & ef. 4-18-84; HWY 2-1993, f. & cert. ef. 4-15-93; HWD 3-2010(Temp), f. & cert. ef. 4-28-10 thru 10-15-10

734-030-0010

Prohibited Activities

To preserve state property and increase health and safety in rest areas, the following activities are prohibited by visitors to a rest area:

(1) Lighting a fire.

(2) Picking, removing, or damaging plant life or forest products.

(3) Hunting, trapping, or injuring birds or animals.

(4) Discharging a firearm, bow and arrow, or other weapon or discharging fireworks, explosives, or other similar devices.

(5) Mutilating, defacing, damaging or removing any property, structure or facility.

(6) Digging up, defacing, or removing any dirt, stone, rock, or other natural substance.

(7) Operating a concession or selling merchandise, food, or services, except for a permitted "free coffee" service, public telephones, or articles dispensed by vending machines pursuant to an agreement with the Department of Transportation, or Travel Information Council for the rest areas listed in Chapter 865, section 32, 2009 laws.

(8) Blocking access to the restroom by other visitors.

(9) Smoking or carrying a lighted cigar, cigarette, pipe or other smoking implement, in a restroom building or within 20 feet of a restroom building in the rest area.

(10) Operating a motor vehicle in any area not constructed or designed for motor vehicles. Parking a motor vehicle outside the designated parking area or parking in violation of any posted parking regulation.

(11) Allowing a pet to run loose. Allowing a pet on a leash, except a guide animal, in any area except designated pet areas. Allowing a pet, except a guide animal, in any building. Allowing livestock to run at large or to be in any area except in designated pet or livestock areas.

ADMINISTRATIVE RULES

(12) Placing a poster, flyer, sign or other marker in or on any utility pole, sign post, building or other facility in a rest area

(13) Depositing garbage, recyclables, or refuse of any kind except in designated containers.

(14) Dumping, spilling or allowing to leak any sewage, waste water, or other substance from the vehicle.

(15) Using restroom facilities to bathe, or wash clothing, dishes or other materials.

(16) Setting up a tent or other structure, camping, or remaining in a rest area for more than 12 hours within any 24-hour period.

(17) Participating in a disturbance, or riotous or other behavior which interferes with the reasonable use of the rest area by other rest area visitors.

(18) Obstructing, harassing or interfering with a Department of Transportation or Travel Information Council employee or Rest Area Attendant in the performance of their duties in the rest area.

(19) Creating noise by any means which interferes with the reasonable use of the rest area by other rest area visitors.

Stat. Auth.: ORS 184.616, 184.619 & 366.205

Stats. Implemented: ORS 164.805, 374.305, 377.030 & 810.030

Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76; 2HD 5-1984, f. & ef. 4-18-84; HWY 8-1990(Temp), f. & cert. ef. 4-20-90; HWY 14-1990, f. & cert. ef. 12-5-90; HWD 1-2006, f. & cert. ef. 1-24-06; HWD 3-2010(Temp), f. & cert. ef. 4-28-10 thru 10-15-10

734-030-0015

Compliance

(1) To preserve state property and increase health and safety in rest areas, a Department of Transportation or Travel Information Council employee, law enforcement officer, or the Rest Area Attendant working in a rest area is authorized to require compliance with these regulations and is authorized to order any person violating these regulations to leave the rest area. Failure to leave the rest area when so ordered is citable by a law enforcement officer as a violation of these rules.

(2) In addition to any other penalty prescribed by law, failure to comply with OAR 734-030-0005 through 734-030-0015 governing health and safety in a rest area may result in a Class B violation. Upon receipt of a citation the person must leave the rest area immediately.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & 390

Stats. Implemented: ORS 810.030

Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76; HWY 2-1993, f. & cert. ef. 4-15-93; HWD 3-2010(Temp), f. & cert. ef. 4-28-10 thru 10-15-10

734-030-0020

Notice

Notice of conduct consistent with OAR 734-030-0005 through 734-030-0015 shall be posted in each rest area.

Stat. Auth.: ORS 184.616, 184.619, 366 & 390

Stats. Implemented: ORS 810.030

Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76; HWD 3-2010(Temp), f. & cert. ef. 4-28-10 thru 10-15-10

Land Conservation and Development Department Chapter 660

Rule Caption: Uses authorized on land designated urban and rural reserves in the Portland Metro area.

Adm. Order No.: LCDD 3-2010

Filed with Sec. of State: 4-29-2010

Certified to be Effective: 4-30-10

Notice Publication Date: 3-1-2010, 4-1-2010

Rules Amended: 660-027-0070

Subject: The amendments modify this rule's restrictions regarding future amendments to plan and land use regulations applied to areas designated as urban or rural reserves in the Portland Metro area. The amendments authorize new or amended local plan and land use regulations for reserves, under four categories, provided the local amendments are allowed by state law and rules and provided an exception to statewide planning goals is not required to approve the local plan or regulation amendment. The amended rule authorizes

only those local plan and land use regulation amendments pertaining to:

(1) New and amended inventories of Goal 5 resources and uses and measures to protect such resources.

(2) New or revised roads, highways and other transportation facilities and public facilities improvements;

(3) Public park uses provided for in a Park Master Plan; and

(4) Land uses and land divisions that are allowed by state law or administrative rules at the time urban and rural reserves are designated.

The amended rule also allows local governments in the metro area to amend concept plans for the eventual urbanization of Metro Urban Reserves, including plans for eventual provision of roads, highways and other transportation and public facilities.

Rules Coordinator: Casaria Tuttle—(503) 373-0050, ext. 322

660-027-0070

Planning of Urban and Rural Reserves

(1) Urban reserves are the highest priority for inclusion in the urban growth boundary when Metro expands the UGB, as specified in Goal 14, OAR chapter 660, division 24, and in ORS 197.298.

(2) In order to maintain opportunities for orderly and efficient development of urban uses and provision of urban services when urban reserves are added to the UGB, counties shall not amend comprehensive plan provisions or land use regulations for urban reserves designated under this division to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as urban reserves until the reserves are added to the UGB.

(3) Counties that designate rural reserves under this division shall not amend comprehensive plan provisions or land use regulations to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as rural reserves unless and until the reserves are re-designated, consistent with this division, as land other than rural reserves.

(4) Notwithstanding the prohibitions in sections (2) and (3) of these rules, counties may adopt or amend comprehensive plan provisions or land use regulations as they apply to lands in urban reserves, rural reserves or both, unless an exception to Goals 3, 4, 11 or 14 is required, in order to allow:

(a) Uses that the county inventories as significant Goal 5 resources, including programs to protect inventoried resources as provided under OAR chapter 660, division 23, or inventoried cultural resources as provided under OAR chapter 660, division 16;

(b) Public park uses, subject to the adoption or amendment of a park master plan as provided in OAR chapter 660, division 34;

(c) Roads, highways and other transportation and public facilities and improvements, as provided in ORS 215.213 and 215.283, OAR 660-012-0065, and 660-033-0130 (agricultural land) or OAR chapter 660, division 6 (forest lands);

(d) Uses and land divisions that are allowed by state statute or administrative rule at the time of the designation of urban and rural reserves.

(5) Counties, cities and Metro may adopt and amend conceptual plans for the eventual urbanization of urban reserves designated under this division, including plans for eventual provision of public facilities and services, roads, highways and other transportation facilities, and may enter into urban service agreements among cities, counties and special districts serving or projected to serve the designated urban reserve area.

(6) Metro shall ensure that lands designated as urban reserves, considered alone or in conjunction with lands already inside the UGB, are ultimately planned to be developed in a manner that is consistent with the factors in OAR 660-027-0050.

Stat. Auth.: ORS 195.141 & 197.040

Stats. Implemented: ORS 195.137 - 195.145

Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08; LCDD 3-2010, f. 4-29-10, cert. ef. 4-30-10

Rule Caption: Amending department rules to implement Senate Bill 1049 (2010) — relating to Ballot Measures 37/49.

Adm. Order No.: LCDD 4-2010(Temp)

Filed with Sec. of State: 5-7-2010

Certified to be Effective: 5-7-10 thru 10-1-10

Notice Publication Date:

Rules Adopted: 660-041-0105

Rules Amended: 660-041-0000, 660-041-0010, 660-041-0080, 660-041-0090, 660-041-0110, 660-041-0120, 660-041-0170

ADMINISTRATIVE RULES

Subject: The proposed rules will be codified in division 41 under Oregon Administrative Rules (OAR) chapter 660, and would result in the following:

(1) Add one new rule that addresses department coordination with counties for purposes of identifying claims that are the subject of Section 6 of SB 1049.

(2) Provide for fee collection and process for SB 1049 claims.

(3) Clarify that the same notification standards apply to authorizations for single dwellings under SB 1049 as applied to authorizations for home site approvals.

(4) Update the department's explanation of the lawfully permitted analyses that were affected by SB 1049 as they pertain to pre-acknowledgment and post-acknowledgment claims with no minimum lot sizes.

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), Chapter 855, Oregon Laws 2009 (2009 House Bill 3225), and Chapter 8, Oregon Laws 2010 (2010 Senate Bill 1049), 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; LCDD 4-2010(Temp), f. & cert. ef. 5-7-10 thru 10-1-10

660-041-0010

Definitions

The following definitions apply to OAR 660-041-0000 to 660-041-0160:

(1) "Agency" has the meaning provided by ORS 183.310.

(2) "Claim" means a written demand for compensation under ORS 197.352 (2005) that was filed before December 6, 2007.

(3) "Claimant" means a person who submitted a Claim.

(4) "DAS" means the Department of Administrative Services.

(5) "DLCD" means the Department of Land Conservation and Development.

(6) "DLCD Measure 37 Waiver" means a decision by LCDC or DLCD that was made before December 6, 2007 under ORS 197.352 (2005) to modify, remove or not apply one or more DLCD Regulations to allow a Claimant to use the Measure 37 Claim Property for a use that was permitted when the Claimant acquired the Measure 37 Claim Property.

(7) "DLCD Regulation" means a Land Use Regulation that is also a state statute codified in ORS chapter 92, 195, 197, 215 or 227, a Statewide Planning Goal, or an LCDC rule. An "Existing DLCD Regulation" means a DLCD Regulation that was enacted by the State of Oregon or adopted by LCDC with an effective date prior to December 2, 2004. A "New DLCD Regulation" means a DLCD Regulation that was enacted by the State of Oregon or adopted by LCDC with an effective date of on or after December 2, 2004.

(8) "Elected" means signed and filed the form provided by DLCD.

(9) "Land Use Application" means an application for a "land use decision," a "limited land use decision," or an "expedited land division," as those terms are defined by ORS 197.015 and 197.360, or an application for a permit or zone change under ORS 227.160 to 227.187 or under 215.402 to 215.437.

(10) "Land Use Regulation" has the meaning provided by ORS 197.352(11) (2005).

(11) "LCDC" means the Land Conservation and Development Commission.

(12) "Measure 37 Claim Property" means the private real property described in a Measure 37 Claim.

(13) "Measure 37 Permit" means a final decision by a city, a county, or by Metro to authorize the development, division or other use of Measure 37 Claim Property pursuant to a Measure 37 Waiver. A Measure 37 Permit may be a land use decision, a limited land use decision, an expedited land use decision, a permit (as that term is defined in ORS 215.402 and 227.160), a zone change, or a comprehensive plan amendment. A Measure 37 Permit also includes a final decision by a city, a county, or by Metro that a person has a vested right to complete or continue a use based on a Measure 37 Waiver.

(14) "Measure 37 Waiver" means a decision by a city, a county, Metro or the State of Oregon that was made before December 6, 2007 under ORS 197.352 (2005) to modify, remove or not apply one or more Land Use Regulations to allow a Claimant to use the Measure 37 Claim Property for a use that was permitted when the Claimant acquired the Measure 37 Claim Property.

(15) "Measure 49" means Chapter 424, Oregon Laws 2007 as amended by Chapter 855, Oregon Laws 2009, and Chapter 8, Oregon Laws 2010.

(16) "Measure 49 Authorization" means a final order and authorization issued by the department under Measure 49 that authorizes a claimant to seek local approval of one or more home sites; or, for Claims described in section 5 or 6 of Chapter 8, Oregon Laws 2010, of a dwelling and, when applicable, a lot or parcel for that dwelling.

(17) "Supplemental Information" means information needed by DLCD, to proceed with the Supplemental Review of a Claim.

(18) "Supplemental Review" means review by DLCD of a Claim under either section 6 or section 7 of Measure 49 and when applicable, Chapter 855, Oregon Laws 2009 and Chapter 8, Oregon Laws 2010.

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 1-2009, f. & cert. ef. 4-2-09; LCDD 3-2009(Temp), f. & cert. ef. 8-18-09 thru 2-14-10; Administrative correction 3-22-10; LCDD 4-2010(Temp), f. & cert. ef. 5-7-10 thru 10-1-10

660-041-0080

Supplemental Information for Supplemental Review of Measure 37 Claims under Measure 49 and Fees under Chapter 855, Oregon Laws 2009 and Chapter 8, Oregon Laws 2010

(1) If the record for the Claim does not include the information needed for DLCD to proceed with the Supplemental Review of the Claim, 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) If the Claim is described in section 5 or 6 of Chapter 8, Oregon Laws 2010, a Claimant or Claimant's authorized agent must submit a \$2,500 fee to DLCD. If the Claim is divided into more than one claim under OAR 660-041-0150, an additional \$2,500 fee is due for each resultant claim. If the Claim is combined with one or more other Claims, only one \$2,500 fee is due for the resultant claim. DLCD will request the \$2,500 fee for a Claim from a Claimant or the Claimant's authorized agent by no later than September 30, 2010. However, if changes to the number of claims occur under OAR 660-041-0150 after DLCD has requested the fee for a Claim, DLCD may request additional fees or refund fees after September 30, 2010.

(4) Supplemental Information, a \$175 fee for a Claim described in sections 2 through 5a or section 13 of Chapter 855, Oregon Laws 2009, or a \$2,500 fee for a Claim described in section 5 or 6 of Chapter 8, Oregon Laws 2010 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.

ADMINISTRATIVE RULES

(5) For good cause shown, DLCD may extend the period for filing Supplemental Information or a \$175 fee beyond fifty-six (56) days. DLCD will not extend the period for filing a \$2,500 fee.

(6) 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.

(7) If DLCD fails to issue a final order on a Claim described in section 5 or 6 of Chapter 8, Oregon Laws 2010 by June 30, 2011, DLCD shall refund any \$2,500 fee submitted for that Claim.

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; LCDD 4-2010(Temp), f. & cert. ef. 5-7-10 thru 10-1-10

660-041-0090 Procedures for Supplemental Review of Measure 37 Claims under Measure 49

(1) If a Claimant files an Election seeking relief under section 6 or section 7 of Measure 49 and when applicable, Chapter 855, Oregon Laws 2009 and Chapter 8, Oregon Laws 2010, DLCD will review the Claim, as supplemented by the Election and the Supplemental Information, and prepare a Preliminary Evaluation of the relief that the Claimant may be entitled to. The Preliminary Evaluation will be based on and include an initial preliminary assessment of the number of lots, parcels and dwellings, if any, the Claimant lawfully was permitted to establish on the date the Claimant acquired the Measure 37 Claim Property.

(2) Prior to the issuance of the Preliminary Evaluation, DLCD will mail written notice of the Supplemental Review and a copy of any materials submitted by the Claimant to the county with land use jurisdiction over the Measure 37 Claim Property, and will provide that county an opportunity to submit written comment on the Supplemental Review. DLCD will consider all comments from the county in its preparation of the Preliminary Evaluation.

(3) DLCD will mail Notice of the Preliminary Evaluation to the Claimant, the Claimant's authorized agent, the county with land use jurisdiction over the Measure 37 Claim Property, and to any person who is an owner of record of real property located either within 250 feet of the Measure 37 Claim Property, if the Measure 37 Claim Property is not within a farm or forest zone, or within 750 feet of the Measure 37 Claim Property if it is located in a farm or forest zone, and to any neighborhood or community organization(s) whose boundaries include any portion of the Measure 37 Claim Property or that has made a written request for a copy of the Preliminary Evaluation.

(4) Any person may submit written comments, evidence or information in response to the Preliminary Evaluation as provided in OAR 660-041-0100 within twenty-eight (28) days of the date the Preliminary Evaluation is mailed under section (3) of this rule.

(5) DLCD will mail copies of any comments, evidence and information concerning the Preliminary Evaluation that are timely received under section (4) of this rule to the Claimant and the Claimant's authorized agent.

(6) The Claimant and the Claimant's authorized agent may file written comments, evidence or information in response to any materials filed by a third party or county. To be considered by DLCD, the response must be filed as provided in OAR 660-041-0100 within twenty-one (21) days after the date DLCD mailed the comments, evidence and information to the Claimant and the Claimant's authorized agent as provided under section (5) of this rule.

(7) Based on the record, DLCD will prepare a Final Decision on the Claim, which either will deny the authorization of home sites or a dwelling; or will approve a specific number of home sites under section 6 or section 7 of Measure 49 or a dwelling, and lot or parcel when applicable, for Claims described in section 5 or 6 of Chapter 8, Oregon Laws 2010. If approved, the Final Decision will authorize the county with land use jurisdiction over the Measure 37 Claim Property to approve a permit to allow the number of home sites approved or the approved dwelling, and unless the property includes a vacant lot or parcel, a lot or parcel for the dwelling, for Claims described in section 5 or 6 of Chapter 8, Oregon Laws 2010.

(8) Following issuance of the Final Decision, the owner of the Measure 37 Claim Property may file an application with the county with land use jurisdiction over the Measure 37 Claim Property for a permit to establish home sites authorized or to establish an authorized dwelling, and unless the property includes a vacant lot or parcel, a lot or parcel for the dwelling, for Claims described in section 5 or 6 of Chapter 8, Oregon Laws 2010.

(9) For good cause shown, DLCD may extend any time period under this rule.

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 4-2010(Temp), f. & cert. ef. 5-7-10 thru 10-1-10

660-041-0105 County Identification of Claims Described in Section 6 of Chapter 8, Oregon Laws 2010

(1) To qualify for Supplemental Review under section 6 of Chapter 8, Oregon Laws 2010, a Claim filed with a county but not with the state must have been both valid and not withdrawn. For purposes of this subsection, a Claim is "valid" if the county found the Claim to meet the county's own filing requirements. For purposes of this subsection, a Claim is "not withdrawn" if the county found that the Claim had not been withdrawn according to the county's own standards.

(2) Counties must submit certified copies of any Claims described in section 6 of Chapter 8, Oregon Laws 2010 to DLCD on or before June 30, 2010 in accordance with the standards for submissions to DLCD in OAR 660-041-0100, except that for purposes of this subsection a county may submit certified copies of Claims electronically. For purposes of this subsection, a county may certify copies of Claims by providing a single statement in writing from an agent of the county confirming that all Claim materials provided are for Claims that meet the criteria of section 6 of Chapter 8, Oregon Laws 2010.

(3) DLCD will notify and request Elections and fees as provided in OAR 660-041-0080 only from Claimants whose Claims are submitted by counties as provided in subsection (2) of this rule and who may be eligible for relief under section 6 of Chapter 8, Oregon Laws 2010. Claims that are not submitted by counties as provided in subsection (2) of this rule on or before June 30, 2010 are not eligible for Supplemental Review.

Stat. Auth.: ORS 197.040, 197.065 & Ch. 424, OL 2007, Ch. 855, OL 2009 & Ch 8, OL 2010
Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & Ch. 424, OL 2007 & Ch. 855, OL 2009 & Ch 8 OL, 2010
Hist.: LCDD 4-2010(Temp), f. & cert. ef. 5-7-10 thru 10-1-10

660-041-0110 Determining What Was Lawfully Permitted on the Claimant's Acquisition Date

(1) A Claimant lawfully was permitted to establish one or more lots, parcels or dwellings on the Claimant's acquisition date if DLCD determines that the characteristics of the Measure 37 Claim Property as it existed on that date, including the size, soil quality and location of the Measure 37 Claim Property, would have allowed the Claimant to satisfy the standards and criteria for approval of the lot, parcel or dwelling in effect on that date.

(2) Based on the Claimant's acquisition date, as determined under ORS 195.328, DLCD will apply the following standards and criteria to determine the number of lots, parcels or dwellings that were lawfully permitted; or, for Claims described in section 5 or 6 of Chapter 8, Oregon Laws 2010, to determine whether, in addition to the existing lots, parcels and dwellings contained within the Measure 37 Claim Property, a Claimant was lawfully permitted to establish one dwelling and, unless the property includes a vacant lot or parcel, a lot or parcel for the dwelling:

(a) If the Claimant's acquisition date is prior to January 25, 1975, DLCD will apply the applicable local land use regulations and comprehensive plan provisions, if any, along with any directly-applicable state statutes;

(b) If the Claimant's acquisition date is on or after January 25, 1975 but before the date the county with land use jurisdiction over the Measure 37 Claim Property had its applicable comprehensive plan and land use regulations acknowledged by LCDC for compliance with the Statewide Planning Goals, DLCD will apply the standards set forth in section 2 of Chapter 8, Oregon Laws 2010.

(c) If the Claimant's acquisition date is on or after the date the county with land use jurisdiction over the Measure 37 Claim Property had its applicable comprehensive plan and local land use regulations acknowledged by LCDC for compliance with the Statewide Planning Goals, DLCD will apply the applicable local land use regulations and comprehensive plan provisions along with any directly-applicable state statutes, Statewide Planning Goals, LCDC rules, or the standard set forth in section 4 of Chapter 8, Oregon Laws 2010.

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 4-2008, f. & cert. ef. 5-23-08; LCDD 1-2009, f. & cert. ef. 4-2-09; LCDD 4-2010(Temp), f. & cert. ef. 5-7-10 thru 10-1-10

ADMINISTRATIVE RULES

660-041-0120

Evaluation of Measure 37 Contiguous Property in Supplemental Review

(1) For purposes of the Supplemental Review of a Claim, ownership of contiguous property will be determined and evaluated as of the date the Claimant Elected relief under section 6 or section 7 of Measure 49.

(2) Except for Claims described in section 5 or 6 of Chapter 8, Oregon Laws 2010, in determining the relief to which a Claimant is entitled under section 6 or section 7 of Measure 49, the number of home site approvals a Claimant is entitled to will be reduced by the number of existing lots, parcels and dwellings contained within the entire property, which includes both the Measure 37 Claim Property and any contiguous property in the same ownership.

Stat. Auth.: ORS 197.040, 197.065 & 2007 OL Ch. 342
Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & 2007 OL Ch. 424
Hist.: LCDD 4-2008, f. & cert. ef. 5-23-08; LCDD 4-2010(Temp), f. & cert. ef. 5-7-10 thru 10-1-10

660-041-0170

Notice of County Applications and Decisions Under Measure 49

(1) The county with land use jurisdiction over property for which a Measure 49 Authorization has been issued must provide written notice to DLCD of any land use application that seeks approval of one or more home sites or of a dwelling, and lot or parcel when applicable, for Claims described in section 5 or 6 of Chapter 8, Oregon Laws 2010 under the Measure 49 Authorization; and of all final written decisions on home site approvals or on a dwelling, and lot or parcel when applicable, for Claims described in section 5 or 6 of Chapter 8, Oregon Laws 2010 that are based on a Measure 49 Authorization.

(2) Notice of an application for home site approval(s) or for a dwelling, and lot or parcel when applicable, for Claims described in section 5 or 6 of Chapter 8, Oregon Laws 2010 under a Measure 49 Authorization, required under section (1) of this rule, must be mailed to DLCD's Salem office at least ten (10) calendar days before any deadline for comment on the application. If there is no opportunity for comment, then the notice must be sent ten (10) days before the decision becomes final. The notice must include:

(a) A copy of any notice provided under ORS 197.195, 197.365, 197.615, 197.763, 227.175 or 215.416;

(b) The claim number of the Measure 49 Authorization issued by the State of Oregon; and

(c) The name of the present owner of the Measure 49 Claim Property.
Stat. Auth.: ORS 197.040 & 197.065
Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & 2007 OL Ch. 424
Hist.: LCDD 1-2009, f. & cert. ef. 4-2-09; LCDD 4-2010(Temp), f. & cert. ef. 5-7-10 thru 10-1-10

Rule Caption: Permanent rules adopting management plan for Metolius Area of Critical State Concern.

Adm. Order No.: LCDD 5-2010

Filed with Sec. of State: 5-13-2010

Certified to be Effective: 5-13-10

Notice Publication Date: 11-1-2009

Rules Adopted: 660-043-0100

Subject: The permanent rulemaking adopts OAR chapter 660 division 43, Areas of Critical State Concern (ACSC). 660-043-0100 relates exclusively to the Metolius Area of Critical State Concern and its management plan, as directed by the 2009 legislature in HB 3298. The legislature approved the Metolius Area of State Concern designation and management plan as submitted by the Land Conservation and Development Commission in March, 2009. The legislature approved the ACSC and management plan, and directed the LCDC to adopt the management plan, by administrative rule, with no changes, except for three specific changes. The management plan prohibits new Statewide Planning Goal 8 destination resort, new golf courses and certain new residential, commercial or other new uses including dwelling units that cause an average annual consumptive use of water in excess of the amount stated in the legislation, depending on whether the land is in Area 1 or Area 2 of the management plan referenced by the legislation.

Rules Coordinator: Casaria Tuttle—(503) 373-0050, ext. 322

660-043-0100

Metolius Area of Critical State Concern

(1) The Legal Effect of the Management Plan. This section of the Metolius Area of Critical State Concern contains the operative provisions of the designation. The earlier sections are intended only as background for the land use management plan. The provisions of the management plan will become effective upon filing of this rule with the Secretary of State. No further action by the commission or by Jefferson of Deschutes County is required for the plan to take effect. Specifically, neither county is required to amend its comprehensive plan or land use regulations as a result of this management plan. Instead, the counties will apply the provisions of this management plan directly to any land use decision that the plan applies to (as specified in more detail below). The Management Plan provisions in this section apply in addition to and (in some cases) instead of other state and local land use statutes, goal, rules, plans and regulations governing land uses within the Area of Critical State Concern. If any statute, goal, rule, plan or regulation conflicts with a provision of this Management Plan, the plan will control upon the effective date of legislation approving the plan. All other programs and regulations of state agencies, Jefferson County and Deschutes County are not affected by this Management Plan. The Management Plan may be amended by the commission, as provided and subject to the limitations contained in subsection 4 of this section.

(2) The Boundary of the Area of Critical Concern. The Area of Critical State Concern consists of two areas: The Metolius basin itself, except for the Three Rivers unincorporated community and lands to the east of Three Rivers (defined by surface hydrology as mapped by the Oregon Water Resources Department, and as shown in Exhibit A) (Area 1); and an area along the edge of the basin located to include lands where groundwater use is likely to adversely effect surface water flows in the Metolius basin, or where large-scale development would adversely affect important deer or elk winter range (as shown in Exhibit A) (Area 2). The eastern boundary of Area 1 was adjusted by the commission to remove the Three Rivers unincorporated community from the boundary, along with lands to the east of Three Rivers. The boundary otherwise encompasses the surface drainage of the Metolius River, including Fly Creek. The boundary of Area 2 was developed based on two criteria: the area where groundwater withdrawals are likely to substantially affect surface flows in the Metolius River (by more than 30 percent); and the area identified as especially sensitive big game habitat by ODFW or identified as important winter or transitional deer or elk range by the U.S. Forest Service. The boundary of Area 2 was adjusted to follow section lines to assist in the administration of the Management Plan.

(3) Management Plan Objectives. The Management Plan for the Metolius Basin Area of Critical State Concern ("the Management Plan") is intended to achieve three important objectives. These objectives will guide the commission and Jefferson and Deschutes Counties in the implementation of the Management Plan.

(a) Protect the Basin. The Management Plan is designed to protect the Metolius Basin (Area 1) and Area 2 from large-scale development that would be inconsistent with the outstanding and unique environmental, cultural and scenic values and resources described in Section V of the Management Plan. This is accomplished by prohibiting large-scale development in the basin itself, and by substantially limiting such development in Area 2. The location and development limits with Area 2 have been planned carefully, based on the likely hydrological impacts of development and the location of important wildlife resources. Within Area 2 the amount, location and type of development are limited to: assure no negative impact to the Metolius River, its springs or its tributaries; assure no negative impact to fish resources in the ACSC; and assure no negative impact to wildlife resources in the ACSC. The limitations do not affect small-scale development allowed under existing zoning, or existing land uses including the development of platted lots in Camp Sherman or the Three Rivers unincorporated communities.

(b) Give Jefferson County a Clear Path to Allow Small-Scale Recreation Oriented Development Consistent with the Carrying Capacity of the Area. The Management Plan also recognizes the economic development objectives of Jefferson County by authorizing small-scale recreation-oriented development within a small portion of the two areas mapped by the county for destination resort development. In addition, the Management Plan allows Jefferson County to remap without regard to the 30-month waiting period that would normally apply under ORS 197.455.

(c) Provide a Fair Result for the Property Owners. The Management Plan provides fairness for the property owners that would be directly affected by the proposed management plan by giving them an entitlement that they do not currently have in exchange for the prohibition on large scale

ADMINISTRATIVE RULES

resort or other large-scale development. The level of entitlement for the Metolian property set to offset the costs that have been incurred in preparing detailed development plans for the property. The entitlements for the Ponderosa property reflect the development allowed under existing zoning. The Management Plan does not eliminate statutory claims for compensation the owners may (or may not) have under Measure 49.

(4) Management Plan General Standards and Procedures. The following standards limit the authority of the commission to amend the Management Plan, by prohibiting certain changes to the plan without legislative approval, and by setting general standards for other changes.

(a) Changes Prohibited Without Legislative Approval. The following types of changes in the designation and Management Plan are prohibited without legislative approval:

(A) Any change to the boundary of the ACSC, including its two Areas, of more than 50 acres;

(B) Any change to the prohibition of a destination resort, as defined by Statewide Planning Goal 8 or ORS 197.435 et. seq.; or

(C) Any change that would authorize an exception to a Statewide Planning Goal in order to allow the development of more than 100 residential units.

(b) Other Changes. Other changes to the boundary of the ACSC or Management Plan by the commission are allowed without legislative approval, subject to the following standards: Any new development allowed by the change will not result in:

(A) Negative impact to the Metolius River, its springs or its tributaries;

(B) Negative impact on fish resources in the area of critical state concern; or

(C) Negative impact on the wildlife resources in the area of critical state concern.

(c) Procedure for Amendments. If the commission proposes to amend, add to or remove the boundary of Area 1 or Area 2, or to amend any provision of the Management Plan in a manner that is subject to paragraph (a) of this subsection, the amendment will not take effect until the effective date of legislation approving the amendment. If the commission proposes to amend, add to or remove the boundary of Area 1 or Area 2, or to amend any provision of the Management Plan in a manner that is not subject to paragraph (a) of this section, it shall do so by following the applicable rule-making procedures specified in ORS 183.325 et. seq. The commission shall hold at least one hearing in Jefferson County on any proposed change to the boundary of the ACSC or any proposed change to the Management Plan.

(d) In addition, the commission shall give notice of proposed amendments to the management plan to the governing bodies of Jefferson County and the Confederated Tribes of the Warm Springs Indian Reservation. If either governing body files a written objection to the proposed amendment within 45 days of the notice, the commission may adopt the proposed amendment only if the commission finds by clear and convincing evidence that the proposed amendment meets the applicable requirements of 2009 Or Laws, chapter 712.

(e) Implementation of the Management Plan. Notwithstanding other statutory requirements, neither Deschutes County nor Jefferson County is required to amend their comprehensive plan or land use regulations as a result of the designation or the Management Plan. Instead, the two counties will apply the designation and Management Plan directly to any application for a permit or land use decision within the ACSC, to the extent that this section of the Management Plan specifies that the Management Plan applies to the proposed use. The Management Plan will apply in the same manner as provided by ORS 197.646(4). If the county receives a land use application that is subject to the Management Plan, it must provide written notice to the department 15 days prior to the deadline for comments or testimony on the application. Any development or use of land not specifically regulated by this Management Plan is subject to the otherwise applicable provisions of state and local laws, goals, rules, plans and regulations.

(5) Management Plan Supplemental Land Use Regulations, Area 1: Metolius Basin. Area 1 is the area shown as Area 1 on Exhibit A.

(a) Prohibited Uses and Activities (Jefferson and Deschutes Counties). In addition to the existing provisions of state statutes, statewide land use planning goals and rules, and the acknowledged Jefferson County and Deschutes County Comprehensive Plans and land use regulations, the following uses and activities are prohibited on all lands in Area 1:

(A) Any new destination resort, as defined by Statewide Planning Goal 8 (Recreation) or ORS 197.435 to 197.467;

(B) Any new golf course;

(C) Any new residential development exceeding 10 dwelling units on a tract, regardless of whether an exception is taken (except as provided in subparagraph (b)(D), below);

(D) Any new commercial or industrial development that would have an average annual consumptive use of water of more than 5 acre-feet, and small-scale, low impact uses allowed under OAR 660-022-0030; and

(E) Any new uses of a tract of land that would have an average annual consumptive use of water in excess of 5 acre-feet, except as provided in subparagraph (b)(D), below.

(b) Special Land Use Provisions (Jefferson County). The following uses and development in the portion of Area 1 in Jefferson County are not subject to paragraph (a), above:

(A) All uses allowed by the current provisions of the Jefferson County comprehensive plan and land use regulations concerning the Blue Lake, Camp Sherman Vacation Resort, Camp Sherman Rural Service Center, Camp Sherman Rural Residential (3 acre and 5 acre) areas.

(B) Farm uses and forest uses allowed under Statewide Planning Goal 3 or Goal 4, including conditional uses of farm and forest land allowed by Goals 3 and 4 or their implementing rules (so long as any conditional use does not have an average annual consumptive use of water in excess of 5 acre-feet).

(C) Non-farm uses allowed under Statewide Planning Goal 3 and its implementing rules (so long as any non-farm use does not have an average annual consumptive use of water in excess of five acre-feet).

(D) A small-scale recreation-oriented development within the area mapped as eligible for destination resort development by Jefferson County in Township 13 South, Range 8 East, section 13. The development authorized by this section consists of:

(i) Up to twenty-five residential units and up to ten additional overnight accommodations in a lodge format, or including cabins on the lodge footprint, and accessory uses and activities including a small accessory restaurant and recreation-oriented amenities;

(ii) All units must be sited within a single clustered node of development, not to exceed 25 acres in size (access roads to the node and fire buffer areas are not included in the 25 acre limitation). The units must be sited, clustered and designed to minimize conflicts with wildlife in consultation with the Oregon Department of Fish and Wildlife, the U.S. Forest Service and the Confederated Tribes of the Warm Springs.

(iii) Fire siting standards must meet or exceed the standards in Jefferson County zoning code section 426;

(iv) The average annual consumptive water use for this development may not exceed 12.5 acre-feet; however, this limitation does not include water for fire-fighting needs on or off-site;

(v) Individual residential lots may not exceed one acre in size, with a maximum disturbance area of 35 percent;

(vi) Front and rear yard minimum setbacks are 10 feet; minimum side yard setbacks are 5 feet;

(vii) Roads to serve the residential lots may be private;

(viii) Jefferson County's review of development carried out under this section shall demonstrate compliance with the applicable provisions of this Management Plan, together with applicable county site plan and land division requirements, as set forth in Jefferson County's land use regulations;

(ix) This use is allowed notwithstanding any state statute in ORS chapters 197 or 215 to the contrary, and notwithstanding any Statewide Planning Goal or implementing rule to the contrary, and notwithstanding any land use regulation or comprehensive plan provision of Jefferson County to the contrary;

(x) If the owner of the property described in this paragraph elects to carry out this use, the property not used for residential use or overnight accommodations (including any common facilities) must be dedicated as open space. In addition, if the owner elects to carry out this use, all other property owned by the owner, or any affiliate of the owner, within Area 1 or Area 2 may not be developed with farm, non-farm or forest dwellings that would otherwise be allowed under applicable state and local land use regulations;

(xi) If the 2009 Legislative Assembly enacts a bill that provides for an owner, or affiliate of an owner, of the property described in this section to carry out a pilot project to develop a sustainable eco-community outside of Area 1 and Area 2, then the development authorized by this section is limited to two forest dwellings.

(c) Special Land Use Provisions (Deschutes County). The following uses and development in the portion of Area 1 in Deschutes County are not subject to paragraph (a), above:

(A) All uses allowed by the applicable provisions of Deschutes County's current acknowledged comprehensive plan and land use regula-

ADMINISTRATIVE RULES

tions (so long as any new use does not have an average annual consumptive use of water in excess of 5 acre-feet);

(B) Farm uses and forest uses allowed under Statewide Planning Goal 3 or Goal 4, including conditional uses of farm and forest land allowed by Goal 4 or their implementing rules (so long as any conditional use does not have an average annual consumptive use of water in excess of 5 acre-feet);

(C) Non-farm and non-forest uses allowed under Statewide Planning Goals 3 and 4 and their implementing rules (so long as any non-farm or non-forest use does not have an average annual consumptive use of water in excess of five acre-feet).

(6) Management Plan Supplemental Land Use Regulations, Area 2: Metolius Water/Wildlife Buffer Area. Area 2 is that area shown as Area 2 on Exhibit A.

(a) Prohibited Uses and Activities (Jefferson and Deschutes Counties). In addition to the existing provisions of state statutes, Statewide Planning Goals and their implementing rules, and the acknowledged Jefferson County and Deschutes County Comprehensive Plans and land use regulations, the following uses and activities are prohibited on all lands in Area 2:

(A) Any new destination resort as defined by Statewide Planning Goal 8 (Recreation) or ORS 197.435 to 197.467;

(B) Any new golf course;

(C) Any new residential development exceeding 20 dwelling units on a tract, regardless of whether an exception is taken;

(D) Any new commercial or industrial development, other than those commercial or industrial uses that would have an average annual consumptive use of water of less than 10 acre-feet, and other than those small-scale, low impact uses allowed under OAR 660-022-0030; and

(E) Any new uses of a tract of land, not including any farm use, that would have an average annual consumptive use of water in excess of 10 acre-feet, except as provided in paragraph (b), below.

(b) Special Use Provisions (Jefferson County). The following uses and development in the portion of Area 2 in Jefferson County are not subject to paragraph (a), above:

(A) Farm uses and forest uses allowed under Statewide Planning Goal 3 or Goal 4, including conditional uses of farm or forest lands allowed by Goal 3 or Goal 4 or their implementing rules (so long as any conditional use does not have an average annual consumptive use of water in excess of 5 acre-feet).

(B) Non-farm uses allowed under Statewide Planning Goal 3 and its implementing rules (so long as any non-farm use does not have an average annual consumptive use of water in excess of five acre-feet).

(C) The development of a small-scale recreation community within Township 13 South, Range 10 East, sections 20, 21, 28, and/or 29 in Jefferson County. The development authorized by this section consists of:

(i) Up to 100 residential units and up to twenty additional overnight accommodations in a lodge format, or including cabins on the lodge footprint, and accessory uses and activities including a small accessory restaurant and equestrian facilities or other recreation-oriented amenities (not including a golf course);

(ii) All units must be sited within up to 25 clusters that may be connected only by a road system, not to exceed 320 acres in size (access roads to the nodes and fire buffer areas are not included in the acreage limitation). The units and nodes must be designed to minimize conflicts with wildlife in consultation with the Oregon Department of Fish and Wildlife, the U.S. Forest Service and the Confederated Tribes of the Warm Springs;

(iii) Fire siting standards must meet or exceed the standards in Jefferson County zoning code section 426;

(iv) The average annual consumptive water use for this development may not exceed 60 acre-feet; however, this limitation does not include water for fire-fighting needs on or off-site;

(v) Individual residential lots may not exceed five acres in size, with a maximum disturbance area of 35 percent;

(vi) Roads to serve the residential lots may be private;

(vii) Jefferson County's review of development carried out under this section shall demonstrate compliance with the applicable provisions of this Management Plan, together with applicable county site plan and land division requirements, as set forth in Jefferson County's land use regulations;

(viii) This use is allowed notwithstanding any state statute in ORS chapters 197 or 215 to the contrary, and notwithstanding any Statewide Planning Goal or implementing rule to the contrary, and notwithstanding any land use regulation or comprehensive plan provision of Jefferson County to the contrary. If the owner of the property described in this paragraph elects to carry out this use, the property not used for residential use or overnight accommodations (including any common facilities) must be

dedicated as open space. In addition, if the owner elects to carry out this use, all other property owned by the owner or any affiliate of the owner within Area 1 and Area 2 may not be developed with farm, non-farm or forest dwellings that would otherwise be allowed under applicable state and local land use regulations.

(7) Special Use Provisions (Deschutes County). The following uses and development in the portion of Area 2 in Deschutes County are not subject to subsection (6), above:

(a) All uses allowed by the applicable provisions of Deschutes County's current acknowledged comprehensive plan and land use regulations, except the development of a new destination resort (completion of development already authorized for Black Butte Ranch is not limited by this Management Plan);

(b) Farm uses and forest uses allowed under Statewide Planning Goal 3 or Goal 4, including conditional uses of forest land allowed by Goal 4 or its implementing rules (so long as any conditional use does not have an average annual consumptive use of water in excess of 5 acre-feet);

(c) Non-farm uses allowed under Statewide Planning Goal 3 and its implementing rules (so long as any non-farm use does not have an average annual consumptive use of water in excess of five acre-feet);

(d) The development of up to ten residential units within the area mapped as eligible for destination resort development by Deschutes County in Township 14 South, Range 9 East, Section 21. However, the development area for such units (the area of any lots and common facilities, but not including common open space) may not exceed ten acres. The units must be sited, clustered and designed to minimize wildfire risk and the costs of protection from wildfire in consultation with the Oregon Department of Forestry and the U.S. Forest Service. In addition, the annual average consumptive water use for this development may not exceed 5 acre-feet. This use is allowed notwithstanding any state statute in ORS Chapters 197 or 215 to the contrary, and notwithstanding any Statewide Planning Goal or implementing rule to the contrary, and notwithstanding any land use regulation or comprehensive plan provision of Deschutes County to the contrary. If the owner of the property described in this paragraph elects to carry out this use, the property not used for residential units and common facilities must be dedicated as open space.

(8) Alternate Resort Siting Provisions (Jefferson County). Alternate Destination Resort Sites. Notwithstanding ORS 197.455(2) Jefferson County may map other locations as eligible for destination resort development (outside of the Area of Critical State Concern) without waiting 30-months from the previous destination resort map adoption. Mapping conducted, if any, pursuant to this provision must satisfy all other applicable provisions of law. This subsection sunsets on January 1, 2014.

EXHIBITS:

Exhibit A, Metolius Area of Critical State Concern, Area 1 and Area 2 (Map)

Exhibit B, Metolius ACSC Management Plan, April 2, 2009

Exhibit C, Metolius Area of Critical State Concern, Areas 1 and 2 Boundary — Jefferson County, Description of the lineage of the ACSC Data Set

Exhibit D, Metolius Area of Critical State Concern, Boundary Area Between Areas 1 and 2 — Description of the Lineage of the ACSC Data Set

Exhibit E, Metolius Area of Critical State Concern, Areas 1 and 2 Boundary — Deschutes County, Description of the Lineage of the ACSC Data Set.

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

Stat. Auth.: ORS 197.040 & HB 3298

Stats. Implemented: ORS 197.405 & 2009 OL Ch. 712

Hist.: LCDD 5-2010, f. & cert. ef. 5-13-10

Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Contracted Services for the Oregon Prescription Drug Program.

Adm. Order No.: OHP 2-2010(Temp)

Filed with Sec. of State: 4-20-2010

Certified to be Effective: 4-21-10 thru 10-17-10

Notice Publication Date:

Rules Amended: 409-030-0065

Subject: The Oregon Prescription Drug Program (OPDP) is temporarily amending OAR 409-030-0065 related to rules of procedure for contracted services. OPDP is deleting language adopting the Department of Justice's model public contracting rules effective July 1, 2009 because those model rules are no longer current. OPDP will rely on ORS 279A.065 (4) which states, "A contracting agency that has not adopted its own rules of procedure...is subject to the model rules adopted by the Attorney General under this section, including

ADMINISTRATIVE RULES

all modifications to the model rules that the Attorney General may adopt?"

Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-030-0065

Contracted Services

(1) The Administrator may procure goods and services to perform any of the functions of OPDP.

(2) The Administrator shall delegate procurement authority to the Department's Designated Procurement Officer for OPDP goods and services, except as the Administrator determines to retain such authority in a particular case and as otherwise provided in section (4) of this rule.

(3) The Administrator shall act as the Department's representative for each contract. The Administrator may delegate in writing the representative's responsibilities to a designee. The agency's representative may participate with the Department's Designated Procurement Officer in all aspects of procurement.

(4) OPDP's mechanism for and administration of the enrollment of participating groups shall not constitute procurements subject to this rule.

Stat. Auth.: ORS 414.312 - 414.320

Stats. Implemented: ORS 414.312 - 414.318, OL 2007 (SB 362)

Hist.: OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; OHP 2-2010(Temp) f. 4-20-10, cert. ef. 4-21-10 thru 10-17-10

Oregon Board of Naturopathic Medicine Chapter 850

Rule Caption: Rule will state the specific compensation for Board members.

Adm. Order No.: OBNM 2-2010

Filed with Sec. of State: 5-3-2010

Certified to be Effective: 5-3-10

Notice Publication Date: 4-1-2010

Rules Adopted: 850-005-0190

Subject: Compensation to Board Members will be outlined in this rule per ORS 292.145.

Rules Coordinator: Anne Walsh—(971) 673-0193

850-005-0190

Board Member Compensation

(1) Board members of the Oregon Board of Naturopathic Medicine, who are authorized by law to receive compensation for time spent in the performance of their official duties, will receive a payment of \$100 for each day or portion thereof during which the member is actually engaged in the performance of official duties. If the hours engaged in the official duty is less than 3 hours, payment will be \$30 for the day. This compensation amount will be in addition to any eligible reimbursement of travel expenses.

(2) Board members and employees of the Board are authorized to receive actual and necessary travel or other expenses actually incurred in the performance of their official duties as determined by the Board. Mileage reimbursement will be provided at the rate established by the Internal Revenue Service for privately owned vehicles.

(3) No Board member will be required to accept compensation or reimbursement of travel expenses while performing their official duties as a Board member.

Stat. Auth.: ORS 292 & 182

Stats. Implemented: ORS 182.466(3) & 2009 OL Ch. 535 (HB 2058)

Hist.: OBNM 2-2010, f. & cert. ef. 5-3-10

Rule Caption: To clarify specific authority of Naturopathic physicians.

Adm. Order No.: OBNM 3-2010

Filed with Sec. of State: 5-3-2010

Certified to be Effective: 5-3-10

Notice Publication Date: 4-1-2010

Rules Amended: 850-060-0220

Subject: Clarifies language of authority of licensees.

Rules Coordinator: Anne Walsh—(971) 673-0193

850-060-0220

Authority to Prescribe, Dispense, Administer, and Order

Naturopathic physicians shall be allowed to prescribe, dispense, administer, and order the following:

(1) All substances recommended by the Formulary Council and approved by the Board,

(a) All biological substances including extracts and/or their products and residues,

(b) All topical preparations,

(2) All vitamins, minerals, trace minerals, enzymes, and food,

(3) All mechanical devices, except those that require major surgical intervention,

(4) All homeopathic preparations,

(5) All laboratory and diagnostic procedures,

(6) Antibiotics to partner(s) of patients diagnosed with a sexually transmitted disease without a patient visit by the partner of the patient for Expedited Partner Therapy (EPT) per OAR 855-041-8000 to 855-041-8005 of the Department of Human Services.

Stat. Auth.: ORS 685.125

Stats. Implemented: 685.030

Hist.: NE 2-1984, f. & ef. 2-28-84; BNE 2-2005, f. & cert. ef. 2-4-05; Renumbered from 850-010-0220, BNE 8-2005, f. & cert. ef. 10-27-05; OBNM 1-2010, f. & cert. ef. 2-16-10; OBNM 3-2010, f. & cert. ef. 5-3-10

Oregon Business Development Department Chapter 123

Rule Caption: These rules have been revised due to 2009 Legislation.

Adm. Order No.: OBDD 11-2010

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 4-1-2010

Rules Amended: 123-011-0021, 123-011-0025, 123-011-0027, 123-011-0030, 123-011-0035, 123-011-0040

Subject: These rules for Economic Development Revenue Bonds have been revised due to HB 2152 in the 2009 Legislative Session. The name of the department has been changed, eligibility requirements have been update and some definitions have been removed and other revised. Statute references have been revised as well.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-011-0021

Commission Powers

For the purposes of these rules, the Business Development Commission shall retain and possess, in addition to all authority reserved to it under OAR 123-011-0027, all rights and powers delegated to the Finance Committee. Upon written notice to the Finance Committee, the Business Development Commission may elect to exercise directly, either in a specific instance or generally, any right or power delegated to the Finance Committee under these rules and the Finance Committee shall not have the authority to exercise the right or power identified in the notice under the circumstances described in the notice.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 36-1988, f. & cert. ef. 12-15-88; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10

123-011-0025

Definitions

For the purposes of these rules, the following terms shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Applicant" means any person, firm or public or private corporation or federal or state governmental subdivision or agency which submits an application for Oregon Economic Development Revenue Bonds.

(2) "Bonds" means Oregon Economic Development Revenue Bonds issued by the State of Oregon under ORS 285B.320 to 285B.371.

(3) "Finance Committee" means the Finance Committee for the Business Development Commission as allowed in ORS 285A.060.

(4) "Eligible Project" means an economic development project as defined in ORS 285B.323 determined by the Finance Committee to be eligible under OAR 123-011-0035 for Oregon Economic Development Revenue Bonds.

(5) "Financial Institution" means any commercial bank, mutual savings bank, savings and loan association, insurance company, investment bank or NASD securities underwriter licensed or authorized to do business in the State of Oregon.

(6) "In-state Plant Relocation" means the relocation of an applicant's plant from one labor market area, as defined by the Oregon Employment Department, in Oregon to a different labor market area in Oregon.

ADMINISTRATIVE RULES

(7) "Oregon Express Bond Program" means a program developed by the department that involves a method of sale for a single client purchase that includes, but is not limited to, direct placement of bonds with a bank. Such a purchase does not require the use of placement agents, underwriters, marketing agents or letters of credit. To utilize this program, use of a standardized departmental bond process is required.

(8) "Treasurer" means the Treasurer of the State of Oregon or the Treasurer's designee.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 8-1984(Temp), f. 12-31-84, ef. 1-1-85; EDD 3-1985, f. & ef. 6-28-85; EDD 4-1988, f. & cert. ef. 2-10-88; EDD 6-1988(Temp), f. & cert. ef. 2-29-88; EDD 9-1988 (Temp), f. & cert. ef. 3-18-88; EDD 15-1988, f. & cert. ef. 5-24-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 14-1994(Temp), f. & cert. ef. 11-10-94; EDD 4-1995, f. 4-28-95, f. & cert. ef. 5-3-95; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10

123-011-0027

Delegation

(1) Authority for the day-to-day operation of the Economic Development Revenue Bond Program, including determination of eligibility, authorization of the issuance of bonds, adoption of inducement and bond resolutions and amendments thereto, is delegated to the Finance Committee.

(2) The Finance Committee may adopt standards and procedures for the operation of the bond program. Such standards and procedures shall not be inconsistent with any part of this division.

(3) The department may send to each member of the commission a summary of each project to be considered by the Finance Committee. If so, Commissioners shall receive such summaries in sufficient time to comment on the projects and to attend each Finance Committee meeting, as each individual commissioner may in his or her sole discretion determine.

(4) The commission shall review and evaluate the operation of the bond program as it may from time to time determine and may order any changes that it considers necessary or desirable.

(5) The commission shall retain final authority over policies and administrative procedures governing the operation of the bond program.

(6) If at any time the commission shall decide to take any action or make any decision, it may do so at any regular or special meeting or through any telephone conference call as the commission in its sole discretion may determine.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 9-1988(Temp), f. & cert. ef. 3-18-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10

123-011-0030

Application

(1) An Applicant desiring issuance of Economic Development Revenue Bonds must submit a complete application to the department in a form approved by the department.

(2) The application shall be received by the department at least 21 days prior to the Finance Committee meeting at which the application will be considered. The department may waive this requirement at its sole discretion.

(3) A non-refundable application fee is to be submitted with the application: The application fee is a non-refundable application fee of \$500 and shall be paid by an applicant seeking economic development revenue bond financing.

(4) Application materials may be obtained from the Oregon Business Development Department, 775 Summer Street N.E., Suite 200 Salem, OR 97301-1280.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 8-1984(Temp), f. 12-31-84, ef. 1-1-85; EDD 3-1985, f. & ef. 6-28-85; EDD 4-1988, f. & cert. ef. 2-10-88; EDD 6-1988(Temp), f. & cert. ef. 2-29-88; EDD 9-1988 (Temp), f. & cert. ef. 3-18-88; EDD 15-1988, f. & cert. ef. 5-24-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 13-1990, f. & cert. ef. 6-7-90; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 9-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 9-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10

123-011-0035

Determination of Eligibility

(1) The department shall review the application.

(2) The department shall make a recommendation to the Finance Committee to either approve or deny the application for eligibility for

Economic Development Revenue Bonds. The review of the application will be based upon the standards set forth in this rule:

(a) The following economic activities are eligible for Economic Development Revenue Bonds, unless otherwise prohibited under subsection (b) of this section:

- (A) Manufacturing or other industrial production;
- (B) Agricultural development or food processing;
- (C) Aquaculture development or seafood processing;
- (D) Development or improved utilization of natural resources;
- (E) Research and development;
- (F) Destination facilities other than retail or food service businesses;
- (G) Convention and trade centers;
- (H) Construction of buildings for corporate headquarters;
- (I) Product distribution facilities;
- (J) Transportation or freight facilities;
- (K) Scientific testing including, but not limited to, medical, clinical or engineering testing services;

(L) Sports facilities not otherwise prohibited under paragraph (2)(b)(D) of this rule;

(M) Nonprofit entities organized under Section 501(c)(3) of the U.S. Internal Revenue Code ;

(N) Utilities, as allowed by ORS 285B.323(2).;

(O) Other activities which represent a new technology or type of economic enterprise that the Finance Committee determines are needed to diversify the economic base of an area, or any other activities allowed by Federal law.

(b) Activities or projects that will not be considered for the issuance of Oregon Economic Development Revenue Bonds include:

- (A) Retail businesses and shopping centers;
- (B) Food service not part of a convention center or destination resort;
- (C) Professional corporations for medicine, law, dentistry, or finance;
- (D) Athletic, racquetball, handball clubs, amusement parks, or similar endeavors;

(E) Commercial office buildings except for corporate headquarters, unless the office building supports the eligible economic activities listed in (2)(a) of this section;

(F) Activities that maintain private memberships; are not open to the general public; or do not serve a broad cross section of the general public;

(G) Facility or facilities designed primarily for the generation, transmission, sale or distribution of electrical energy;

(c) The following serve as an elaboration and clarification of activities which are eligible for Economic Development Revenue Bonds:

(A) "Destination Facility" means a project which has a significant impact on the regional tourism economy and has the capacity to be marketed to national or international markets. Incidental food service facilities may be included. Sleeping accommodations without unique attraction capabilities are not eligible;

(B) "Convention and Trade Centers" may include sleeping accommodations, but the majority of the total bond issue must be used for convention meeting facilities. Such facilities must have the capacity to seat a minimum of 300 people. However, the Finance Committee may approve financing for projects, as convention centers, consisting solely or primarily of sleeping accommodations, if the applicant sufficiently demonstrates existing sleeping accommodations are inadequate for existing meeting facility space;

(C) "Corporate Headquarters" may qualify if a minimum of 75 percent of the floor space is allocated to the corporate headquarter function. Corporate headquarters do not include professional corporations for medicine, law, dentistry, or finance or office space to be leased to others;

(D) "Transportation" is not intended to include rolling stock or other highly moveable equipment operated by a carrier for hire;

(E) In deciding whether or not to approve economic development revenue bonding for a utility project, the Finance Committee may consider all relevant factors including but not limited to the utility company's published tariff schedules and construction and extension procedures as filed with the Oregon Public Utility Commission;

(F) "Pollution Control" equipment may qualify as part of projects that otherwise qualifies under this rule. Where pollution control equipment costs are incidental to the total capital investment of the project, the Finance Committee may qualify such equipment, provided the Oregon Department of Environmental Quality concurs;

(G) "In-State Plant Relocations" not accompanied by an expansion of the applicant's business or employment, may be considered when the applicant is able to demonstrate that:

- (i) The relocation is caused by reasons beyond its control; or

ADMINISTRATIVE RULES

(ii) The relocation will not cause a resulting loss of employment at the former site of the business; or

(iii) The relocation is necessary for the continued operation of the business.

(H) "Nonprofit entities" do not include religious or fraternal organizations;

(I) "Developer Project" may qualify. The Finance Committee shall have right of approval for each tenant occupying 25 percent or more of the leasable space. No more than 25 percent of the leasable space shall be leased to tenants relocating from another Oregon location, unless such relocation is accompanied by an expansion of the tenants' labor force. These conditions shall be incorporated into bond documents, shall survive closing and shall be enforceable for the term of the bond.

(d) Public Purpose. The applicant must demonstrate that a public purpose is served by the proposed economic development project through economic diversification, creation of new jobs including construction activity, construction occurring before it otherwise could or would, economic activity occurring during economic slumps, tax dollars remaining in the state, or increased productivity. The applicant is encouraged to demonstrate as many public purposes for the proposed project as can be prudently shown;

(e) Prior to determining that an economic development project is an Eligible Project, the Finance Committee shall:

(A) Determine that the action is cost effective, considering both major public expenses and major public benefits;

(B) Find that the project involved is consistent with the department's comprehensive policy and programs;

(C) Find that the project will produce goods or services which are sold in markets for which national or international competition exists, or if the project is to be constructed and operated by a not-for-profit organization, that the project will not compete significantly with local for-profit businesses;

(D) Determine that the action is the best use of the moneys involved, considering other pending applications for those moneys; and

(E) Provide for public notice of, and public comment on, the action. The public hearing is not a contested case hearing. Members of the public are invited to present written or oral testimony. Only Finance Committee members and department staff will ask questions.

(F) Notify a senior official (such as mayor or city manager) of the city or county (if in unincorporated county property) in which the project will be located about the project and the potential use of economic development revenue bonds.

(f) The Finance Committee may deny an application if the applicant does not demonstrate, to the satisfaction of the Finance Committee, that the project is financially feasible;

(g) The Finance Committee may deny an application if the applicant (or any of the principals in the applicant) is subject to any existing, pending or threatened litigation or unasserted claim, unless such litigation or claim is fully disclosed to the Finance Committee and the arrangements for the settlement thereof are acceptable to the Finance Committee. In any case where such litigation or claim is unknown to the Finance Committee at the time project eligibility is granted or if such litigation or claim arises subsequent to a grant of project eligibility, the Finance Committee may rescind the project eligibility;

(h) The Finance Committee may make any reasonable requirement of the applicant related to the administration of the Oregon Economic Development Revenue Bond Program, including requirements that would survive closing and be enforceable for the term of the bond.

(3) The Finance Committee shall issue a Resolution for Project Eligibility for each economic development project determined to be an eligible project. The term of eligibility shall last 12 months unless extended by the department or the Finance Committee.

(4) Administrative rules in effect at the time the Finance Committee determines a project to be eligible shall continue to govern the project until the bonds have been redeemed, notwithstanding any contrary provision in any subsequently adopted administrative rule.

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

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 8-1984(Temp), f. 12-31-84, ef. 1-1-85; EDD 1-1985(Temp), f. & ef. 2-26-85; EDD 3-1985, f. & ef. 6-28-85; EDD 5-1985(Temp), f. & ef. 10-4-85; EDD 6-1985(Temp), f. & ef. 10-22-85; EDD 1-1986, f. 1-28-86, ef. 2-1-86; EDD 4-1988, f. & cert. ef. 2-10-88; EDD 6-1988(Temp), f. & cert. ef. 2-29-88; EDD 9-1988(Temp), f. & cert. ef. 3-18-88; EDD 15-1988, f. & cert. ef. 5-24-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 13-1990, f. & cert. ef. 6-7-90; EDD 14-1994(Temp), f. & cert. ef. 11-10-94; EDD 4-1995, f. 4-28-95, cert. ef. 5-3-95; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 9-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 9-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10

123-011-0040

Extension

(1) The department may extend the eligibility granted by the Finance Committee for up to six months if the department determines that the project still constitutes an eligible activity and that there is a reasonable prospect of the bonds being issued within the six-month extension period. The applicant must provide updated financial information, and a project status report to the department, in a form approved by the department, at least 14 calendar days before eligibility expires. The department may waive the 14 calendar day requirement at its sole discretion.

(2) The Finance Committee may extend eligibility if the department denies extended eligibility or if the initial extension granted by the department under section (1) of this rule has expired. The Finance Committee must determine that the project still constitutes an eligible activity, and that there is a reasonable prospect of the bonds being issued within the extension period. The applicant must provide updated financial information and a project status report, as well as a request for extension, in a form approved by the department, at least one month prior to the expiration date of the original or extended eligibility period. The Finance Committee may waive this time period at its sole discretion.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 8-1984(Temp), f. 12-31-84, ef. 1-1-85; EDD 3-1985, f. & ef. 6-28-85; EDD 1-1986, f. 1-28-86, ef. 2-1-86; EDD 4-1988, f. & cert. ef. 2-10-88; EDD 6-1988(Temp), f. & cert. ef. 2-29-88; EDD 9-1988(Temp), f. & cert. ef. 3-18-88; EDD 15-1988, f. & cert. ef. 5-24-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 9-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 9-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10

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Rule Caption: These rules relate to the Business Retention Fund.

Adm. Order No.: OBDD 12-2010

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 4-1-2010

Rules Amended: 123-016-0000, 123-016-0010, 123-016-0020, 123-016-0030

Subject: These rules have been revised due to changes in 2009 Legislation through HB 2152 changing the name of the department. The name of the fund has also been changed from the Oregon Stabilization and Conversion Fund to the Business Retention Fund.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-016-0000

Purpose

The purpose of these rules is to provide procedures, standards and criteria for the making of Oregon Business Development Commission expenditures for feasibility studies, technical assistance and management consulting services from the Business Retention Fund.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.224

Hist.: EDD 10-1985(Temp), f. 11-7-85, ef. 10-22-85; EDD 4-1987(Temp), f. & ef. 10-1-87; EDD 13-1988, f. 5-24-88 (and corrected 5-27-88), cert. ef. 5-27-88; EDD 19-2008(Temp), f. 6-9-08 cert. ef. 6-10-08 thru 11-15-08; Administrative correction 12-22-08; OBDD 12-2010, f. 4-30-10, cert. ef. 5-1-10

123-016-0010

Definitions

For the purposes of these rules additional definitions may be found in Procedural Rules, OAR 123-001. The following terms shall have the following definitions, unless the context clearly indicates otherwise:

(1) Business retention services means technical assistance provided by experts, as qualified by the department, focused on retaining the viable operation of an existing business in Oregon. The services include, but are not limited to the following types of assistance:

(a) Assessment — initial evaluation to determine the extent of issues experienced by the business and the likelihood of the business's viability.

(b) Management consulting — identifying and solving problems including, but not limited to, management improvements, marketing problems, financial problems, equipment needs, productivity improvements, production control, cost and pricing systems, and/or ownership.

(c) Feasibility study — a study conducted to analyze the feasibility of reopening, keeping open, or converting a business firm or a facility to another product, identify ownership possibilities, including employee ownership, and conduct an appraisal of the facility's assets to be purchased.

ADMINISTRATIVE RULES

(d) Conversion plan — a plan to convert a facility to a new product or enter a new market or convert a company's ownership structure, including an employee buy-out.

(e) Transition plan — strategic and business plans to grow or alter a business operation, including, but not limited to, mergers and transitions to local owners.

(f) Restructuring plan — plan for the acquisition of new equipment, technologies, management practices, sourcing solutions, and growth options focused on retaining the viable operation of an existing business in Oregon.

(g) Any other type of technical assistance necessary to retain a business in Oregon, maintain Oregon employees, or assist an Oregon business to manage growth that will lead to the creation of new jobs in Oregon.

(2) "Fund" means the Business Retention Fund.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.224

Hist.: EDD 10-1985(Temp), f. 11-7-85, ef. 10-22-85; EDD 4-1987(Temp), f. & ef. 10-1-87; EDD 13-1988, f. 5-24-88 (and corrected 5-27-88), cert. ef. 5-27-88; EDD 4-1998(Temp), f. & cert. ef. 3-6-98 thru 7-24-98; Administrative correction 8-5-99; EDD 19-2008(Temp), f. 6-9-08 cert. ef. 6-10-08 thru 11-15-08; Administrative correction 12-22-08; EDD 12-2009, f. & cert. ef. 10-1-09; OBDD 12-2010, f. 4-30-10, cert. ef. 5-1-10

123-016-0020

Eligibility

(1) Except as set forth in 123-016-0020(2), the following are eligible recipients of business retention services:

(a) A for-profit business firm, whose Oregon facility is:

(A) Engaged in:

(i) Technology manufacturing;

(ii) Wood and forest products processing;

(iii) Clean technologies;

(iv) Outdoor gear or active wear production;

(v) Agriculture or aquaculture development;

(vi) Food or seafood processing;

(vii) Other advanced manufacturing; or

viii. producing goods or services and competing in markets for which regional, national or international competition exists; and

(B) Experiencing at least one of the following issues: Declining employment, declining sales, declining profits, or an erosion of working capital, that is likely to lead to major employee layoffs or closure of the business, or an emerging industry or part of an industry cluster with high potential for market growth, job retention and job creation.

(b) A public or non-profit, private entity which:

(A) has as one of its primary purposes, as stated in its articles of incorporation, charter or bylaws, the promotion of economic development in Oregon; and

(B) Is requesting business retention services for an industrial facility in Oregon which is actually closed or houses a business which has announced its closure.

(2) Business retention services shall not be used to relocate a business from one labor market in Oregon to another.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.224

Hist.: EDD 4-1987(Temp), f. & ef. 10-1-87; EDD 13-1988, f. 5-24-88 (and corrected 5-27-88), cert. ef. 5-27-88; EDD 19-2008(Temp), f. 6-9-08 cert. ef. 6-10-08 thru 11-15-08; Administrative correction 12-22-08; EDD 12-2009, f. & cert. ef. 10-1-09; OBDD 12-2010, f. 4-30-10, cert. ef. 5-1-10

123-016-0030

Awards of Grants and Loans; Match Requirements

(1) A business firm described in OAR 123-016-0020(1)(a) is eligible for a maximum award of \$15,000 from the Fund for business retention services.

(2) A public or non-profit, private entity described in OAR 123-016-0020(1)(b) is eligible for a maximum grant of \$30,000 from the Fund for business retention services. A public or non-profit, private entity recipient will be required to contribute a minimum of 25 percent of cost of the business retention services in cash.

(3) As provided in OAR 123-016-0050, an award from the Fund may be required to be repaid, in whole or in part, if certain conditions are met.

(4) In most instances, the department will first approve an award from the Fund to conduct an assessment to determine what, if any, additional business retention services are likely to result in retaining the viable operation of an existing business in Oregon.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.224

Hist.: EDD 10-1985(Temp), f. 11-7-85, ef. 10-22-85; EDD 4-1987(Temp), f. & ef. 10-1-87; EDD 13-1988, f. 5-24-88 (and corrected 5-27-88), cert. ef. 5-27-88; EDD 19-2008(Temp), f. 6-9-08 cert. ef. 6-10-08 thru 11-15-08; Administrative correction 12-22-08; EDD 12-2009, f. & cert. ef. 10-1-09; OBDD 12-2010, f. 4-30-10, cert. ef. 5-1-10

Rule Caption: These rules relate to the capital Access Program.

Adm. Order No.: OBDD 13-2010

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 4-1-2010

Rules Amended: 123-018-0010, 123-018-0020, 123-018-0080, 123-018-0085, 123-018-0100, 123-018-0120, 123-018-0150, 123-018-0160

Subject: These rules revise the Capital Access Program based on 2009 Legislation through HB 2152. Revisions include updating the department's name and eliminating and revising definitions. Revisions include new language to the Termination of and Withdrawal from Program section that allows the department to terminate a failed Participating Financial Institution's membership in the Program and transfers the funds back to the department based on the institution being closed or taken over by the FDIC. Statutory references have been updated.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-018-0010

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, the following definitions apply, unless the context requires otherwise:

(1) "Agreement" means a contract between a Financial Institution and the Department authorizing the Financial Institution to participate in the Program as required under ORS 285B.113.

(2) "Borrower" means a Qualified Business that has received a Qualified Loan from a Participating Financial Institution, including but not limited to a corporation, partnership, limited liability company, joint venture, sole proprietorship, cooperative, or non-profit corporation.

(3) "Brownfield" means any real property where expansion or redevelopment is complicated by actual or perceived environmental contamination.

(4) "Department" means the State of Oregon Business Development Department under ORS Chapter 285A.

(5) "Distressed Area" means a geographic area so designated as described in division 024 of these administrative rules.

(6) "Enrolled Loan" means a Qualified Loan enrolled in the Program as described in OAR 123-018-0080, including but not limited to a term loan or line of credit.

(7) "Environmental action" on a brownfield(s) means activities undertaken to:

(a) Determine if a release has occurred, or may occur, if the release or potential release poses a significant threat to human health or the environment, or if additional remedial actions may be required at the site;

(b) Conduct a remedial investigation and a feasibility study;

(c) Plan for remedial action or removal; or

(d) Conduct a remedial action or removal action at a site.

(8) "Fund" means the Capital Access Fund in the State Treasury under ORS 285B.109.

(9) "Loss" means any principal amount due and not paid, accrued interest due and not paid, and actual and necessary, documented out-of-pocket collection expenses at the time the Participating Financial Institution determines, in a manner consistent with its standard lending and loan loss criteria and normal method for making such determinations, that an Enrolled Loan is uncollectible and is to be charged off as a loss. The amount of principal and interest included in the Loss shall not exceed the principal amount of the Enrolled Loan, plus accrued and unpaid interest on covered principal amount from the date the Qualified Loan is made.

(10) "Loss Reserve Account" means an account in the State Treasury or any Financial Institution that is established and maintained by the Department for the benefit of a Financial Institution participating in Program.

(11) "Participating Financial Institution" means a Financial Institution that has executed an Agreement with the Department to participate in the Program, has enrolled one or more qualified loans, and has adequate capacity, as determined by the Department, to underwrite and monitor business-purpose loans.

(12) "Primary Economic Effect" means the majority of economic benefit resulting from a business activity. A business's Primary Economic Effect is in a particular geographic location if either at least 51 percent of the business's total revenues are generated, or at least 51 percent of the business's total jobs are created or retained, in that location.

ADMINISTRATIVE RULES

(13) "Program" means the Capital Access Program authorized by ORS 285B.109 to 285B.119.

(14) "Qualified Business" means any person, conducting business for profit or not for profit, which is authorized to conduct business in the State of Oregon.

(15) "Qualified Loan" means a loan or portion of a loan made by a Participating Financial Institution to a Qualified Business for any business activity that has its Primary Economic Effect in Oregon. The term does not include:

(a) A loan for the purchase of owner-occupied residential housing or for the construction, improvement, or purchase of residential housing that is owned or to be owned by the borrower;

(b) A loan for the purchase of real property that is intended for resale or not used for the business operations of the Borrower; and

(c) A loan or portion of a loan used to refinance the balance of an existing loan that is not an enrolled loan. Any increased portion of the loan used for a qualified purpose may be eligible to be enrolled.

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

Stat. Auth.: ORS 285A.075, 285B.115(3) & 285B.117(4)

Stats. Implemented: ORS 285B.109 - 285B.119

Hist.: EDD 27-1990(Temp), f. & cert. ef. 10-16-90; EDD 3-1991, f. & cert. ef. 4-17-91; EDD 15-1991(Temp), f. & cert. ef. 10-31-91; EDD 11-1992, f. & cert. ef. 8-18-92; EDD 1-1994(Temp), f. & cert. ef. 1-11-94; EDD 9-1994, f. 5-27-94, cert. ef. 6-1-94; EDD 10-1997(Temp), f. & cert. ef. 10-7-97; EDD 9-1998, f. & cert. ef. 5-22-98; EDD 8-2005, f. & cert. ef. 10-24-05; EDD 8-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 6-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 22-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 13-2010, f. 4-30-10, cert. ef. 5-1-10

123-018-0020

Authority to Implement Program

The manager of the Department's Business Finance programs, or his/her designee, may execute any document reasonably necessary or convenient to implement the Program.

Stat. Auth.: ORS 285A.075, 285B.113(3)

Stats. Implemented: ORS 285B.109 - 285B.119

Hist.: EDD 27-1990(Temp), f. & cert. ef. 10-16-90; EDD 3-1991, f. & cert. ef. 4-17-91; EDD 15-1991(Temp), f. & cert. ef. 10-31-91; EDD 11-1992, f. & cert. ef. 8-18-92; EDD 8-2005, f. & cert. ef. 10-24-05; OBDD 13-2010, f. 4-30-10, cert. ef. 5-1-10

123-018-0080

Procedure for Enrollment of a Qualified Loan

(1) A Participating Financial Institution may enroll a Qualified Loan in the Program by taking the following actions:

(a) Notifying the Department in writing of the Qualified Loan to be enrolled, using a form prescribed by the Department, within 30 days after the date the Participating Financial Institution disburses proceeds of the Qualified Loan to the Borrower or the date the loan documents are fully executed and the Participating Financial Institution is obligated to disburse proceeds, whichever occurs sooner; and

(b) Transmitting to the Department the fees required by OAR 123-018-0070. If the Loss Reserve Account is domiciled with the Participating Financial Institution, the deposit of fees by the Participating Financial Institution into the Loss Reserve Account satisfies the requirements of this section if the Participating Financial Institution provides the Department with proof of deposit or written notification confirming the deposit.

(2) The Department shall, upon receipt of documentation and fees satisfying the requirements in section (1) of this rule, enroll the Qualified Loan if:

(a) The Department is satisfied that the Qualified Loan is eligible under OAR 123-018-0065; and

(b) Sufficient moneys are or can be made available from the Fund to meet the Department's minimum contribution obligation described in OAR 123-018-0085.

(3) The Department shall notify the Participating Financial Institution of enrollment within 10 business days from receipt of the required documentation and fees.

(4) After notifying the Participating Financial Institution that the Qualified Loan is enrolled, the Department shall transfer from the Fund to the Loss Reserve Account of the Participating Financial Institution a contribution amount as described in OAR 123-018-0085.

(5) Before making a Qualified Loan, a Participating Financial Institution may request a commitment from the Department that sufficient funds are available to meet the Department's contribution as described in OAR 123-018-0085 and are available to be transferred to the Loss Reserve Account when the Qualified Loan is enrolled. If the Department provides the commitment, it will be binding on the Department for 30 days after the date of the commitment if the Participating Financial Institution has complied with section (1) of this rule and the Qualified Loan is eligible under OAR 123-018-0065.

Stat. Auth.: ORS 285A.075, 285B.115(3)

Stats. Implemented: ORS 285B.115 & 285B.117

Hist.: EDD 27-1990(Temp), f. & cert. ef. 10-16-90; EDD 3-1991, f. & cert. ef. 4-17-91; EDD 15-1991(Temp), f. & cert. ef. 10-31-91; EDD 11-1992, f. & cert. ef. 8-18-92; EDD 1-1994(Temp), f. & cert. ef. 1-11-94; EDD 9-1994, f. 5-27-94, cert. ef. 6-1-94; EDD 8-2005, f. & cert. ef. 10-24-05; OBDD 13-2010, f. 4-30-10, cert. ef. 5-1-10

123-018-0085

State Contributions to Loss Reserve Accounts

The Department shall determine the amount of money it transfers from the Fund to a Loss Reserve Account as follows:

(1) For each Enrolled Loan, the Department shall deposit an amount equal to or greater than the total fees transmitted as described in OAR 123-018-0080(1)(b) and as required in OAR 123-018-0070, subject to further limitations in this rule.

(2) If one or both of the following conditions exist, the Department shall deposit an amount equal to 200 percent of the minimum allowed by section (1) of this rule, except as otherwise restricted in section (4) of this rule:

(a) The Borrower's business operations that benefit from the Enrolled Loan are entirely located in a Distressed Area at the time that the Qualified Loan is made consistent with OAR 123-018-0080(1)(a); or

(b) The Enrolled Loan provides the Borrower with funding for use in an environmental action on a brownfield(s).

(3) For any Participating Financial Institution, the Department may deposit 200 percent of the minimum allowed by section (1) of this rule if the Loss Reserve Account currently contains less than \$100,000 according to the most recent information provided to the Department at the time of loan enrollment.

(4) The Department may not transfer:

(a) An amount greater than \$35,000 per Enrolled Loan and associated, concurrent transactions with related business interests; or

(b) More than a total of \$150,000 from the Fund to a Loss Reserve Account for a single Qualified Business and related business interests.

(5) Unless otherwise provided in this rule, the Department may transfer up to 200 percent of the minimum described in section (1) of this rule, if the Department finds the Qualified Loan advances economic development or job creation in this state by small business.

Stat. Auth.: ORS 285A.075, 285B.115(3) & 285B.117(4)

Stats. Implemented: ORS 285B.115 & 285B.117

Hist.: EDD 8-2005, f. & cert. ef. 10-24-05; EDD 8-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 6-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 22-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 13-2010, f. 4-30-10, cert. ef. 5-1-10

123-018-0100

Payment of Claims by Department

(1) The Department shall reimburse a Participating Financial Institution for Losses claimed as described in OAR 123-018-0090. The Department may reject a claim only if the Department determines the representations and warranties provided by the Participating Financial Institution at the time of enrolling the Qualified Loan were false.

(2) All interest earnings shall be available to pay Loss claims, except for:

(a) Earnings available for withdrawal by the Department from the Loss Reserve Account, as described in OAR 123-018-0060, and

(b) As provided for in OAR 123-018-0150.

(3) When there are insufficient funds in the Loss Reserve Account to cover the total amount of a Loss claim, the Department shall pay an amount equal to the balance of the Loss Reserve Account, less the Department's share of any accumulated interest earnings on the account. This payment will fully satisfy the claim and the Participating Financial Institution will have no further right to receive any other amount with respect to such claim.

(4) The Department shall reimburse Loss claims in the order it receives them. If a Participating Financial Institution files two or more Loss claims simultaneously and there are insufficient funds in the Loss Reserve Account to pay them, the Participating Financial Institution may designate the order the Loss claims are to be paid by the Department.

Stat. Auth.: ORS 285A.075 & 285B.115(3)

Stats. Implemented: ORS 285B.115, 285B.1178 & 285B.118

Hist.: EDD 27-1990(Temp), f. & cert. ef. 10-16-90; EDD 3-1991, f. & cert. ef. 4-17-91; EDD 15-1991(Temp), f. & cert. ef. 10-31-91; EDD 11-1992, f. & cert. ef. 8-18-92; EDD 8-2005, f. & cert. ef. 10-24-05; EDD 8-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 6-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 22-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 13-2010, f. 4-30-10, cert. ef. 5-1-10

123-018-0120

Available Collateral, Guarantees and Other Security Not Realized

(1) After the Department has received a request to pay a Loss claim to the Participating Financial Institution from the Loss Reserve Account, as described in OAR 123-018-0100, and if requested by the Department, the

ADMINISTRATIVE RULES

Participating Financial Institution shall promptly provide the Department with all available information, including but not limited to, copies of documents related to all pledges or security against the Enrolled Loan, or payment of principle or interest thereon. Such pledges or security include, but are not limited to:

- (a) Collateral, such as real estate, bonds and personal property assets;
- (b) Duly recorded and perfected liens, certificates of title, deeds, UCC information and other documents representing security related to the collateral or other sources of payment; and

(c) Guarantees (personal or otherwise), warranties, insurance, letters of credit and other instruments from the Borrower, or a third party, supporting the Qualified Loan.

(2) When a Participating Financial Institution furnishes information pursuant to section (1), it shall identify:

(a) Whether the pledges or security remain outstanding or available for potential collection;

(b) If the pledges or security has been liquidated or realized to recover some or all of the Loss;

(c) Any reason that the pledges or security is otherwise forfeit, worthless or undiscoverable; or

(d) The extent to which the lender has attempted to exercise its right to recover its Loss through that source.

Stat. Auth.: ORS 285A.075 & 285B.115(3)
Stats. Implemented: ORS 285B.115 & 285B.118
Hist.: EDD 27-1990(Temp), f. & cert. ef. 10-16-90; EDD 3-1991, f. & cert. ef. 4-17-91; EDD 15-1991(Temp), f. & cert. ef. 10-31-91; EDD 11-1992, f. & cert. ef. 8-18-92; EDD 8-2005, f. & cert. ef. 10-24-05; OBDD 13-2010, f. 4-30-10, cert. ef. 5-1-10

123-018-0150

Withdrawal of Excess Deposits in Loss Reserve Accounts

Upon and after a formal determination or order by the Director of the Department:

(1) The following shall apply to all interest earnings on moneys transferred by the Department to match transmitted fees, as described in OAR 123-018-0085, for any loan enrolled after the date of Director's order:

(a) All Participating Financial Institutions shall continually remove such interest earnings from the Loss Reserve Account, paying the amount of such interest to the Department or sequestering them in a separate account;

(b) Such interest earnings shall not be available to cover any Loss, regardless of when they are effectively sequestered or transferred as described in this rule; and

(c) Such interest earnings shall be paid or transferred to the Department consistent with policies and directions of the Department, pursuant to the Director's determination; and

(2) Interest earnings arising from prior match funds or from any fee assessed on or paid by a Borrower or Lender shall remain in the Loss Reserve Account and available to cover Losses.

Stat. Auth.: ORS 285A.075 & 285B.115(3)
Stats. Implemented: ORS 285B.115 & 285B.119
Hist.: EDD 27-1990(Temp), f. & cert. ef. 10-16-90; EDD 3-1991, f. & cert. ef. 4-17-91; EDD 15-1991(Temp), f. & cert. ef. 10-31-91; EDD 11-1992, f. & cert. ef. 8-18-92; EDD 8-2005, f. & cert. ef. 10-24-05; OBDD 13-2010, f. 4-30-10, cert. ef. 5-1-10

123-018-0160

Termination of and Withdrawal from Program

(1) The Department may terminate enrollment of Qualified Loans under the Program for a Participating Financial Institution on the date specified in the Department's notice of termination to the Participating Financial Institution, or for all Participating Financial Institutions under the Program upon 90 days notice, or such earlier date should the balance in the Fund reach zero, or should the Department anticipate that the balance in the Fund will reach zero. Termination shall not apply to any Qualified Loans made before the date of termination.

(2) Should a Loss Reserve Account have a zero balance, the Department may terminate the Agreement at its sole discretion.

(3) A Participating Financial Institution may withdraw from the Program after giving written notice to the Department. After receipt of this notice, the Department shall determine when to withdraw any remaining balance in the Participating Financial Institution's Loss Reserve Account.

(4) If a Participating Financial Institution is closed or taken over by the Federal Deposit Insurance Corporation (FDIC), with or without an Order to Cease and Desist issued by the FDIC and the Oregon Division of Finance and Corporate Securities, the Department shall terminate the failed Participating Financial Institution's membership in the Program and all funds in the Loss Reserve Account shall be transferred to the Department. This provision shall apply whether or not a new financial institution pur-

chases some or all of the loans of the failed Participating Financial Institution.

Stat. Auth.: ORS 285A.075 & 285B.115(3)
Stats. Implemented: ORS 285B.115 & 285B.119
Hist.: EDD 27-1990(Temp), f. & cert. ef. 10-16-90; EDD 3-1991, f. & cert. ef. 4-17-91; EDD 15-1991(Temp), f. & cert. ef. 10-31-91; EDD 11-1992, f. & cert. ef. 8-18-92; EDD 8-2005, f. & cert. ef. 10-24-05; EDD 8-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 6-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 22-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 13-2010, f. 4-30-10, cert. ef. 5-1-10

Rule Caption: These rules revise the eligibility requirements of the Credit Enhancement Fund.

Adm. Order No.: OBDD 14-2010

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 4-1-2010

Rules Amended: 123-021-0020

Subject: These rules revise the eligibility requirements for the Credit Enhancement Fund.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-021-0020

Eligibility

(1) In order for a qualified business to be eligible its project must meet one of the following purposes; Eligible purposes means the acquisition, improvement, rehabilitation, or construction of real or personal property, working capital for operations, export transactions, maintenance and other costs and expenses which are used for purposes other than acquiring real or personal property, but not including:

(a) An insured loan used for any personal, family, or household expenses of the borrower or any guarantor;

(b) An insured loan used for construction financing;

(c) An insured loan for the construction of residential housing;

(d) An insured loan made primarily to pay off or refinance an existing debt to a creditor whose loan is inadequately secured or who is in danger of sustaining a loss;

(e) An insured loan used to purchase an existing qualified business, except for:

(A) Expansions where the majority of loan proceeds are used to support expansion improvements;

(B) 100% Asset and Stock Purchase Acquisitions, including Employee Stock Ownership Plans, where jobs will be created or retained.

(2) The Department will consider refinancing requests on a case by case basis. In evaluating such requests, the Department will consider the financial benefits to the borrower, the prospects for success, public benefits such as jobs created or retained, the extent to which financial institutions agree to extend terms or provide other favorable financing to a borrower, and the extent to which collateral securing an insured loan is improved.

(3) The maximum term for an eligible loan guaranty per borrower project is the lesser of fifteen (15) years or the useful life of the assets being financed, or one year plus four annual renewals for the Evergreen Entrants or Evergreen Plus Programs.

(4) Eligible borrowers are defined in OAR 123-021-0015.

(5) Eligible financial institutions as defined by ORS 706.008

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218
Stats. Implemented: ORS 285B.200 - 285B.218
Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 8-1999, f. & cert. ef. 10-1-99; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-03-09, cert. ef. 11-1-09; OBDD 14-2010, f. 4-30-10, cert. ef. 5-1-10

Rule Caption: These rules revise the Port Revolving Loan Fund.

Adm. Order No.: OBDD 15-2010

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 4-1-2010

Rules Amended: 123-030-0050

Subject: 123-030-0050 is being revised to replace the Infrastructure Finance Authority (Authority) with Department in order to comply with statute. Statutory references have been updated.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-030-0050

Sanctions, Exceptions and Appeals

The Department may seek legal remedies against ports that fail to comply with the requirements governing the fund. The Department will not impose remedies until the port has been notified in writing of deficiencies

ADMINISTRATIVE RULES

and has been given a reasonable time to respond and correct the deficiencies noted.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285A.669 - 285A.732 & 285A.690
Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04; EDD 6-2006, f. 10-30-06, cert. ef. 10-31-06; EDD 20-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 15-2010, f. 4-30-10, cert. ef. 5-1-10

Rule Caption: New rules relating to Recovery Zone Bonds.

Adm. Order No.: OBDD 16-2010

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 4-1-2010

Rules Adopted: 123-165-0010, 123-165-0020, 123-165-0030, 123-165-0040, 123-165-0045, 123-165-0050

Rules Repealed: 123-165-0010(T), 123-165-0020(T), 123-165-0030(T), 123-165-0040(T), 123-165-0045(T), 123-165-0050(T)

Subject: These rules implement HB 3199 from the 2009 Legislative Session. The rules describe the process and criteria for allocation and reallocation of funds from Oregon's Recovery Zone Economic Development Bonding Authority and Recovery Zone Facility Bonding Authority. They describe the use of original allocation and reallocation of the bonds as well as bonds cap.

Rules Coordinator: Mindie Sublette—(503) 986-0036

123-165-0010

Purpose and Objectives

The Oregon Business Development Department allocates, reallocates and otherwise manages Oregon's Recovery Zone Economic Development Bonding authority and Recovery Zone Facility Bonding authority. These rules are promulgated under authority granted by enacted 2009 Legislative Session HB 3199, Section 12 (4) and Section 12 (7)(a)-(c).

Stat. Auth.: ORS 286A.630 & 285A.075
Stats. Implemented: ORS 286A.630(4) & 285A.075
Hist.: OBDD 3-2010(Temp), f. & cert. ef. 1-14-10 thru 7-13-10; OBDD 16-2010, f. 4-30-10, cert. ef. 5-1-10

123-165-0020

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) "Allocation" means an original allocation or reallocation of recovery zone bond volume cap.
- (2) "ARRA" means the American Recovery and Reinvestment Act of 2009, H.R. 1, as amended.
- (3) "Code" means the Internal Revenue Code of 1986, as amended.
- (4) "Notice" means Notice 2009-50, published by the U.S. Treasury Department on June 12, 2009.
- (5) "Notice of Intent" means a notice of intent to issue Recovery Zone Bonds on a form provided by the Department, which shall include the following:
 - (a) Name of Recipient receiving Allocation
 - (b) Name of unit of local government that will issue the Recovery Zone Bonds
 - (c) Type of Recovery Zone Bonds to be issued
 - (d) Description of area designated as Recovery Zone
 - (e) Description of project to be financed
 - (f) Dollar amount of the bond issue and amount of Allocation to be used and amount of Allocation (if any) remaining after such issuance
 - (g) Any Reallocation requested by the Recipient for the project
 - (h) If applicable, that the Recipient does not intend to use some or all of its Allocation, and is waiving such Allocation (or if less than all, the portion of Allocation being waived). In connection with any such waiver, the Recipient may designate a project being undertaken by another unit of local government within the jurisdiction using Recovery Zone Bonds, and request that the waived Allocation be reallocated to such unit of local government in connection with such project.

(i) Such other information as may be prescribed by the Department.

(6) "Original allocation" means the initial authorization for units of local government to issue Recovery Zone Facility Bonds or Recovery Zone Economic Development Bonds pursuant to ARRA. Oregon received \$155,175,000 in Allocation for Recovery Zone Facility Bonds and \$103,450,000 in Allocation for Recovery Zone Economic Development Bonds for 2009 and 2010; the original allocations awarded to counties and municipalities in the State are found in the Notice.

(7) "Originally awarded locality" means a city or county that received an original allocation of recovery zone economic development bond or recovery zone facility bond authority.

(8) "Reallocation" or "Reallocate" means an action by the department to allocate waived Recovery Zone Facility or Recovery Zone Economic Development Bonds volume cap to an eligible unit of local government.

(9) "Recipient" means any unit of local government that received an original allocation or reallocation.

(10) "Recovery Zone" means any area within the jurisdiction of the Recipient, designated as a "recovery zone" in accordance with Code Section 1400U-1(b) by the Internal Revenue Service or local determination in compliance with the Code.

(11) "Recovery Zone Bonds" means Recovery Zone Economic Development Bonds and Recovery Zone Facility Bond, authorized under Section 1401 of Title I of Subtitle B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009), that may be issued by states, counties, certain municipalities and other qualified issuers within each state before January 1, 2011.

(12) "Recovery Zone Economic Development Bonds" means Recovery Zone Economic Development Bonds issued pursuant to Code Section 1400U-2, which in general are governmental bonds issued by a qualified issuer for economic development purposes (as defined in Code Section 1400U-2) that provide for a refundable tax credit paid to the issuer of the bonds in an amount equal to 45% of the taxable interest payable to investors in such bonds.

(13) "Recovery Zone Facility Bonds" means Recovery Zone Facility Bonds issued pursuant to Code Section 1400U-3, which in general are a type of private activity, exempt facility bond that permit financing of recovery zone property (as defined in Code Section 1400U-3) for use in any trade or business other than certain prohibited businesses enumerated in Section 1400U-3(c)(2).

(14) "Volume cap" or "Cap" means the recovery zone bond volume limitation allocated to each state and to counties and municipalities within each state in accordance with Code Section 1400U-1.

Stat. Auth.: ORS 286A.630 & 285A.075
Stats. Implemented: ORS 286A.630(4) & 285A.075
Hist.: OBDD 3-2010(Temp), f. & cert. ef. 1-14-10 thru 7-13-10; OBDD 16-2010, f. 4-30-10, cert. ef. 5-1-10

123-165-0030

Use of Original Allocation and Reallocation

(1) For the purposes of recovery zone economic development bond and recovery zone facility bond allocations, a recipient of an original allocation may use its allocation or designate other issuing localities within the jurisdiction of the originally awarded locality to use all or a portion of its original allocation by any procedure mutually acceptable to both parties subject to federal requirements.

(2) An originally awarded locality that intends to use its original allocation or intends to designate another issuer within the jurisdiction of the originally awarded locality to use the original allocation must file a *Notice of Intent* form by March 1, 2010 with supporting documentation.

(3) An originally awarded locality that has used the *Notice of Intent* form to express its intent to use or designate another issuer within the jurisdiction to use its original allocation may amend the *Notice of Intent* at a later time if it is determined that the locality is unable to use its original allocation in the manner previously stated or has decided to waive all or part of the original allocation for reallocation by the state pursuant to subsection (6) below.

(4) An originally awarded locality intending to use its original allocation and has filed a *Notice of Intent* pursuant to subsection (2) above must provide the department with project information and supporting documents by April 16, 2010 that shows substantial progress. Supporting documents include bond counsel and underwriter statement of intent documents and a certified copy of a resolution of the governing body of the recipient designating a recovery zone and stating its intent to use its original allocation. A recipient may request a time extension if filed by April 16, 2010.

(5) If an originally awarded locality is not able to or chooses not to use all or a portion of its original allocation or does not offer all or a portion of the original allocation to another issuer within the jurisdiction of the originally awarded locality, the original allocation may be waived. In cases where original allocation is not used, federal code provisions and U.S. Department of Treasury guidance in IRS Notice 2009-50 allow original allocations to be waived by the recipient and then used by the state or reallocated by the state to other issuing localities. The department, as authorized in statute, has accepted the reallocation role on behalf of the state. Waived recovery zone economic development bond or recovery zone fac-

ADMINISTRATIVE RULES

ity bond authority may be used by the state or reallocated by the department to other issuing localities.

(6) Any recipient of original allocation or reallocation may affirmatively waive all or a portion of its allocation to the state pursuant to the following procedure:

- (a) Submitting an appropriately completed *Notice of Intent* form; and
- (b) The form must be signed by the official(s) of the recipient authorized to execute the form pursuant to a resolution waiving the allocation adopted by the recipient's governing body.

(7) If a recipient of original allocation or reallocation has not provided the department with the *Notice of Intent* to subsection (2) above or supporting documentation pursuant to subsection (4) above or subsection (12) below the department may issue a *Notice of Intent to Reallocate*, informing the recipient of the department's intent to deem the allocation to have been waived to the state and to make such allocation available to reallocate to another locality or use by the state.

(8) A recipient will have fifteen calendar days from receipt of a *Notice of Intent to Reallocate* to respond to the department with the required documentation or to ask the department to reconsider its waiver determination.

(9) The department will respond to the request to reconsider its waiver determination within ten business days with a decision by the department director or the director's designee to grant an extended time in which the issuing jurisdiction must demonstrate substantial progress toward a recovery zone economic development bond or recovery zone facility bond issuance, or a decision to go forward with the waiver of the allocation. The length of the time of the extension shall be determined at the discretion of the department.

(10) Any local government issuer may request a reallocation of recovery zone facility bonds and/or recovery zone economic development bonds authority by submitting a department supplied *Recovery Zone Bonds Request for Reallocation* form to the department. The department will acknowledge the request within five business days and provide a determination on the reallocation of cap within fifteen business days of the acknowledgement.

(11) The department will notify a recipient of its determination to award reallocation of volume cap in writing in a *Reallocation Award Letter*.

(12) A recipient of reallocated cap must provide the department with project information and supporting documents within 45 days of the date of the *Reallocation Award Letter*, or sooner if required by the department, that shows substantial progress. Supporting documents include bond counsel and underwriter statement of intent documents and a certified copy of a resolution of the governing body of the recipient designating a recovery zone and stating its intent to use its allocation.

(13) The department will carry out continual review of the use of recovery zone facility bonds and/or recovery zone economic development bonds authority to determine if original allocations as well as reallocations were used or are likely to be used before year end. To the extent recovery zone bond authority is identified to not be used, a final reallocation will occur late in 2010 for any bonding projects in the state meeting the code qualifications.

(14) Following the issuance of any recovery zone bond, the issuer of such bond shall promptly deliver a copy of the report required to be filed with the Internal Revenue Service (e.g. the Form 8038 for recovery zone facility bonds and the Form 8038G for recovery zone economic development bonds) to the department. The department will maintain a list of all recovery zone bonds issued and all allocations used, waived, and available for full or partial reallocation.

Stat. Auth.: ORS 286A.630 & 285A.075
Stats. Implemented: ORS 286A.630(4) & 285A.075
Hist.: OBDD 3-2010(Temp), f. & cert. ef. 1-14-10 thru 7-13-10; OBDD 16-2010, f. 4-30-10, cert. ef. 5-1-10

123-165-0040

Criteria for Reallocation Award of Recovery Zone Economic Development Bonds Cap

In accordance with the intent of the code and state priorities, the following criteria will be used to prioritize reallocation requests by the department:

- (1) The relative level of economic distress in the local community.
- (2) The number of citizens benefiting from the project.
- (3) The estimated positive economic, health, or environmental impact of the project on the local community, region, and state.
- (4) The number of jobs created or retained by the project as can be best estimated.

(5) Whether the availability of the reallocation is a crucial part of attracting a new company or keeping an existing company in place;

(6) Whether the requested reallocation will benefit a project for which a recipient or other unit of local government is issuing recovery zone bonds;

(7) Whether the requested reallocation will benefit a project that was designated by a recipient in connection with a previous waiver of its allocation.

(8) The readiness of the project to proceed including consideration for the likelihood that the issuer will use the allocation within the timelines.

(9) The amount of other public and private funding leveraged by the recovery zone economic development bond allocation.

(10) The amount of local community support for the project, other agency support, and the degree the project supports efficient use of resources.

Stat. Auth.: ORS 286A.630 & 285A.075
Stats. Implemented: ORS 286A.630(4) & 285A.075
Hist.: OBDD 3-2010(Temp), f. & cert. ef. 1-14-10 thru 7-13-10; OBDD 16-2010, f. 4-30-10, cert. ef. 5-1-10

123-165-0045

Criteria for Reallocation Award of Recovery Zone Facility Bonds Cap

In accordance with the intent of the code and state priorities, the following criteria will be used to prioritize reallocation requests by the department:

- (1) The relative level of economic distress in the local community.
- (2) The number of citizens benefiting from the project.
- (3) The estimated positive economic impact of the project on the local community, region and state.
- (4) The number of jobs created or retained by the project as can be best estimated.

(5) Whether the availability of the reallocation is a crucial part of attracting a new company or keeping an existing company in place;

(6) Whether the requested reallocation will benefit a project for which a recipient or other unit of local government is issuing recovery zone bonds;

(7) Whether the requested reallocation will benefit a project that was designated by a recipient in connection with a previous waiver of its allocation.

(8) The readiness of the project to proceed including consideration for the likelihood that the issuer will use the allocation within the timelines.

(9) The amount of other public and private funding leveraged by the recovery zone facility bond allocation.

(10) The amount of local community support for the project, other agency support, and the degree the project supports efficient use of resources.

Stat. Auth.: ORS 286A.630 & 285A.075
Stats. Implemented: ORS 286A.630(4) & 285A.075
Hist.: OBDD 3-2010(Temp), f. & cert. ef. 1-14-10 thru 7-13-10; OBDD 16-2010, f. 4-30-10, cert. ef. 5-1-10

123-165-0050

Rule Waiver

The director may waive any non-statutory requirements of OAR chapter 123, division 165 if it is demonstrated such a waiver will further the goals and objectives of the program.

Stat. Auth.: ORS 286A.630 & 285A.075
Stats. Implemented: ORS 285A.075
Hist.: OBDD 3-2010(Temp), f. & cert. ef. 1-14-10 thru 7-13-10; OBDD 16-2010, f. 4-30-10, cert. ef. 5-1-10

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Rule Caption: These rules relate to OMWESB certification procedures.

Adm. Order No.: OBDD 17-2010

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 4-1-2010

Rules Adopted: 123-200-0005, 123-200-0010, 123-200-0020, 123-200-0030, 123-200-0040, 123-200-0050, 123-200-0060, 123-200-0070, 123-200-0080, 123-200-0090, 123-200-0100, 123-200-0120, 123-200-0130, 123-200-0140, 123-200-0150, 123-200-0160, 123-200-0170, 123-200-0180, 123-200-0190, 123-200-0200

Subject: These rules relate to the certification procedures for the programs offered by the Office of Minority, Women and Emerging Small Business in the Oregon Business Development Department.

Rules Coordinator: Mindee Sublette — (503) 986-0036

123-200-0005

Purpose

(1) The purpose of OAR 123-200-0005 to 123-200-0100 is to adopt a standard application form and procedure designed to provide complete

ADMINISTRATIVE RULES

documentation for certification of businesses as disadvantaged (DBE) or minority/woman (MBE/WBE). A Disadvantaged Business Enterprise shall be certified under the federal criteria set out in 49 CFR 26. Minority Business Enterprises and Woman Business Enterprises shall be certified under the State of Oregon certification program based on ORS 200.005. Firms that are certified DBEs are eligible to participate on federally funded projects to meet DBE commitment requirements. Any certified firms are eligible to participate in private or non-federally funded public sector projects.

(2) These rules also cover publication of a directory, as well as procedures for handling complaints, challenges and appeals.

Stat. Auth.: ORS 200.055

Stats. Implemented: ORS 200.055

Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0010

Definitions

As used in these rules, the following terms shall have the following definitions, unless the context requires otherwise:

(1) "Contribution of Capital" means a real and substantial contribution of capital, tangible personal assets, or expertise to acquire ownership interest in the firm. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, or mere participation in a firm's activities as an employee.

(2) "Control" or "Controlled" means that Operational and Managerial Control of all aspects of the business is true, real, and absolutely exercised by one or more Qualifying Individual(s). Control must be clearly and precisely documented in all legal documents and financial statements.

(3) "Disadvantaged Business Enterprise" or "DBE" means a business that meets the eligibility standards set out in OAR 445-050-0020 and 49 CFR 26.

(4) "Independence" or "Independent" means:

(a) The business must not be dependent upon any non-Disadvantaged, non-Minority or non-woman owned firm;

(b) The business owns or leases equipment and resources necessary to perform its work, (where leasing is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm); and

(c) The business owner has sufficient expertise in the firm's primary field of operation to control the firm independently.

(5) "Management Control" or "Management" means that the Qualifying Individual(s) has/have responsibility for the critical areas of business operations and has the demonstrated ability to make independent and unilateral business decisions needed to guide the future of the business. When the actual management of the business is contracted out to individuals other than the owner or is delegated to employees, those persons who have the power to hire and fire these managers exercise Management Control. Areas of control include, but are not limited to:

(a) Authority and responsibility to sign pay checks and letters of credit;

(b) Authority to negotiate and sign for insurance and/or bonds;

(c) Authority to negotiate for banking services;

(d) Authority to negotiate and sign contracts.

(6)(a) "Minority" means a person who is a citizen or lawful permanent resident of the United States, who is a:

(A) Black American which includes persons having origins in any of the Black racial groups of Africa;

(B) Hispanic American which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;

(C) Native American which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

(i) A person must prove he/she is enrolled or registered by the tribe, clan, nation or Alaskan Native Regional or Village Corporation. Alternatively, the person can provide state or federal certification of enrollment in these groups.

(ii) If a person cannot prove enrollment or registration, he/she must provide proof of qualification to participate in awards or judgments rendered by a federal or state judicial body in favor of the tribe, clan, nation or Alaskan Native Regional or Village corporation.

(iii) A person does not need to reside on a federal or state Indian reservation.

(D) Asian-Pacific American which includes persons whose origin is from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the United

States Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirabati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(E) Subcontinent Asian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(F) Women;

(G) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration and/or that are designated under 49 CFR Part 26.

(b) Bona fide Minority group membership shall be established on the basis of evidence to support the individual's claim that the individual is a member of a Minority group and is so regarded by the particular Minority community. However, the OMWESB is not required to accept this claim if it determines the claim to be invalid. If the Minority community does not exist in Oregon, the burden of proof shifts to the applicant to prove he/she is a Socially and Economically Disadvantaged Individual.

(7) "Minority Business Enterprise" or "MBE" means a business that meets the eligibility standards set out in OAR 445-050-0030.

(8) "OMWESB" means the Office of Minority, Women and Emerging Small Business in the Oregon Business Development Department.

(9) "Operational Control" or "Operations" means the Qualifying Individual(s) independently makes the basic decisions for the daily operations of the business. The Qualifying Individual(s) must possess the requisite experience in the field of operations for which certification is sought, control the board of directors and management of the business, and receive salary or profits commensurate with his/her ownership interest. Absentee ownership or title ownership by an individual who does not take an active role in making the basic decisions for the daily operations of the business, or clauses in the legal documents that limit, prohibit or require the Qualifying Individual(s) to share his/her ability to have absolute control, does not constitute Operational Control.

(a) The Qualifying Individual(s) must have training and/or experience in the primary field(s) of operation for which certification is sought. The Qualifying Individual(s) does not need to have hands on or direct control of, or expertise in, every aspect of the business' affairs so long as the owner is able to intelligently use and critically evaluate information presented by employees.

(b) The possession of a specialty license by the Qualifying Individual(s) is not a prerequisite for Operational Control. The Qualifying Individual(s) must possess sufficient knowledge about the business to enable him, or her, to maintain day to day control over the operational aspects of the business. In order to determine that the Qualifying Individual(s) has/have the technical expertise and competence to maintain Operational Control, the Qualifying Individual(s) will be required to submit proof of expertise. Expertise can be documented in two ways for trades or professions requiring a specialty license:

(A) The Qualifying Individual(s) may submit a copy of their essential license(s), or

(B) OMWESB may employ the assistance of state resources to help evaluate whether a Qualifying Individual(s) possesses a working knowledge of the technical requirements of their field and is able to evaluate information provided by subordinates in a critical and intelligent manner. State resources may include technical experts from state agencies such as the Building Codes Division, the Board of Engineering Examiners, the Landscape Contractors Board and the Real Estate Agency.

(10) "Ownership" or "Owned" means the Qualifying Individual(s) own a minimum of 51% of each class of voting stock and at least 51% of the aggregate of all classes of stock or own a minimum of 51% of the membership interests.

(11) "Qualifying Individual(s)" means owners/applicants who belong to one of the recognized ethnic Minority Groups, women, or other individuals determined by OMWESB on a case-by-case basis to be socially and economically disadvantaged. For DBE certification the individuals must meet the requirements of 49 CFR 26. The Qualifying Individual(s) must be a citizen of the United States or a permanent resident.

(12) "Small Business" means a small business as defined pursuant to 13 CFR 121. A Small Business shall not include any concern or group of concerns controlled by the same Qualifying Individual or individuals which have average annual gross receipts in excess of the North American Industry Classification System (NAICS) size limit over the previous three fiscal years. A Small Business must not exceed the following size standards:

(a) General Contractors — \$ 33,500,000;

(b) Specialty Contractors — \$14,000,000;

ADMINISTRATIVE RULES

(c) For firms not included in subsections (a) and (b) — Small Business Administration (SBA) the North American Industry Classification System (NAICS) code size standard established under 13 CFR 121.

(d) Firms seeking federal DBE certification must meet current Small Business Administration (SBA) business size standard limits for each type of work the firm seeks to perform not to exceed \$22,410,000. Firms seeking state MBE/WBE certification must meet the current SBA business size standard limit for a primary area of work. The firm's primary area of work is determined by percentage of income.

(13) "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, Minorities or any other minorities or individuals found to be disadvantaged by the SBA pursuant to Section 8(a) of the Small Business Act.

(a) It is a rebuttable presumption that Minorities and women are socially and economically disadvantaged.

(b) The OMWESB may also determine on a case by case basis that individuals who are not women or Minorities are Socially and Economically Disadvantaged Individuals.

(c) Socially disadvantaged individuals are people who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of a group without regard to their individual qualities.

(A) The social disadvantage must stem from the individual's color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control. Social disadvantage cannot be based on factors common to small business.

(B) The individual must demonstrate that:

(i) He or she personally suffered the disadvantage as a result of treatment experienced in the United States;

(ii) The disadvantage was chronic, long-standing, and substantial, not fleeting or insignificant; and

(iii) The disadvantage negatively affected his or her entrance or advancement in the business world.

(d) Economically disadvantaged individuals are Socially disadvantaged individuals whose ability to compete in the United States economy has been impaired due to diminished capital and credit opportunities compared to non-socially disadvantaged individuals in the same or similar business. The Socially and Economically Disadvantaged Individual(s) will be required to submit a Certification of Social and Economic Disadvantage and Statement of Personal Net Worth.

(14) "USDOT" means the United States Department of Transportation.

(15) "Woman Business Enterprise" or "WBE" means a business that meets the eligibility standards set out in OAR 445-050-0030.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 200.005
Stats. Implemented: ORS 200.005
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0020

Eligibility Standards for Disadvantaged Business Enterprises

(1) To be eligible for certification as a Disadvantaged Business Enterprise, a business must meet the following criteria:

(a) The business must be in existence, operational and in business for a profit.

(b) The business must be a Small Business, but in no case may the average annual gross receipts exceed \$22,410,000.

(c) The business must be Controlled by one or more Socially and Economically Disadvantaged Individual(s).

(d) The business must be Owned by one or more Socially and Economically Disadvantaged Individual(s).

(e) The one or more Socially and Economically Disadvantaged Individual(s) must have made a contribution of capital to the business, which is commensurate with their ownership interest.

(f) The business must be Independent.

(g) The business must be properly licensed and registered in the state of Oregon.

(h) The business must have or lease (where leasing is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm) sufficient machinery, equipment and employees to operate. In making this determination the OMWESB shall compare the operations of the DBE to a non-DBE operation in the same or similar business.

(2) The OMWESB will utilize 49 CFR 26 to review for eligibility for certification as a DBE. In addition, OMWESB will apply written directives

of the USDOT, administrative guidelines and written decisions of the USDOT on appeals of state certification decisions so long as they are in accord with these rules.

(3) In making determinations under this section the OMWESB shall not consider whether the business has previously performed or would be able to perform a commercially useful function. Repeated failure by a business to perform a commercially useful function may, however, indicate that the business is not Independent, Owned or Controlled by a Socially and Economically Disadvantaged Individual.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 200.005 & 200.055
Stats. Implemented: ORS 200.005 & 200.055
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0030

Eligibility Standards for Minority and Women Business Enterprises

To be eligible as a Minority or Woman Business Enterprise, a business must meet the following criteria. The OMWESB may perform on-site investigations to verify any of the requirements of this rule.

(1) The business must be a Small Business. The average annual gross receipts for a firm and its affiliates for the previous three fiscal years must not exceed the amounts established under SBA's NAICS codes.

(2) The business must be Controlled by one or more Qualifying Individual(s). The Qualifying Individual(s) must establish Minority Group or gender status by identification, US citizenship, birth certificate, driver's license, state identification cards, naturalization documents, military discharge papers, visa, passport, etc., or evaluation for social and economic disadvantage.

(3) The business must be Owned by one or more Minority or women owners.

(4) The one or more Qualifying Individual(s) must have made a contribution of assets to the business.

(5) The business must be Independent.

(6) The business must be in existence, operational and in business for profit.

(7) The business must be properly licensed, and if required, legally registered in the state.

(8) The business must have or lease (where leasing is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm) sufficient machinery, equipment and employees to operate. In making this determination the OMWESB shall compare the operations of the MBE/WBE to a non-MBE/WBE operation in the same or similar business.

(9) The Qualifying Individual(s) must have training and/or experience in the primary field(s) of operation. Examples of construction related activities, including but not limited to:

(a) Currently holds or has previously held the essential individual license in the field in which this firm operates, e.g. electrical supervisor, journeyman plumber, civil engineer, landscaper;

(b) Has ability to read and interpreted blueprints and specifications;

(c) Has independently done take offs;

(d) Has independently prepared estimates and bids;

(e) Goes on site and determines if the work is proceeding in accordance with the plans;

(f) Answers technical questions from subordinates;

(g) Resolves field problems;

(h) Supervises field operations.; Examples of professional related activities, including but not limited to;

(i) Has a college degree in the field of expertise;

(j) Has years of experience and/or training in the primary field of expertise;

(k) Has experience in project management in the primary field of expertise.

Stat. Auth.: ORS 200.005 & 200.055
Stats. Implemented: ORS 200.005 & 200.055
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0040

Application Form and Procedure

(1) Application Form(s). Businesses wishing to be certified as Disadvantaged Business Enterprises must complete the Uniform Certification Application form required by the 49 CFR 26, Appendix G. Minority or Woman Business Enterprises shall complete the application form designed by the OMWESB. The application forms are designed to solicit information to determine whether an applicant business is eligible for certification as a DBE, MBE, or WBE under this chapter. The applications are designed to provide the OMWESB with sufficient information to

ADMINISTRATIVE RULES

determine whether an applicant is eligible for certification for both federally assisted and non-federally assisted contracts. Incomplete applications will be "Denied."

(2) Submittal of Application. The completed application form, together with all required supporting documentation, shall be submitted by mail or in person to the Office of Minority, Women and Emerging Small Business, 775 Summer St. NE, Suite 200, Salem OR 97301.

(3) Processing Applications. The OMWESB will conduct a review and take action on completed applications as promptly as its resources permit. The order of priority for processing applications shall be the date received by OMWESB.

(4) On-site Investigations. The OMWESB must conduct an on-site investigation and interview at the owner's place of business for all applicants seeking DBE certification. The purpose of the on-site investigation is to verify the information submitted with the application form. The applicant shall fully cooperate with such an investigation and make available any additional information requested by the OMWESB. DBEs applying from outside the State of Oregon are required to have an on-site interview conducted by their home state jurisdiction. The OMWESB may conduct an on-site investigation and interview at the owner's place of business to verify information necessary for making eligibility decisions for applicants seeking MBE/WBE certification. Last minute on-site cancellations and no shows by a DBE Applicant could result in a DBE being denied certification for failure to submit information needed to make a determination.

(5) Determination. The OMWESB shall make a determination based on the eligibility standards included in this chapter and the federal requirements (49 CFR Part 26). As part of its investigation, the OMWESB may require all firms to provide information in addition to that requested on the application form. The applicant has the burden of proving that it is eligible for certification and recertification at all levels of review. Applicants shall be notified by mail promptly after a decision has been made. Where the OMWESB has denied an application, the letter shall set forth the specific reasons for the denial. The DBE/MBE/WBE shall notify the OMWESB of any changes in its Ownership or Management which may affect its continued eligibility as a DBE/MBE/WBE within 30 days of the change. Failure to notify OMWESB may result in denial/decertification.

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

Stat. Auth.: ORS 200.055

Stats. Implemented: ORS 200.055

Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0050

Directory

The OMWESB shall maintain a state-wide unified directory of certified firms as follows:

(1) Certified firms shall use the current business name as registered with the Secretary of State Corporation Division for the OMWESB directory (sole proprietorships not registered with the Secretary of State Corporation Division shall use the name listed on their business license), and will use no other name in contracting business. An Assumed Business Name may be used for contracting purposes, but only if it is written in conjunction with the registered business name.

(2) The directory will be maintained in an electronic format and available on-line. It shall indicate the certification status of each firm: DBE, MBE, WBE and/or ESB. The directory information shall include firm's telephone/fax numbers and mailing addresses. The directory shall also list the firm's capabilities.

(3) The OMWESB shall update the directory on a daily basis, with certifications, recertifications, change of business address, phone number, email address., It is the responsibility of the applicant to assure that OMWESB has a current business address, email address and phone number.

Stat. Auth.: ORS 200.055

Stats. Implemented: ORS 200.055

Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0060

Recertification

(1) Certification as a DBE/MBE/WBE is valid for three years from the date of certification.

(2) A recertification notice shall be sent to certified DBE/MBE/WBEs approximately two months prior to expiration of the current certification. The DBE/MBE/WBE shall promptly return the recertification application along with any requested documentation (by-law amendments, evidence of changes in ownership, etc). The signed and notarized recertification application shall be reviewed by the OMWESB to determine continued eligibility. An on-site investigation may be conducted to verify information sub-

mitted to the OMWESB. It is the responsibility of the DBE/MBE/WBE to provide the information deemed necessary by the OMWESB to ascertain eligibility for recertification.

(3) Failure to return the completed recertification application by the expiration date shall lead to administrative closure. Recertification is not automatic. The DBE/MBE/WBE must demonstrate that their business currently meets the qualifications as listed in this chapter.

(4) An affidavit of "no change" will be sent to DBE firms annually approximately 30 days prior to the one-year and two-year anniversaries of the certification date. The completed affidavit, along with federal tax information for the previous years and documentation of any changes, must be submitted prior to the anniversary date, or the firm will be decertified. MBE and WBE firms are exempt from this requirement.

Stat. Auth.: ORS 200.055

Stats. Implemented: ORS 200.055

Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0070

Decertification/Denial of DBE

This rule applies only to the decertification or denial of a DBE under 49 CFR Part 26. A DBE may be decertified at any time the OMWESB determines that the firm no longer meets the eligibility standards set out in OAR 123-200-0020 and 49 CFR 26. The OMWESB may also deny certification to any DBE applicant that does not meet the eligibility standards set out in OAR 123-200-0020 and 49 CFR 26. The procedure is as follows:

(1) In the case of decertification, the OMWESB shall issue a Notice of Intent to Decertify the DBE 21 days prior to the date of the decertification, and indicate the specific reasons for decertification.

(2) In the case of denial of initial certification or recertification, the DBE or applicant will be notified in writing of the denial and the reasons therefore.

(3) In either a decertification or denial of initial certification or recertification of a DBE, the DBE or applicant has 21 calendar days from the date of the Notice of Intent to Decertify or the letter of denial in which to submit a written request for a contested case hearing. If the DBE or applicant requests a contested case hearing, the decertification or denial of recertification will be stayed pending the issuance of a final order. Contested case hearings will be conducted in accordance with ORS 183.310 to 183.550. Following the contested case hearing, the proposed order issued by the Hearings Officer will be forwarded to the Manager of the OMWESB for issuance of the final order. If no written request for a contested case is received by OMWESB within the 21-day period, the decertification/denial will be final.

(4) A DBE may be decertified if the Socially and Economically Disadvantaged Individual dies or leaves the business.

(5) Any business denied certification as a DBE will be ineligible to reapply for a period of 12 months.

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

Stat. Auth.: ORS 200.055

Stats. Implemented: ORS 200.055

Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0080

Decertification/Denial of MBE/WBE

This rule applies only to the decertification or denial of MBE/WBE status under Oregon law. An MBE/WBE may be decertified at any time the OMWESB determines that the firm no longer meets the eligibility standards set out in OAR 123-200-0030. If the Minority or woman owner dies or leaves the business, the MBE/WBE may be decertified. The OMWESB may also deny certification to any MBE/WBE applicant that does not meet the eligibility standards set out in OAR 123-200-0030. The procedure is as follows:

(1) In the case of decertification, the OMWESB shall issue a Notice of Intent to Decertify the MBE/WBE 21 days prior to the date of the decertification, and indicate the specific reasons for decertification.

(2) In the case of denial of initial certification or recertification, the MBE/WBE will be notified in writing of the denial and the reasons therefore.

(3) In either a decertification or denial of initial certification or recertification of a MBE/WBE, the MBE/WBE or applicant has 21 calendar days from the date of the Notice of Intent to Decertify or the letter of denial in which to submit a written request for a contested case hearing.

(4) If the MBE/WBE or applicant requests a contested case hearing, the decertification or denial of recertification will be stayed pending the issuance of the final order. Contested case hearings will be conducted in accordance with ORS 183.310 to 183.550. Following the contested case hearing, the proposed order issued by the Hearings Officer will be for-

ADMINISTRATIVE RULES

warded to the Manager of the OMWESB for issuance of the final order. If no written request for a contested case is received by OMWESB within the 21-day period, the decertification/denial will be final.

Stat. Auth.: ORS 200.055
Stats. Implemented: ORS 200.055
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0090

Third Party Complaints

Third party complaints regarding certification of DBE/MBE/WBEs may be submitted to the OMWESB and will be processed according to the following procedure:

(1) Any individual, firm or agency who believes that an applicant certified as a DBE/MBE/WBE does not qualify under the standards of eligibility for certification may file a third party complaint with the OMWESB.

(2) The third party complaint must be submitted to the OMWESB in writing, and must set forth facts which indicate that the DBE/MBE/WBE is not eligible, along with copies of any supporting documents the complainant may have. Facts should be described in as much detail as possible.

(3) The complainant must sign the third party complaint and give an address and telephone number where complainant may be reached during the investigation. In responding to requests for information concerning any aspect of the DBE, MBE, or WBE programs, OMWESB complies with provisions of the Federal Freedom of Information and Privacy Acts and the State of Oregon Freedom of Information and Privacy Acts. The OMWESB may make available to the public any information concerning the DBE, MBE, WBE program release of which is not prohibited by federal or state law. OMWESB may maintain the identity of complainants confidential throughout the course of the investigation, at their election. If such confidentiality will hinder the investigation, proceeding, or hearing, or result in a denial of appropriate administrative due process, to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing.

(4) The OMWESB will investigate each third party complaint as promptly as resources allow. If preliminary investigative results show good cause for in-depth investigation, The OMWESB will notify the DBE/MBE/WBE of the third party complaint by certified mail. The DBE/MBE/WBE shall cooperate fully in the OMWESB's investigation.

(5) After the investigation is completed, the OMWESB shall issue a written decision, either a rejection of the third party complaint or a Notice of Intent to Decertify. The written decision shall be mailed to the DBE/MBE/WBE involved and to the complainant. No DBE/MBE/WBE will be decertified based on a third party complaint without first having an opportunity to respond to OMWESB regarding the complaint. DBE firms may request a contested case hearing and/or appeal directly to USDOT as set out in OAR 123-200-0070. If an MBE/WBE receives the notice of intent to decertify, the MBE/WBE may request a contested case hearing as set out in OAR 123-200-0080.

(6) If the decision of the OMWESB is to continue certification of the DBE, the complainant may submit a complaint to the Secretary of USDOT.

(7) Information received about an applicant prior to the initial certification being made will not be considered a third party complaint, but will be considered in the investigation of the application for certification.

Stat. Auth.: ORS 200.055
Stats. Implemented: ORS 200.055
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0100

Challenges

(1) Any third party may challenge a Socially and Economically Disadvantaged Individual if the individual is an owner of a business certified or seeking certification as a DBE, MBE, or WBE. The challenge shall be made in writing to the OMWESB.

(2) Within the letter, the challenging party shall include all information available that is relevant to a determination of whether the challenged party is, in fact, a Socially and Economically Disadvantaged Individual.

(3) The OMWESB shall determine, on the basis of the information provided by the challenging party, whether there is reason to believe that the challenged party is, in fact, not a Socially and Economically Disadvantaged Individual:

(a) If the OMWESB determines that there is no reason to believe that the challenged party is not a Socially and Economically Disadvantaged Individual, the OMWESB shall so inform the challenging party in writing;

(b) If the OMWESB determines that there is reason to believe that the challenged party is not a Socially and Economically Disadvantaged

Individual, the OMWESB shall begin a proceeding, as set out below, to analyze this determination;

(c) The OMWESB shall notify the challenged party in writing that his/her status as a Socially and Economically Disadvantaged Individual has been challenged;

(d) The notice shall summarize the grounds for the challenge. The notice shall also require the challenged party to provide to the OMWESB (within a reasonable period specified by the OMWESB) information sufficient to permit the OMWESB to evaluate his/her status as a Socially and Economically Disadvantaged Individual;

(e) The OMWESB shall evaluate the information available to it and make a proposed determination of whether the challenged party is a Socially and Economically Disadvantaged Individual. The OMWESB shall notify both parties of this proposed determination in writing, setting forth the reasons for this determination;

(f) During the pendency of a challenge under this rule, the presumption that the challenged party is a Socially and Economically Disadvantaged Individual shall remain in effect.

(4) After the investigation is completed, the OMWESB shall issue a written decision, either a rejection of the third party challenge, Notice of Intent to Decertify or Denial. The written decision shall be mailed to the DBE, MBE or WBE involved and to the complainant. No firm will be decertified or denied certification based on a third party challenge without first having an opportunity to respond to OMWESB regarding the complaint.

(5) DBE firms may appeal the final determination of OMWESB, under subsection (3)(e) of this rule, and request a contested case hearing and/or appeal directly to USDOT as set out in OAR 123-200-0070 and in accordance with 49 CFR 26. If an MBE/WBE receives the Notice of Intent to Decertify, the MBE/WBE may request a contested case hearing as set out in OAR 123-200-0080.

(6) In responding to requests for information concerning any aspect of the DBE, MBE, or WBE programs, OMWESB complies with provisions of the Federal Freedom of Information and Privacy Acts and the State of Oregon Freedom of Information and Privacy Acts. The OMWESB may make available to the public any information concerning the DBE, MBE, WBE program release of which is not prohibited by federal or state law. OMWESB may maintain the identity of complainants confidential throughout the course of the investigation, at their election. If such confidentiality will hinder the investigation, proceeding, or hearing, or result in a denial of appropriate administrative due process, to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing.

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

Stat. Auth.: ORS 200.055
Stats. Implemented: ORS 200.055
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0120

Purpose

(1) The purpose of OAR 123-200-0120 to 123-200-0180 is to adopt a standard application form and procedure designed to provide complete documentation for certification of businesses as Emerging Small Businesses (ESBs); to adopt a procedure for the handling of complaints; to adopt a procedure for the handling of investigations; and to adopt a procedure for the issuing of sanctions. An enterprise certified by OMWESB pursuant to these rules shall be considered so certified by any public contracting agency as defined in ORS 279.011 (5), in the State of Oregon. The OMWESB is the sole certification agency for the State of Oregon and all political subdivisions.

(2) These rules also cover publication of a directory as well as procedures for complaints and appeals.

Stat. Auth.: ORS 200.055
Stats. Implemented: ORS 200.055
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0130

Eligibility Standards

To be eligible for certification as an ESB, a business must meet all the following criteria:

(1) A firm must be in existence, operational and in business for a profit;

(2) Have average, annual gross receipts over the last three years not exceeding \$51,671,177 for tier one construction firms and \$668,471 for

ADMINISTRATIVE RULES

tier one non-construction firms; and \$3,342,354 for tier two construction firms and \$1,114,118 for tier two non-construction firms.

(3) The department will adjust annually the amount of the average annual gross receipts required to qualify as a tier one firm or a tier two firm using the most recent three-year average of the Portland-Salem Consumer Price Index (CPI) for All Urban Consumers for All Items, as reported by the United States Bureau of Labor Statistics.

(4) If a tier one firm provides compelling information showing, in the judgment of the Department of Consumer and Business Services, that the firm has not been afforded an opportunity to bid on emerging small business projects during a year of eligibility, the department will extend the tier one designation of the firm for an additional year. A tier one firm may receive the extension only once.

(5) Have its principal place of business located in the State of Oregon, as determined by tax filing status;

(6) Be independent. An ESB is not eligible if it is a subsidiary, affiliate or parent company belonging to a group of firms that are owned or controlled by the same individual(s) if, in the aggregate, the group of firms does not qualify as a tier one firm or as a tier two firm.

(7) Be properly licensed and if required, legally registered in this state: (e.g., registered as a domestic corporation or partnership, assumed business name filed, Construction Contractors Board registration, etc.). If an individual license (e.g., engineer, electrician, plumber) is required to provide the goods or services in areas of work in which the firm seeks certification, an owner of the business must hold or previously have held the license;

(8) Have fewer than 20 full-time equivalent employees in tier one and have fewer than 30 full-time equivalent employees in tier two. A full-time equivalent employee is calculated as follows:

(a) Hours worked by part-time and seasonal employees shall be converted into full-time equivalent employee hours by dividing the total hours worked by all part-time and seasonal employees by 2080.

(b) The owners of the firm shall not be considered full-time equivalent employees.

(c) The year period during which full-time equivalent employees shall be calculated shall be the same period as the ESB's tax year.

Stat. Auth.: ORS 200.055

Stats. Implemented: ORS 200.055

Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0140

Application Form and Procedure

(1) OMWESB will utilize ORS 200.005 to review for eligibility for certification as an ESB tier one or tier two.

(2) Application Form. Firms wishing to be certified as ESBs shall complete the application form provided by OMWESB.

(3) Submittal of application. The completed application form, together with all required supporting documentation, shall be submitted to the Office of Minority, Women and Emerging Small Business, 775 Summer St. NE, Suite 200 Salem, OR 97301.

(4) Processing applications. The OMWESB will conduct a review and take action on completed applications as promptly as its resources permit. The order of priority for processing applications shall be the date received by OMWESB.

(5) Determination. The OMWESB shall make a determination based on the eligibility standards included in this chapter and the applicable laws of the State of Oregon. As part of its investigation, OMWESB may require owners to provide information in addition to that requested on the application forms. The applicant has the burden of proving that it is eligible for certification and re-certification at all levels of review. Applicants shall be notified by mail promptly after a decision has been made. Where the OMWESB has denied an application, the letter shall set forth the specific reasons for the denial. Certification may be revoked at any time if the OMWESB determines that the ESB no longer meets the eligibility standards. The ESB shall notify OMWESB within 30 days of any changes in its ownership which may affect its continued eligibility as an ESB. Failure to notify OMWESB may result in denial/decertification.

(6) The applicable emerging small business size standard for each applicant set out in OAR 445-050-0115(1)(b) shall be determined by the firm's primary area of work. Registration of the firm with Construction Contractors and/or Landscape Contractors Board will establish a firm as a construction firm. A construction-related trucking firm will also be considered a construction firm for the purposes of this program.

Stat. Auth.: ORS 200.055

Stats. Implemented: ORS 200.055

Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0150

Recertification

(1) Certification as an ESB is valid for three years from the date of certification.

(2) A recertification notice shall be sent to certified ESBs 60 days prior to expiration of current certification. The ESB shall promptly return the recertification application along with any requested documentation (e.g., evidence of change in ownership; federal tax returns for the last year, etc.). Recertification is not automatic. The applicant must demonstrate that their business still meets the criteria set out in OAR 123-200-0120 through 123-200-0180

(3) The signed recertification application shall be reviewed by the OMWESB staff to determine the ESB's continued eligibility. A request to verify information submitted to OMWESB may be required.

(4) Failure to return the completed recertification application by the expiration date shall result in administrative closure of the file.

(5) Firms may only be certified as an ESB for a maximum of twelve consecutive years from original certification date or 13 years for tier 1 firms that meet the criteria for eligibility standards under OAR 123-200-0130(d).

(6) An annual certification of "no change" will be sent to the firm approximately 30 days prior to the one-year and two-year anniversaries of the certification date. The completed affidavit, along with federal tax information for the previous year, and documentation of any changes, must be submitted prior to the anniversary date, or the firm will be decertified.

Stat. Auth.: ORS 200.055

Stats. Implemented: ORS 200.055

Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0160

Decertification, Denial of Certification or Denial of Recertification

This rule applies only to the decertification or denial of ESB status under Oregon law. An ESB may be decertified at any time the OMWESB determines that the firm no longer meets the eligibility standards set out in OAR 123-200-0130. The OMWESB may also deny certification to any ESB applicant that does not meet the eligibility standards set out in OAR 123-200-0130. The procedure is as follows:

(1) In the case of decertification, the OMWESB shall issue a Notice of Intent to Decertify the ESB 21 days prior to the date of the decertification, and indicate the specific reasons for decertification.

(2) In the case of denial of initial certification or recertification, the ESB will be notified in writing of the denial and the reasons therefore.

(3) In either a decertification or denial of initial certification or recertification of a ESB, the ESB or applicant has 21 calendar days from the date of the Notice of Intent to Decertify or the letter of denial in which to submit a written request for a contested case hearing.

(4) If the ESB or applicant requests a contested case hearing, the decertification or denial of recertification will be stayed pending the issuance of the final order. Contested case hearings will be conducted in accordance with ORS 183.310 to 183.550. Following the contested case hearing, the proposed order issued by the Hearings Officer will be forwarded to the Manager of the OMWESB for issuance of the final order. If no written request for a contested case is received by OMWESB within the 21-day period, the decertification/denial will be final.

Stat. Auth.: ORS 200.055

Stats. Implemented: ORS 200.055

Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0170

Complaints

(1) Complaints regarding certification of an ESB may be submitted to the OMWESB and will be processed according to the following procedure:

(2) Any individual, firm or agency who believes that an applicant certified as an ESB does not qualify under the standards of eligibility for certification may file a complaint with the OMWESB Manager.

(3) The complaint must be submitted to the OMWESB Manager, must be in writing, and must set forth facts which indicate that the ESB is not eligible, along with copies of any supporting documents the complainant may have. Facts should be described in as much detail as possible.

(4) The complainant must sign the complaint and give an address and telephone number where he or she may be reached during the investigation.

(5) The OMWESB will investigate each complaint as promptly as resources allow. The ESB shall cooperate fully in the OMWESB's investigation. The OMWESB will notify the ESB of the complaint by certified mail.

(6) After the investigation is completed, the OMWESB shall either issue a written decision to the ESB and the complainant, stating that there

ADMINISTRATIVE RULES

are no grounds for decertification or the OMWESB shall provide a Notice of Intent to decertify in accordance with OAR 123-200-0160.

(7) In responding to complaints or requests for information concerning any aspect of the ESB program, OMWESB complies with provisions of the State of Oregon Freedom of Information and Privacy Acts. The OMWESB may make available to the public any information concerning the ESB program release of which is not prohibited by state law. Notwithstanding the provisions of paragraph (7) of this section, the identity of complainants may be kept confidential throughout the course of the investigation, at their election. If such confidentiality will hinder the investigation, proceeding, or hearing, or result in a denial of appropriate administrative due process, to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing.

Stat. Auth.: ORS 200.055
Stats. Implemented: ORS 200.055
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0180

Directory

OMWESB shall maintain a directory of certified ESBs as follows:

(1) The directory will be maintained in an electronic format and available on-line. It shall indicate the certification status of each ESB firm. The directory information shall include the firm's telephone/fax numbers, email and mailing addresses. The directory shall also list the firm's capabilities.

(2) The OMWESB shall update the directory on a daily basis, with certifications, recertifications, change of business address, phone number, email address. It is the responsibility of the applicant to assure that OMWESB has a current business address, email address and phone number.

Stat. Auth.: ORS 200.055
Stats. Implemented: ORS 200.055
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0190

Representation of OMWESB by Officer or Employee in Contested Case Hearings

(1) Subject to the approval of the Attorney General, an officer or employee of OMWESB is authorized to appear on behalf of OMWESB in contested case hearings.

(2) The OMWESB representative may not make legal argument on behalf of OMWESB.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of OMWESB to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to OMWESB; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;

(B) Comparison of prior actions of OMWESB in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and

(D) The admissibility of evidence of the correctness of procedures being followed.

(3) When an officer or employee of OMWESB represents OMWESB, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver of the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 183.450(7) & 183.450(8)
Stats. Implemented: ORS 183.450(7)(b)
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

123-200-0200

Timely Notice

"Timely notice" as used in ORS 200.035 shall mean at the time the state agency publicly releases the contract and bid request solicitations.

Stat. Auth.: ORS 200.035

Stats. Implemented: ORS 200.035
Hist.: OBDD 17-2010, f. 4-30-10, cert. ef. 5-1-10

Rule Caption: These rules update the Strategic Investment Program.

Adm. Order No.: OBDD 18-2010

Filed with Sec. of State: 4-30-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 4-1-2010

Rules Renumbered: 123-023-1200 to 123-623-1200, 123-023-1250 to 123-623-1250, 123-023-1300 to 123-623-1300, 123-023-1525 to 123-623-1525, 123-023-3300 to 123-623-3300

Rules Ren. & Amend: 123-023-1000 to 123-623-1000, 123-023-1100 to 123-623-1100, 123-023-1400 to 123-623-1400, 123-023-1500 to 123-623-1500, 123-023-1550 to 123-623-1550, 123-023-1600 to 123-623-1600, 123-023-1700 to 123-623-1700, 123-023-1800 to 123-623-1800, 123-023-1900 to 123-623-1900, 123-023-1950 to 123-623-1950, 123-023-2000 to 123-623-2000, 123-023-3000 to 123-623-3000, 123-023-3100 to 123-623-3100, 123-023-3200 to 123-623-3200, 123-023-3400 to 123-623-3400, 123-023-4000 to 123-623-4000, 123-023-4100 to 123-623-4100

Subject: These rules revise the Operational Changes to Existing Designations to include statutory requirements regarding the Oregon Business Development Commission. Other basic housekeeping changes have been made in definitions and other areas.

The division has been renumbered from 123-023 to 123-623.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-623-1000

Purpose

This division of administrative rules clarifies, specifies and establishes procedures, standards and criteria for operation of the Strategic Investment Program (SIP) under ORS 285C.600 to 285C.626 and 307.123, whether inside or outside of a Strategic Investment Zone (SIZ).

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.600 - 285C.626 & 307.123

Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0201; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1000 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1100

Definitions

For the purposes of this division of administrative rules, additional definitions are found in OAR 123-001 (Procedural Rules). As used in these rules, the following terms have the meanings set forth below, unless the context clearly indicates otherwise.

(1) "Abatement" means the taxation and assessment of property comprising an eligible project under ORS 307.123.

(2) "Applicant" means a business firm, including but not limited to a publicly or privately held corporation, people's utility district, or a joint operating agency under ORS 262.005, seeking approval from the Commission for Abatement.

(3) "Application" means the form, prescribed by the Department, and all supplemental attachments, exhibits and so forth that the Applicant completes or furnishes to the Department for the Strategic Investment Program.

(4) "Approved Project" means an investment or investments in taxable property that:

(a) Is not Existing Property;

(b) The Applicant owns or leases;

(c) The Commission has determined shall receive Abatement; and

(d) Conforms with the project definition established with the determination of the Commission.

(5) "County" means the government of the county in which the Approved Project is located (Except for SIZs, "County" also refers to the tribe/tribal government if the Approved Project is anywhere on the reservation of a federally recognized Indian Tribe).

(6) "Existing Property" means any property:

(a) Comprising all or part of a prior Approved Project, unless the property was never actually subject to Abatement;

(b) Owned or leased, including but not limited to land or other property newly acquired, by the Applicant (regardless of location) before the Department's effective receipt of the Application; or

ADMINISTRATIVE RULES

(c) Already located in an SIZ, or for which any construction or installation began there, before the effective date of the SIZ's designation and the Department's receipt of the Application.

(7) "SIZ" means a strategic investment zone designated by the Commission at the request of the County.

(8) "Urban Project" means an Approved Project located entirely outside a "rural area," as defined under ORS 285C.600, and hence, at least partially inside the urban growth boundary, as acknowledged and in effect on December 1, 2002, for:

(a) The Portland metropolitan region; or

(b) Any city, for which the most recently available population figure at the time of Application equals or exceeds 30,000.

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

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.600 - 285C.626 & 307.123

Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0351; EDD 3-2006(Temp), f. & cert. ef. 5-26-06 thru 11-22-06; Administrative correction 12-16-06; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1100 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1200

Commission Powers and Delegation to Finance Committee

For purposes of this division of administrative rules:

(1) The Commission may delegate to the Finance Committee the authority and obligation to take certain actions, including but not limited to the determination of eligibility for Abatement.

(2) Such delegation may serve particular exigencies, including but not limited to ensuring timely consideration and approval of one or more Applications in cases where a meeting of Commission members is logistically or otherwise infeasible.

(3) The Chairs of the Commission and Finance Committee shall effect such delegation, as they see fit, though communications involving the Department and other members of the Commission and Finance Committee.

(4) The Commission retains final authority at all times over policies and procedures governing operation of the Strategic Investment Program.

(5) If at any time the Commission elects to take any action or make any decision in accordance with ORS 285C.600 to 285C.626, it may do so at any regular or special meeting or through any telephone conference call at its sole discretion. Such action may include confirmation or revocation of a decision by the Finance Committee taken in accordance with this rule.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.600 - 285C.626 & 307.123

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1200 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1250

Eligibility Criteria of the Commission

Under the definition of "eligible project" as used in ORS 285C.600:

(1) The Commission may establish criteria in order for property to receive Abatement either by resolution or as described in this division of administrative rules.

(2) The Commission may reject or revoke an Application, if the Approved Project will or does take place in conjunction with what the Commission deems to be substantial curtailment of operations, employment or the like that is under the control of the Applicant anywhere in this state. Mitigating factors include but are not limited to:

(a) Applicant's candidness and cooperation in addressing such conjunction;

(b) Such curtailment's being unrelated and only coincidental to proposed investments; or

(c) Compensating actions by the Applicant.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.600 - 285C.626 & 307.123

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1250 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1300

Local Hiring

For purposes of ORS 285C.603:

(1) Prospective Applicants and County/local governments shall consider creative and cooperative means to promote gainful work for persons already residing in the proximate area or region of the Approved Project for:

(a) Jobs associated with the applicable facility or operations; and

(b) Persons employed in the construction or installation of property or by other types of contractors, vendors or suppliers related to the project or its operation.

(2) County/local governments shall incorporate such means in a policy and standards for the designation of an SIZ, as otherwise permissible and administrable, in relation to OAR 123-623-3100.

(3) Such means shall not create any:

(a) Undue burden on the Applicant relative to the nature, needs or competitiveness of the Approved Project; or

(b) Explicit bias against anyone's rights or access to the privilege of employment, such as specifying residency-based hiring criteria proscribed by OP-8236, Oregon Attorney General (April 20, 1995).

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.603, 285C.609 & 285C.623

Hist.: EDD 10-2004, f. & cert. ef. 5-24-04; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1300 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1400

Making Application

(1) An Applicant desiring approval for Abatement must submit an Application to the Department.

(2) In addition to what is required by the Application or in this division of administrative rules, the Applicant shall submit any information requested by the Department for purposes of evaluating the Application.

(3) Not less than 21 days after having received a complete Application, as described in OAR 123-623-1500, the Department shall arrange for the Commission to initially consider it at a regular or special meeting. Under extenuating circumstances, the Department may waive this minimum period.

(4) The application form is available from and submitted to: Business Development, Business Oregon, State Lands Building Suite 200, 775 Summer Street NE, Salem OR 97301-1280.

(5) An Applicant may submit an incomplete Application, which the Department may accept and hold pending completion, if it includes:

(a) The fee described in OAR 123-623-1800(1); and

(b) All required information or documentation currently available to the Applicant.

(6) For subsequently acquired, constructed or installed property to avoid classification as Existing Property, in the case where the Application is incomplete for lack of local agreement/approval:

(a) The Department's receipt of the Application is effective once the Applicant furnishes evidence that it has contacted the County to initiate steps under ORS 285C.609, including but not limited to local submission of a formal application if the County has previously established such procedures; and

(b) The Department must find the evidence sufficient in addition to satisfaction of section (5) of this rule.

(7) Sections (5) and (6) of this rule are not generally applicable to proposed investments in an SIZ, but the Department may exercise them in the case where an Applicant has encountered what the Department considers significant and undue delays in executing the standardized agreement for the SIZ under the local program established pursuant to OAR 123-623-3100.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.600 - 285C.626

Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0401; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1400 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1500

Contents of Application, Generally

A complete Application must include all of the following in addition to items in OAR 123-623-1525 and 123-623-1550:

(1) A copy of a first-source hiring agreement according to OAR 123-070 that takes effect beginning no later than when any hiring for the Approved Project commences, and ending no sooner than June 30 of the final tax year of Abatement.

(2) Any other information required with the Application as stated in the form, including but not limited to full company identification, relevant financial information, hiring/payroll projections, detailed description of proposed investment(s), and estimated impacts on public services.

(3) Full disclosure for purposes of OAR 123-623-1250, including but not limited to any probable reduction in the operations, employment or the like at any other facility in this state that is owned or operated by the Applicant or a commonly controlled business firm, within three years after making application, regardless of proximity or relation to the proposed investment(s).

(4) Commitment to provide timely notification or evidence to the county assessor or the Department of Revenue, as requested or otherwise necessary under ORS 307.123 or other applicable laws, including but not

ADMINISTRATIVE RULES

limited to the date when any taxable property is expected to be initially occupied, used or operated commercially.

(5) Commitment that any ultimate lessee is responsible for the payment of property taxes levied on leased property that comprises any part of the Approved Project.

(6) As described in OAR 123-623-1800:

- (a) Full amount of the nonrefundable application fee; and
- (b) Commitment to pay additional fee, if approved.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.600, 285C.606, 285C.609, 285C.626, 307.123

Hist.: EDD 10-2004, f. & cert. ef. 5-24-04; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08;

Renumbered from 123-023-1500 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1525

Application within a Strategic Investment Zone

If the proposed investment is subject to approval based on its location inside an SIZ:

(1) A complete Application must also include a locally endorsed and fully executed copy of the SIZ's standardized agreement that unambiguously identifies the Applicant and the proposed investment.

(2) The County may neither negotiate a project-specific agreement nor subject the proposal to approval under discretionary provisions, including but not limited to those under ORS 285C.609.

(3) Material variance between additional requirements established with designation of the SIZ and those found in the agreement for the community service fee shall render such requirements unenforceable.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.600, 285C.606 & 285C.626

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1525 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1550

Application outside a Strategic Investment Zone

A complete Application must also include all of the following, if the proposed investment is not using an SIZ:

(1) Evidence that the County held a public hearing concerning the Applicant's proposal, before executing the agreement in section (2) of this rule.

(2) A copy of the agreement:

(a) Between the Applicant and the County in partnership with any city in which the investment site is located;

(b) Executed before the official action in section (3) of this rule;

(c) Addressing the community service fee consistent with OAR 123-623-1900; and

(d) Specifying requirements, if any, under ORS 285C.609(5).

(3) With respect to the local official action requesting a Commission determination for Abatement on the Applicant's proposed investment(s):

(a) A copy of the official action by the governing body of the County; and

(b) Evidence that an affirmative vote by a majority of the County governing body (not merely the members present) at a regular or duly called special meeting effected the action.

(4) The latest version of any document submitted to County/local governments in relation to sections (1) to (3) of this rule.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.600, 285C.606 & 285C.609

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1550 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1600

Consideration & Approval

(1) The Department shall review each Application.

(2) After deeming the Application complete, but potentially pending materials or information, for which the Department is reasonably assured of receipt, the Department shall make a recommendation to the Commission to either approve or deny the Application, subject to actual receipt of any pending material or information.

(3) In evaluating an Application, the Commission shall hold one or more meetings open to the public, at which the matter is an agenda item for discussion, and for which the Department has made appropriate and customary public notice.

(4) At the meeting the Commission may:

(a) Invite oral statements or written comments from the public; and

(b) Have the Applicant appear in order to give a statement and to answer questions submitted in advance or posed by Department staff or by members of the Commission, exclusively.

(5) The Commission may dispense with some or all of the elements in sections (3) and (4) of this rule, as otherwise permitted under ORS Chapter 192, in light of extenuating circumstances.

(6) Pursuant to evaluation of the Application, the Applicant's investment(s) qualifies for the Abatement if the Commission finds that:

(a) The project will satisfy the criteria for eligibility as established by prior resolution of the Commission or in this division of administrative rules;

(b) The project will directly benefit a traded sector industry under ORS 285B.280;

(c) The total cost of the project will equal or exceed \$25 million, or \$100 million in the case of any proposed Urban Project;

(d) The project will not consist of any property formerly or currently exempt under ORS 285C.175 and the Applicant is not an authorized business firm for any investment at the same location in an enterprise zone;

(e) Information described in OAR 123-623-1500 and either 123-623-1525 or 123-623-1550 is completely and accurately provided; and

(f) The Applicant has agreed to comply with any additional reasonable conditions imposed by the Commission related to the Strategic Investment Program, including requirements that continue for the term of the Abatement.

(7) Once the Commission has taken formal action to authorize the Abatement, the Commission's determination is final, and the Commission may reverse, revoke or withdraw it only by a formal finding that there was a material error or omission among submitted Application information, or that there is effectively a noncompliance.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.600 - 285C.626, 307.123

Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 12-2002(Temp), f. & cert. ef. 6-5-02 thru 11-29-02; Administrative correction 4-15-03; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0451; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1600 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1700

Establishment of Exempt Property

(1) The Commission's determination pursuant to OAR 123-623-1600 needs to define the Approved Project for purposes of the Abatement, consistent with the Application (and the County agreement with the Applicant if outside an SIZ).

(2) Such a definition shall employ one or more of the following examples or a comparable method that:

(a) Stipulates the site(s) or overall facility at which applicable property must be located, used and occupied for commercial purposes;

(b) Delimits what the Abatement covers in terms of investment cost or property value, or the specific period, in which construction/installation needs to commence, or in which property must be in service; or

(c) Identifies applicable real and personal property, including but not limited to:

(A) Referencing the description of investment(s) in the Application or further information from the Applicant (whether requested or not by the Department or Commission); or

(B) Delineating details for improvements, buildings or property items (or representative examples thereof) that the Applicant will acquire, construct or install, or for which the assessed value might increase as a result of additions, reconstruction, modifications, remodeling, renovation, refurbishment, retrofitting or upgrading.

(3) Property of an Approved Project qualifies for Abatement even if built on, installed in or associated with Existing Property:

(a) Outside a SIZ, a (positive) change in the assessed value of already owned or leased property is also subject to Abatement if resulting from modifications, remodeling, renovation, refurbishment, retrofitting or upgrading as part of the Approved Project.

(b) The Abatement excludes the change in value of any property inside any SIZ (except for newly constructed additions to any existing structure), as well as all land or any other property in existence or in the process of construction or installation, before the Department's effective receipt of the Application. This subsection applies regardless if the project is approved based on location in the SIZ or with respect to OAR 123-623-1550.

(4) As otherwise allowed under the project definition described in this rule, the Abatement shall cover any property comprising the Approved Project, for which construction, installation, modification or the like occurs during or after the first year of Abatement, but only for the remainder of the 15-year period.

(5) If another business firm acquires the Applicant or the Approved Project, the ongoing Abatement shall continue as authorized, such that continuously exempt property is not Existing Property, provided that:

ADMINISTRATIVE RULES

(a) The acquiring firm complies with all terms and conditions under the Application, its approval or the local agreement included with it (per OAR 123-623-1525 or 123-623-1550), as well as applicable requirements of law and this division of administrative rules, as if the acquiring firm were the Applicant; and

(b) The owner or chief executive officer of the acquiring firm furnishes and authorizes a formal statement to the Department and the parties to the agreement, attesting to the firm's full assumption of relevant obligations and requirements formerly incumbent on the Applicant.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.600, 285C.606 & 285C.626, 307.123

Hist.: EDD 10-2004, f. & cert. ef. 5-24-04; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1700 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1800

State Application and Approval Fees

With respect to ORS 285C.612 and the fees payable to and collected by the Department:

(1) Irrespective of subsequent approval, the following amount must accompany the Application:

(a) \$5,000; or

(b) \$10,000 for a proposed Urban Project.

(2) After the Commission decides to approve the Application, but pending formal authorization, the Applicant must pay the following amount (of which the Department shall transfer 50 percent to the Department of Revenue to administer ORS 307.123):

(a) \$10,000; or

(b) \$50,000 for a proposed Urban Project.

(3) The Commission will allocate payments collected and retained by the Department, consistent with relevant provisions in OAR 123-009.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.612

Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0501; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1800 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1900

Community Service Fee

(1) The local agreement included with the Application and described in OAR 123-623-1525 or 123-623-1550 shall specify:

(a) The community service fee under ORS 285C.609(4)(b) and (c) or 285C.623(4)(b) and (c); and

(b) How the Applicant annually makes payment of the fee to the County government, beginning not earlier than December 1 of each of the 15 tax years for which the Applicant claims and receives the Abatement, including arrangements for invoicing or issuance of a receipt to the Applicant.

(2) Depositing of community service fee moneys (under ORS Chapter 294) and their allocation, distribution and transfer do not affect the Approved Project's eligibility.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.609 & 285C.623

Hist.: EDD 10-2004, f. & cert. ef. 5-24-04; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1900 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-1950

Local Distribution of Community Service Fee

(1) The County shall see to the entire annual distribution of funds comprising the community service fee among some or all of the following:

(a) The County;

(b) City government(s) if any part of Approved Project is located within incorporated territory;

(c) Any (other) local taxing district that levies taxes on property located in a tax code area containing any part of the Approved Project; or

(d) Potentially, other local organizations or programs recognized as providing a relevant and significant community service, even without direct tax levy authority.

(2) A distribution formula shall determine the exact percentage of the community service fee received or retained by an entity listed in section (1) of this rule. A schedule of distribution formulae that varies from year to year is allowable.

(3) Establishment of the annual formula may occur in one of only the following two ways:

(a) By official action of the Commission, if an agreement consistent with subsection (b) of this section is not executed on or before the same date of the third month following the Commission's formal action authorizing the Approved Project; or

(b) By an agreement to which at least all of the following are parties:

(A) County government;

(B) City government described in subsection (1)(b) of this rule; and

(C) Local taxing districts listed in ORS 198.010 or 198.180 and described in subsection (1)(c) of this rule, to the extent that the sum of property tax authority for such participating districts equals or exceeds 75 percent of the total for all such districts (prorated by the proportion of the Approved Project among tax code areas). Property tax authority consists of the sum of a district's permanent and local option (levy) rate authority, both used and unused, but it excludes the levy/tax rates for bonded indebtedness and urban renewal special levies.

(4) If local parties timely execute the agreement described in subsection (3)(b):

(a) They may mutually amend or revise the agreement at a later time; and

(b) The County shall formally report the annual distribution formula to the Department, in order to verify that the Commission need not determine such formula, and to facilitate its availability for use in distributing appropriated amounts from the Shared Service Fund under ORS 285C.639(3)(b).

(5) In the event that the agreement described in subsection (3)(b) of this rule remains unexecuted after the requisite three-month period, the Commission:

(a) Shall take necessary steps as soon as reasonably possible for purposes of subsection (3)(a), as described in section (6), of this rule; or

(b) May delay official action, at its sole discretion, if informed that a sufficient set of the parties described in subsection (3)(b) of this rule are having productive negotiations, with which they wish to continue. (Under such circumstances, the Commission may officially sanction an agreement reached when negotiations successfully conclude, in which case the parties may not subsequently amend or revise the agreement in any way that materially alters the established distribution formula)

(6) In determining a distribution formula the Commission:

(a) May rely primarily on the relative proportions of prevailing property tax rates among affected local taxing districts;

(b) May consider adjusting such proportions according to the Approved Project's demand or direct impact on the public service(s) provided by each entity, taking account of expected new property tax revenues even with the Abatement, as well as consideration of the goals and purposes of applicable state policies;

(c) Shall set an annual distribution percentage for each entity described in section (1) of this rule that the Commission determines will receive a portion of the distribution; and

(d) Shall in the process of issuing the distribution formula to the County government, notify all entities of this official, final action.

(7) In an SIZ, each Approved Project will entail a separate agreement or Commission action for the distribution of the community service fee arising from it, consistent with this rule. Nevertheless, the County and affected local parties may agree to a distribution formula and standard agreement for future Approved Projects in general.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.609, 285C.623 & 285C.639

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1950 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-2000

Confidential Records

As provided under ORS 192.501, 192.502 and 285C.620:

(1) The Department shall not release any information identifying or pertaining to an expected Applicant, or to discussions among it, local governments, or the Department and members of the Commission, before:

(a) Finalization of local approval for the proposed investment inside an SIZ; or

(b) The County governing body holds the public hearing under ORS 285C.609(4) (or a public notice for the hearing naming an expected Applicant) for the proposed investment outside of an SIZ.

(2) The Department shall not release any Application materials, preliminarily submitted by an expected Applicant that specifically describe investment plans, before the Department's deems the received Application to be complete.

(3) The department shall seek to keep confidential certain sensitive records or communications obtained in association with an Application, as otherwise allowable under ORS 192.410 to 192.505, including but not limited to the following:

(a) Reports and analyses of reports bearing on the Applicant's character, finances, management ability and reliability, as obtained in confidence from persons or firms not required by law to submit them, including

ADMINISTRATIVE RULES

but not limited to the Applicant, and for which the Department obliged itself in good faith to not disclose;

(b) Financial statements, tax returns, business records, employment history, personnel files and comparable data submitted by or for an Applicant, or analysis of such data;

(c) Intra-departmental advisory memoranda preliminary to a decision and draft Application information;

(d) Formulas, plans, designs and related information that constitute trade secrets under ORS Chapter 192;

(e) Personal financial statements;

(f) Information of an Applicant pertaining to litigation that has not concluded, to which the Applicant is a party if the complaint has been filed, or if not, that the Applicant shows is reasonably likely to occur (Nothing in this section shall limit any right or opportunity granted by discovery or deposition statutes to a litigant or defendant);

(g) Production, sales or cost data, customer lists, or detailed descriptions or identifications of business property; or

(h) Marketing strategy information that relates to an Applicant's plan to address specific markets and the Applicant's strategy regarding specific competitors.

(4) Subject to sections (1), (2) and (3) of this rule, the Department shall provide records pertaining to the Strategic Investment Program upon written request, as described in OAR 123-005.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.620

Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0551; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-2000 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-3000

Physical, Temporal & Jurisdictional Existence

(1) There is no limit to the number of SIZs under ORS 285C.623, for which a County may seek designation on one or multiple occasions.

(2) The Commission may designate an SIZ that is entirely or partially inside one or more cities that also seek designation as parties with the County to a joint request. The County and any such city do thereby "co/sponsor" the SIZ and are its "sponsor" or "cosponsors."

(3) An SIZ may cover the entire (unincorporated) territory of the County, or it may be as small as a single site or tax lot, on which development of an eligible project can feasibly take place within the boundary of the SIZ, but any SIZ must:

(a) Be entirely contiguous;

(b) Consist of area only in the territory of a single County;

(c) Encompass land exclusive of land inside any other existing SIZ; and

(d) Contain only rural area if including any rural area under ORS 285C.600.

(4) Once designated, an SIZ does not expire and may be neither terminated or geographically amended.

(5) In determining the area to include in a proposed SIZ, local governments shall consider plans and potentialities for city annexations and projections for city population growth, in order to minimize the likelihood of the following occurrences, which would nevertheless not interrupt the existence or operation of the SIZ:

(a) A city that does not sponsor the SIZ annexes territory inside of it; or

(b) A city, for which its urban growth boundary (as acknowledged on December 1, 2002) crosses the area of the SIZ, experiences an increase in population to 30,000 or more. (An Approved Project inside such an urban growth boundary is an Urban Project only if the Department effectively receives the Application on or after official release date of the increased population estimate or enumeration)

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.623 & 285C.626

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-3000 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-023-3100

Local Request for Designation

In seeking designation of any SIZ:

(1) The sponsor of the proposed SIZ shall prepare information defining the SIZ's boundary including a map clearly showing its entire area in relation to other demarcations, as well as tax lot numbers, metes & bounds, or other data or descriptions, as necessary in order for one to ascertain the area of designation.

(2) The County shall conduct a public hearing on the matter.

(3) Following the hearing, the County and any city, for which any part of the SIZ will be inside its corporate limits, shall execute an intergovernmental agreement to jointly sponsor and operate the proposed SIZ.

(4) The County, or the County and the city/cities as part of the intergovernmental agreement, shall articulate objectives for the proposed SIZ and shall develop a program for business firms to use for Abatement on eligible projects. This local program may differ from the program adopted for any other SIZ sponsored by the County or city, but the sponsor of the SIZ shall officially document the program, including with but not limited to the following:

(a) Any and all criteria for receiving local approval and the requirements for qualification under ORS 285C.623(5), such that the sponsor has clearly delineated administrative procedures, methods of verification and consequences of a firm's failure respective to those criteria or requirements;

(b) Policy and standards to improve the likelihood of local hiring per OAR 123-623-1300, which may consist of a firm's formally accepting to undertake "good faith" efforts;

(c) Ministerial steps and processes setting forth a straightforward path for a firm to request and to receive local approval for the SIZ, in order to subsequently submit a complete Application to the Department; and

(d) Standardized agreement language, which may be a detailed form, that:

(A) Will give the location of the proposed project in the SIZ and general information about the newly constructed or newly installed property that will comprise it;

(B) Stipulates the community service fee in accordance with OAR 123-623-1900;

(C) Spells out all local criteria, requirements and standards intended to obligate a firm's benefiting from the Abatement in some way;

(D) Will identify the particular firm in detail and provide for it to expressively acknowledge and commit to such criteria, requirements and so forth by signature of an authorized representative of the firm; and

(E) Is endorsed by a sponsor representative (either with the County or a city) in approving a proposed project and the firm's use of the SIZ.

(5) Pursuant to and in reference to materials arising from sections (1) to (4) of this rule, the County governing body shall take official action to request designation of the SIZ and shall forward that request to the Department.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.623

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-3100 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-3200

Department's Receipt of Forwarded Request

The Department shall report to the Commission on any complete request that it receives from a County for designation of a proposed SIZ that satisfies OAR 123-623-3000 and 123-623-3100, after concluding that the request contains the following:

(1) Identification of any requisite city that also sponsors the SIZ;

(2) The map and other geographic data establishing the SIZ area and boundary;

(3) An explanation about how the SIZ area will conform to OAR 123-623-3000(3);

(4) Information pertaining to the SIZ's inclusion, adjacency and proximity to any current city limit or urban growth boundary and to any urban growth boundary as acknowledged on December 1, 2002, of a city with a population that equals or exceeds 30,000 (or that probably will, within 10 years);

(5) The agenda, minutes and so forth demonstrating that the County held a public hearing concerning the SIZ;

(6) A copy of the intergovernmental agreement between the County and any and all city cosponsors, as executed on or after the date of the public hearing;

(7) A summary of the locally established objectives for the SIZ;

(8) Documentation of the local program described in OAR 123-623-3100(3), including but not limited copies of policies, rules, procedural guidelines or administrative plans, but especially, a sample standardized agreement; and

(9) Evidence that the County governing body took the official action requesting designation of the SIZ with an affirmative vote by a majority of its members (not merely those present) at a regular or duly called special meeting that occurred after the execution or conclusion of material efforts described in sections (1) to (8) of this rule.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.623

ADMINISTRATIVE RULES

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-3200 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-3300

Designation by the Commission

In response to a request for designation of an SIZ:

(1) The Commission shall initially consider it by receiving a report from the Department as an agenda item at a regular or special meeting, for which the Department has made appropriate and customary public notice. The Commission shall determine the process by which it will complete its review of the proposed SIZ.

(2) The Commission shall designate the SIZ if finding that:

(a) With a reasonable degree of confidence, the SIZ will contribute to fulfilling the intent of ORS 285C.603 and will generally accomplish the objectives established by the sponsor;

(b) The sponsor has defined its processes to allow for efficient implementation and operation of the SIZ, such that a business firm could expect to have its local request for approval handled expeditiously; and

(c) The SIZ's criteria, requirements, policies, standards and so forth, and the sponsor's plans to administer them are sufficiently clear and straightforward to provide reasonable certainty with respect to any conceivably eligible project, such that a business firm can correctly discern:

(A) The probability of qualifying in that SIZ;

(B) What it must do to comply;

(C) Whether the firm/project actually does qualify at any given point; and

(D) The consequence of noncompliance or disqualification.

(3) When taking action to approve the request, the Commission's shall set the effective date of designation. On or after this date, property may be newly constructed or installed for purposes of Abatement in that SIZ.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.623

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-3300 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-3400

Operational Changes to Existing Designations

(1) The sponsor of an existing SIZ may revise any of its documentation, procedures or policies, including but not limited to establishing a different standardized agreement, by repeating OAR 123-623-3100(2) to (5) and submitting a request for approval of the revisions to the Department.

(2) The Department may:

(a) Convey the submission for consideration of approval by the Commission in accordance with OAR 123-623-3300; or

(b) Directly approve the request, sending the Commission a report of any such action, if deeming the revisions to be fully consistent with the original designation, and to be:

(A) Merely clarifying or enhancing administrative or technical matters;

(B) Changing a substantive criterion or requirement to only a relative degree; or

(C) Of a similar nature that does not warrant Commission review.

(3) Any such revision does not affect Abatement in the SIZ, for which the Department effectively received the Application on or before the effective date of approved changes, which the Department or Commission may not set earlier than when the Department received the official request from the sponsor.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.623 & 285C.626

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-3400 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-4000

Submissions to Department

For purposes of ORS 285C.615(1) to (3), and a business firm benefiting from Abatement in the prior property tax year:

(1) The firm shall complete the prescribed form available from the Department and furnish it to: Business Development, Business Oregon, State Lands Building Suite 200, 775 Summer Street NE, Salem OR 97301-1280.

(2) The firm may send the form on or after January 1 next following the tax year, but the Department must receive it no later than the immediately subsequent April-1 date. The first such mandatory submission period is from January 1 to April 1, 2011, and it pertains to Abatements in effect during the 2009-2010 tax year.

(3) The reporting requirement applies to all Approved Projects, of which some property is actually exempt from taxes during the tax year (or a future one), regardless of the project's being subject to distributions under

ORS 285C.635 and 285C.639. These distributions pertain only to Approved Projects for which 2008-2009 or a later tax year is the first such year of the Abatement.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.615; OL 2007 Ch. 905 '6

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-4000 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

123-623-4100

Reporting Elements

Respective or in addition to items stipulated under ORS 285C.615(2), for the report submitted to the Department by a benefiting business firm:

(1) The report shall state the real market value of the entire Approved Project for the applicable tax year, and which one it is out of the 15 that are subject to the Abatement as confirmed by the county assessor.

(2) The report may also provide the location and assessed value of taxable property distinct from the Approved Project but improved or used in direct association with it;

(3) The report shall breakdown the amounts and recipients of fees or other (non-tax) payments made by or on behalf of the firm that arose from requirements under ORS 285C.609(5) or 285C.623(5), as well as the statutory community service fee;

(4) The report shall tabulate fees, payments, wages and compensation disbursed during the calendar year beginning midway through the applicable tax year;

(5) Relevant hires or employees are persons for whom the firm is their employer under ORS chapter 316, regardless of the person's residency in this state;

(6) Relevant employees or jobs may consist only of those working at a site containing property of the Approved Project, or the firm may also include persons working at locations within the same county or comparable proximity in adjacent counties in this state, as the firm deems appropriate;

(7) Irrespective of location, all relevant employees or jobs must engage in or directly support business operations of the Approved Project, such that other operations represent not more than 25 percent of the person's time spent performing work;

(8) The amount of hours assigned to salaried positions is 2,080, or a lower amount as prorated to account for less than full-time or year-round employment;

(9) Taxable income equates to the wages that the employer used in calculating amounts withheld under ORS chapter 316 for Oregon personal income taxes;

(10) Compensation includes all remuneration in the form of wages (whether taxable or not for withholdings), salary, overtime pay, shift differential, profit-sharing, bonuses, paid vacation or financial benefits such as life insurance, medical coverage and retirement plans. It does not include sales commissions, free meals, club membership, workplace amenities, payroll costs mandated by federal, state or local law, etc.; and

(11) The report shall address currently retained employees and their taxable income and compensation separately from newly created jobs or positions but consistent with the parameters described in this rule. Based on the assessment of the firm, the report shall classify such preexisting jobs or positions in terms of active or passive retention, as follows, ... 'such that absent the investments comprising the Approved Project:

(a) The firm would have certainly eliminated them before July 1 of the Abatement's first tax year' (active retention); or

(b) There is significant probability that they would not have existed by June 30 at the end of the applicable tax year because of general shifting or shrinkage that in all likelihood would have ensued at directly related business operations' (passive retention).

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.615

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-4100 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10

Oregon Department of Education Chapter 581

Rule Caption: Specifies requirements for development of Oregon Statewide Assessment for public school students.

Adm. Order No.: ODE 6-2010

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10

Notice Publication Date: 2-1-2010

Rules Amended: 581-023-0040

ADMINISTRATIVE RULES

Subject: The rule amendments do the following:

(1) Update the non-reimbursable cost rate per mile for 09-10 and 10-11 school years. This is a requirement every two years that the Department of Education update these rates.

(2) Add language to bring the OAR in line with ORS 468A.795 and 468A.801 that were changed in the 2009 legislative session by SB 610.

(3) Add language to clarify that the purchase of land for transportation shall not be included in the Bus and Garage Depreciation Report, since land does not depreciate.

Rules Coordinator: Diane Roth—(503) 947-5791

581-023-0040

Approved Transportation Costs for Payments from the State School Fund

(1) Definitions for the purpose of this rule:

(a) "Elementary School Student" means, notwithstanding any other OAR or statute, pupils attending a school offering only an elementary curriculum, any combination of grades K through 8;

(b) "Secondary School Student" means, notwithstanding any other OAR or statute, pupils attending a school offering any secondary curriculum for grades 9, 10, 11, or 12. Additionally, all students attending a school designated by the local school board through board action as a junior high school or middle school may be considered secondary students;

(c) "Mile(s) from School" means the distance a student lives from school, measured from the closest, reasonable, and prudent point between the school property identified by the local board for that pupil's attendance and the property where the pupil lives. The distance will be measured over the shortest practicable route on maintained public roadways or over existing pedestrian facilities or pedestrian facilities capable of meeting the requirements listed in ORS 332.405(4);

(d) "Supplemental Plan" means a plan adopted by local school board resolution identifying groups or categories of students who live within the 1 and 1.5 mile limitations and require transportation based on health or safety reasons, including special education. Supplemental plan approvals may be ordered by the State Board of Education or its designated representatives. The State Board shall have the right of final review of any actions regarding supplemental plans. Appeals will be directed to the State Board for final consideration. The Plan must include the following:

(A) The approximate number of students to be transported based on the plan;

(B) The health or safety reasons cited for providing transportation;

(C) The local board resolution specifying the supplemental plan as submitted; and

(D) Any additional information or documentation supporting the supplemental plan deemed appropriate locally.

(e) "Local School Board" means, notwithstanding any other OAR or statute, the local school board for the district in which the student's legal residence is physically located. Local school boards are not required to provide transportation for students who have requested and received approval to attend a school other than that designated by the local school board for students living in their specified attendance area;

(f) "Bus Manufacturer's Rated Capacity" means the number of students to be used in the calculations specified in paragraph (5)(n)(B) of this rule and described below:

(A) Buses transporting only elementary students will have a passenger capacity as stated on the manufacturer's identification plate;

(B) Buses transporting only high school students, grades 9 through 12 will have a passenger capacity based on two students for each 39 inch bus seat;

(C) Buses transporting mixed groups from grades K-12 (in any combination) or groups of only junior high or middle school students will have a passenger capacity based on 2.5 students for each 39-inch bus seat.

EXAMPLE: A bus with a manufacturer's passenger capacity stated on the identification plate of 72 would have the following ratings: elementary — 72, high school only — 48, mixed groups — 60, middle school and junior high school — 60.

(2) Approved transportation costs shall include those costs incurred in transporting pupils to and from instructional programs during the regularly scheduled school term within the limitations specified by ORS 327.006 and 327.033. Approved transportation costs may include costs incurred in transporting students participating in extended school year programs eligible for funding from the State School Fund.

(3) Approved transportation costs shall include those district expenditures associated with:

(a) Home-to-school transportation of elementary school pupils who live at least one mile from school;

(b) Home-to-school transportation of secondary school pupils who live at least one and one-half miles from school;

(c) Transportation of pupils between educational facilities either within or across district boundaries, if the facilities are used as part of the regularly-scheduled instructional program approved by the Board;

(d) Transportation of pupils for in-state field trips when such represents an extension of classroom activities for instructional purposes, and shall include out-of-state destinations within 100 miles of the Oregon border;

(e) Transportation of pupils home to school for whom a supplemental plan has been approved by the State Board of Education in addressing safety, health, and special education needs;

(f) Transportation of preschool children in Early Childhood Special Education Services having an Individual Family Service Plan requiring transportation and preschool children receiving Early Intervention Services under the authority of ORS 343.533.

(g) School to home transportation following extended school day instructional programs for:

(A) Elementary school pupils who live at least one mile from school;

(B) Secondary school pupils who live at least one and one-half miles from school.

(4) Approved transportation costs shall exclude those district expenditures associated with transportation for the following unless the school program is required under provisions of the Individuals with Disabilities Education Act, ORS 343.533 or 339.010 through 339.090 and 339.250:

(a) Pupils living within the limits prescribed in ORS 327.006(2) for whom no supplemental plan has been approved by the State Board;

(b) Activity trips other than for instructional purposes;

(c) Athletic trips;

(d) School lunch purposes;

(e) Summer school;

(f) Adult education;

(g) Evening school;

(h) Preschool and/or nursery school;

(i) Board and room in lieu of transportation associated with field trips;

(j) Transportation facility and staff costs other than those directly related to approved pupil transportation activities.

(5) The computation shall be made as follows:

(a) Pupil Transportation Salaries;

(b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance;

(c) All contracted Transportation;

(d) Travel of Pupil Transportation Personnel;

(e) Employee Benefits on Pupil Transportation Salaries;

(f) Pupil Transportation Insurance;

(g) Payments in Lieu of Transportation;

(h) Other Expenses of Pupil Transportation;

(i) Payments to Other Districts for Pupil Transportation;

(j) Leases and Rentals;

(k) Depreciation:

(A) Depreciation of Garage, but this shall not include land;

(B) Depreciation of Buses that are used at least 50% for reimbursable mileage.

(C) Shall include the costs to retrofit, as defined in ORS 468A.795, or to replace school buses for the purpose of reducing or eliminating diesel engine emissions, except that these costs may not include the costs paid with moneys received from the state by a school district from the Clean Diesel Engine Fund that are described in ORS 468A.801 (2)(a) to retrofit or to replace school buses for the purpose of reducing or eliminating diesel engine emissions.

(l) Total of subsections (5)(a) through (k) of this rule;

(m) Deduct (if cost is included in detail above):

(A) Payments Received from Other Districts and from Patrons for reimbursable transportation;

(B) Nonreimbursable Transportation Costs:

(i) For 2007–08:

(I) Number of miles @ \$1.98 per mile for all school buses and school activity vehicles having a manufacturer's designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ \$.99 per mile for all school activity vehicles having a manufacturer's designed passenger capacity 20 or less including driver;

(ii) For 2008–09:

ADMINISTRATIVE RULES

(I) Number of miles @ \$2.02 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ \$1.01 per mile for all school activity vehicles having a manufacturers' designed passenger capacity 20 or less including driver;

(iii) For 2009–10:

(I) Number of miles @ \$2.02 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ \$1.01 per mile for all school activity vehicles having a manufacturers' designed passenger capacity 20 or less including driver;

(iv) For 2010–11:

(I) Number of miles @ \$2.04 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ \$1.02 per mile for all school activity vehicles having a manufacturers' designed passenger capacity 20 or less including driver; or

(v)(I) Those local school board certified marginal costs attributable to services described in section (4)(a) of this rule, calculated and documented as follows: Documentation maintained by local district shall include: bus and route identification, school(s) being served, number of eligible students on board, number of ineligible students on board;

(II) Calculation of marginal costs shall be as follows: District Cost Per Mile of bus operation divided by the total number of students transported on each bus to derive an average cost per student. The cost per student multiplied by the number of ineligible students and the number of miles inside the limits provides the amount for deduction. Example: Cost per student = district cost per bus mile - number of students on bus; Total Deduction = cost per student x ineligible students x number of miles inside limit.

(III) No deduction will be made for transportation inside prescribed limits if the local board certifies student demographics would require student bus rides to or from school of more than one hour if the bus is routed in a manner making it accessible to the number of eligible students living outside the prescribed mileage limit equal to 130 percent of the bus manufacturer's rated capacity; or

(IV) The local school board certifies that buses are routed in a manner to serve at least the number of eligible students living outside the prescribed mileage limits equal to 130 percent of the bus manufacturer's rated passenger capacity; and

(V) In either of the aforementioned situations, no additional costs have been incurred by the district for the identified service.

(C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006 or third party Medicaid payments for transportation, if used to support expenditures in subsections (5)(a) through (I) of this rule;

(D) Rental or Lease Payments from Private Contractors;

(E) The percentage of transportation facility depreciation commensurate with the percentage of the total district fleet value based upon purchase price (see subsection (6)(k) of this rule) represented by nonpupil transportation equipment. Examples of nonpupil transportation equipment would include the following: lawnmowers, tractors, backhoes, trucks, pickups, cars, trailers, snow blowers, etc.

(n) Total Deductions ((5)(m)(A)+(m)(B)+(m)(C)+(m)(D)+ (m)(E));

(o) Approved Cost ((5)(I) minus (5)(n)).

(6) In the above computation, the following definitions apply:

(a) Pupil Transportation Salaries. Salaries and wages paid school bus drivers, assistants to driver, and that portion of salaries paid mechanics and other bus maintenance employees, supervisors of transportation, secretarial and clerical assistants, and persons assigned transportation oversight and coordination responsibilities attributable to the transportation program and documented through position descriptions and payroll records. No school district General Administration salaries may be included in this area;

(b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance. Costs of fuel, oil, lubricants, tires, tire repair, batteries, vehicle diagnosis and repair equipment identified as capital expenditures in the "Program Budget Manual," vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance;

(c) All Contracted Transportation. Payments to parents and independent public or private contractors for transporting pupils from home to school, between educational facilities and for nonreimbursable activities enumerated in paragraph (6)(I)(B) of this rule; and fares to public carriers

for transporting pupils from home to school and between educational facilities:

(A) If a district retains ownership of buses and garages and contracts for the operation of the transportation system with provision in the contract for lease or rental of the buses and garages, the contracted transportation cost shown should reflect the gross bid including the lease or rental payment. The lease or rental payment shall be deducted in the computation as reported in paragraph (5)(n)(D) of this rule;

(B) If the district retains ownership of buses and garages and participates in a transportation cooperative or consortium through an intergovernmental agreement, depreciation apportionment provided under ORS 327.033 will be disbursed directly to the district. No depreciation component is approved for cooperative-owned buses or garages.

(d) Travel of Pupil Transportation Personnel. Meals, lodging, mileage, per diem and other travel expenses of pupil transportation personnel, and private car mileage if paid to bus drivers for travel to and from the point where school bus is parked if other than the central garage. The same travel expenses plus tuition or registration are included for attendance at Department of Education sponsored or presented pupil transportation training programs and seminars;

(e) Employee Benefits on Pupil Transportation Salaries. The district's contributions for employee benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;

(f) Pupil Transportation Insurance. Payments for public liability and property damage, medical care, collision, fire and theft, and insurance on garages and shops;

(g) Payments in Lieu of Transportation. Payments for pupils' board and room in lieu of transportation, consistent with ORS 332.405(2);

(h) Other Expenses of Pupil Transportation. District-paid fees for school bus drivers' physical examinations; interest on bus or garage contracts payable including lease-purchase agreements if capitalized (see subsection (6)(k) of this rule);

(i) Payments to Other In-State or Out-of-State Districts for Transportation. Payments to other districts for approved pupil transportation costs;

(j) Leases and Rentals. Rental or lease payments for the use of land or buildings used for approved pupil transportation. Rental or lease payments for buses operated by district personnel for approved pupil transportation.

NOTE: Only those leases which do not contain an option to purchase or application of rentals to purchase should be included in subsection (5)(j) of this rule. See subsection (6)(k) of this rule as to the proper treatment of other lease-purchase agreements.

(k) Depreciation. For purposes of computing depreciation, capitalized cost is defined to include the unit cost of the asset, exclusive of interest, for such assets purchased outright, by conventional contract, or by lease-purchase agreement if such agreement contains any provision to acquire ownership at the end of the agreement by application of a portion of the rentals paid or a terminal payment. The computation of the capitalized cost and the depreciation shall be according to the following:

(A) Portions of Garages and Other Buildings Used for Approved Pupil Transportation:

(i) Outright purchase (including purchase by conventional contract). For each outright purchase or purchase by conventional contract, each district shall report to the Oregon Department of Education, on the forms provided, the unit cost of the garage or other building purchased and the dollar amount of interest payments associated with such purchase. The purchase of land shall not be included in the Garage Depreciation. The capitalized value shall represent the unit cost, exclusive of interest. Depreciation shall be computed at an annual rate of four percent;

(ii) Lease-purchase agreements. For each lease-purchase agreement, the district shall report to the Oregon Department of Education, on the forms provided, the dollar amount of the agreement, the interest payments contained in the agreement, and the schedule of such interest payments contained in the agreement. Land shall not be included in the lease purchase agreement for the purpose of reimbursement. Subsequent to July 1, 1975, the capitalized value shall represent the lease-purchase price less any interest payments contained in the agreement. Depreciation shall be computed at an annual rate of four percent.

(B) Buses and Other Vehicles Used for Approved Pupil Transportation:

(i) Outright purchase (including purchase by conventional contract). For each outright purchase or purchase by conventional contract, each district shall report to the Oregon Department of Education, on the forms provided, the unit cost of the vehicle(s) purchased and the dollar amount of interest payments associated with such purchase. The capitalized value

ADMINISTRATIVE RULES

shall represent the unit cost, exclusive of interest. Depreciation shall be computed at an annual rate of ten percent;

(ii) Lease-purchase agreements. For each lease-purchase agreement, the district shall report to the Oregon Department of Education, on the forms provided, the dollar amount of the agreement, any applicable trade-in value, the dollar amounts of interest payments contained in the agreement, and the schedule of such interest payments contained in the agreement. The capitalized value of the vehicles shall represent the lease-purchase price including the trade-in allowance less interest payments contained in the agreement. Depreciation shall be computed at an annual rate of ten percent;

(iii) Lease agreements. If the district is leasing its buses under a lease agreement, the district shall report the annual lease cost. A lease agreement as used in this paragraph means an agreement whereby the lessor retains title to the buses being leased to the lessee school district and the title to the buses is never received by the lessee. Under such a lease agreement, the use of the buses by the lessee is limited by the term of the lease. If there is an auxiliary agreement either written or oral whereby at the end of the lease term, the title of the buses shall pass to the lessee school district, the agreement is not a lease agreement as described in this paragraph but is a lease-purchase agreement as outlined in subparagraph (ii) of this paragraph. The lease payment made by a school district obtaining the use of buses pursuant to a lease as defined in this paragraph shall be used in the computation of the reimbursement in place of the depreciation set forth in subparagraphs (i) and (ii) of this paragraph.

(l) Deductions:

(A) Payments Received from Other Districts and from Patrons. Money received from other school districts, parents, guardians, or students for transportation if paid in support of expenditures listed in subsections (5)(a) through (l) of this rule;

(B) Nonreimbursable Transportation Costs. Actual bus mileage of excludable trips shall include the actual mileage in district owned or contracted buses for transportation for activity trips, athletic trips, school lunch purposes, summer school, adult education, evening school, nursery school, and any other nonreimbursable purposes. Such mileage shall be deducted at the rate indicated in subsection (5)(m)(B) of this rule. The rate of deduction may be reviewed periodically by the State Board of Education and adjusted accordingly;

(C) State and Federal Receipts for Transportation. All state and federal receipts for transportation expenditures, exclusive of funds apportioned under ORS 327.006 and 327.033, that have been included in subsection (5)(a) through (l) of this rule;

(D) Rental or Lease Payments from Private Contractors. Payments received from private contractors for the use of district owned buses and garages in the operation of the pupil transportation system by the private contractor. This item must be shown as Revenue Code 1930 in the school district audit and the gross payments to the contractor must be included in subsection (5)(c) of this rule.

(7) Each district shall maintain a record, by purpose, of total pupil transportation miles and shall submit a report of such to the Oregon Department of Education on the form provided. The accuracy of such records shall be certified by the district clerk.

(8) If an education service district offers a special service under the provisions of section (4) of ORS 334.175, including home-to-school transportation that would qualify for reimbursement under the provisions of ORS 327.006 if provided by a local school district, the following procedure in crediting the transportation expenditure to the local district may be employed:

(a) The education service district shall compute approved home-to-school transportation costs as provided in section (4) of this rule;

(b) The approved costs so determined shall be billed to and paid by each of the local school districts. The expenditure shall be accounted for by the local district as a transportation expenditure paid to another education agency;

(c) The audited district expenditure shall be recognized by the State Superintendent of Public Instruction in computing the local district's entitlement under ORS 327.006;

(d) If the education service district reimburses the local district the difference between that portion billed and that paid under ORS 327.006, such reimbursement — if derived from property tax sources by education service district resolution — shall not be deducted by the state in determining the local district's approved costs. The local district shall account for the education service district reimbursement as other general receipts are accounted for from the education service district.

(9) For purposes of computing board and room entitlement for a district operating a dormitory under provisions of ORS 327.006, the state assumes responsibility for its proportionate share of costs associated with the provision of food, facilities, staff, operation, and maintenance necessary to provide students with safe and healthy living conditions. The state does not assume responsibility for costs associated with recreation or entertainment of students. The approved cost against which the computation is made for state liability shall not exceed the limit stated in ORS 332.405. In addition, the state will assume its proportionate share of the cost of field trips as defined in subsection (3)(c) of this rule.

(10) The computation of approved expenditures for board and room entitlement shall be made as follows:

(a) Salaries;

(b) Operation:

(A) Utilities;

(B) Supplies;

(C) Other Operational Costs.

(c) Maintenance:

(A) Upkeep;

(B) Replacement.

(d) Fixed Charges:

(A) Employee Benefits;

(B) Other Fixed Charges.

(e) Food;

(f) Operation of Buses and Other Vehicles--Supplies, Repairs and Maintenance;

(g) Depreciation:

(A) Dormitory;

(B) Buses and Other Vehicles.

(h) Total Expenditures (Sum of subsections (10)(a) through (g) of this rule);

(i) Deductions (subtract if cost is included in cost above):

(A) Payments Received from Other Districts and from Patrons;

(B) Nonreimbursable Transportation Costs as indicated in subsection (5)(m)(B) of this rule;

(C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006, 327.033, or third party Medicaid payments, if used to support expenditures in subsections (10)(a) through (g) of this rule;

(D) Federal School Lunch, Breakfast, and Milk Reimbursements;

(E) Sales of Food.

(j) Total Deductions (sum (10)(i)(A) + (i)(B) + (i)(C) + (i)(D) + (i)(E));

(k) Approved Cost ((10)(h) minus (10)(j) of this rule).

(11) The items included in the board and room entitlement computation are defined as follows:

(a) Salaries. Salaries and wages paid dormitory personnel, including the dormitory manager, cooks, custodians, and other personnel directly concerned with operation of the dormitory, and that portion of salaries paid secretarial and clerical assistants and other personnel attributable to the dormitory program;

(b) Operation:

(A) Utilities. Heat for buildings, water and sewage, electricity, telephone, and other utilities necessary for the operation of the dormitory;

(B) Supplies. Custodial supplies, supplies for care of grounds, linens, and other supplies necessary for the operation of the dormitory including food services. Purchase of food is included in subsection (11)(e) of this rule;

(C) Other Operational Costs. Contracted custodial services, window washing, laundry or linen services, etc., necessary for the operation of the dormitory.

(c) Maintenance:

(A) Upkeep. Expenditures associated with maintaining the existing dormitory facilities in a safe, healthy, and efficient condition, including supplies and materials for upkeep of dormitory grounds and the dormitory building. Costs associated with maintenance of recreational or entertainment facilities are excluded;

(B) Replacement of Equipment. Expenditures associated with replacing equipment necessary to the safe, healthy, and efficient operation of the dormitory. Replacement of equipment used for recreational or entertainment purposes are excluded.

(d) Fixed Charges:

(A) Employee Benefits. Expenditures for dormitory employees' benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;

ADMINISTRATIVE RULES

(B) Other Fixed Charges. Expenditures for property insurance, liability insurance, rental of land and buildings for purposes associated with operation of the dormitory, and other fixed charges directly attributable to operation of the dormitory.

(e) Food. Expenditures for food necessary for the operation of the dormitory;

(f) Operation of Buses and Other Vehicles — Supplies, Repairs, and Maintenance. Expenditures for fuel, oil, lubricants, tires, tire repair, batteries, vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance necessary for the operation of buses utilized for purposes stated in section (3) of this rule and of other vehicles necessary for the operation of the dormitory;

(g) Depreciation:

(A) Dormitory. For purposes of computing dormitory depreciation, capitalized cost is defined as the unit cost of the asset (including the cost of original equipment), exclusive of interest, plus the cost of substantial improvements or remodeling. The purchase of land shall not be included. Costs associated with providing recreational or entertainment facilities are not included. Depreciation shall be computed at an annual rate of four percent;

(B) Buses and Other Vehicles. Depreciation for buses used for approved pupil transportation and that portion of other vehicles necessary for operation of the dormitory shall be computed in accordance with the formula and definition stated in paragraph (6)(k)(B) of this rule.

(h) Total. Sum of subsections (10)(a) through (g) of this rule;

(i) Deductions:

(A) Payments Received from Other Districts and from Patrons. Money received from other school districts, parents, guardians, or students for transportation or room and board if paid in support of expenditures listed in subsections (10)(a) through (f) of this rule;

(B) Nonreimbursable Transportation Costs. Costs for nonreimbursable transportation according to the formula and definition stated in paragraph (6)(l)(B) of this rule;

(C) State and Federal Receipts for Transportation. All state and federal receipts for transportation or room and board expenditures exclusive of funds apportioned under ORS 327.006 that have been included in subsections (10)(a) through (f) of this rule;

(D) Federal School Lunch, Breakfast, and Milk Reimbursements. All federal receipts for school lunch, breakfast, and milk expenditures that have been included in subsections (10)(a) through (f) of this rule;

(E) Sales of Food. Money received from teachers, students, or other individuals from food sales for which the expenditures are included in subsections (10)(a) through (f) of this rule.

(12) Such items of expenditure as may be questionable in applying the policy stated in this administrative rule shall be resolved by the State Superintendent of Public Instruction and such determination shall be final.

(13) Apportionment of the State School Fund for 2001–02 and subsequent years.

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

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013 & 820.100 - 820.120

Hist.: 1EB 177, f. 10-2-74; 1EB 181, f. 1-17-75, ef. 7-1-75; 1EB 209, f. 12-5-75, ef. 1-16-76; 1EB 220, f. 2-17-76, ef. 3-15-76; 1EB 233, f. 6-11-76, ef. 6-18-76; 1EB 4-1978, f. 1-27-78, ef. 1-27-78; 1EB 10-1980, f. & ef. 5-5-80; 1EB 6-1981, f. 3-2-81, ef. 3-3-81; 1EB 4-1982, f. & ef. 2-10-82; 1EB 15-1982, f. 8-4-82, ef. 8-5-82; 1EB 17-1983, f. 11-23-83, ef. 11-25-83; 1EB 1-1985, f. 1-4-85, ef. 1-7-85; 1EB 5-1986, f. 1-30-86, ef. 2-1-86; EB 4-1987, f. & ef. 2-20-87; EB 32-1987, f. & ef. 12-10-87; EB 42-1988, f. & cert. ef. 11-15-88; EB 3-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; EB 4-1997, f. & cert. ef. 4-25-97; ODE 9-2000, f. & cert. ef. 4-5-00; ODE 25-2001, f. & cert. ef. 11-7-01; ODE 9-2003, f. & cert. ef. 6-13-03; ODE 10-2006, f. & cert. ef. 2-21-06; ODE 8-2008, f. & cert. ef. 3-21-08; ODE 6-2010, f. & cert. ef. 4-26-10

Oregon Film and Video Office Chapter 951

Rule Caption: Rate change for qualifying tax credit purchases and change in maximum credits to be sold.

Adm. Order No.: FVO 1-2010

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10

Notice Publication Date: 4-1-2010

Rules Amended: 951-003-0005

Subject: Bring discount rate in line with economic trends; raise maximum amount of credits sold per statute.

Rules Coordinator: Susan Haley — (503) 229-5832

951-003-0005

Allocation of Certificates

(1)(a) Taxpayers making a contribution to the Oregon Production Investment Fund and wishing to receive a tax credit must submit the contribution, together with an application for tax credit, to the Oregon Film and Video Office, in care of the Oregon Business Development Department. The contribution need not accompany the application to the extent the taxpayer is only requesting a reservation of tax credits for future issuance with respect to future committed contributions, as provided in these administrative rules.

(b) Contributions may be made by check or wire transfer only.

(2) Availability of tax credits is determined at the time the contributed funds have cleared the contributor's account, not on the date a check or visa payment is written or received by the Oregon Film Office or Oregon Business Development Department.

(3) The Oregon Film and Video Office shall make tax credit application forms available to taxpayers in hard copy and electronic formats and taxpayers may submit applications and contributions either in hard copy format or electronically through the Oregon Film and Video Office website.

(4) After approval of a taxpayer's application for a tax credit, the Film and Video Office shall issue to the tax payer a tax credit certificate for the tax year during which the qualifying contribution was received. The Oregon Film and Video Office shall not issue a tax credit certificate to the contributing taxpayer until the Oregon Business Development Department has verified the amount of contribution.

(5) The amount of a qualifying contribution shall be 100% — (2x the 2 year Treasury Note) and shall be set the first of each calendar quarter. The tax credit discount rate shall never be more than 95% or less than 90%.

(6) The tax credit certificates issued during a single State of Oregon fiscal year may not evidence more than \$7.5 million of tax credits, in aggregate.

(7) If at the time an application for tax credit is considered, the Oregon Film and Video Office has already issued or reserved tax credits totaling \$7.5 million for the fiscal year in which the contribution submitted with the application is received, the Oregon Film and Video Office will deny the application.

(8) If at the time an application for tax credit is considered, the Oregon Film and Video office has already issued or reserved tax credits that, when added to the tax credits that would be issued if the application were approved, would total more than \$7.5 million for the fiscal year in which the contribution submitted with the application is received, the Oregon Film and Video Office may either deny the application in full or approve the application in an amount necessary to bring the total tax credits issued or reserved to \$7.5 million for the fiscal year in which the contribution is received and deny the remainder of the application.

(9) If the Film and Video Office denies an application for a tax credit in full or in part, it shall notify the taxpayer applicant of the denial in writing within 45 days of the denial.

(10) A taxpayer who receives notice of denial of an application for tax credit may request, in writing and within 90 days after its receipt of the notice of denial, a refund of that portion of its contribution, actually received by the Film and Video Office, with respect to which the Film and Video Office did not issue a tax credit certificate. The Film and Video Office shall issue the refund within 60 days after its receipt of the refund request.

(11) In its application, a taxpayer may, in addition to or in lieu of applying for immediate issuance of a tax credit, request that the Oregon Film and Video Office reserve tax credits for future issuance based on future contributions committed by the taxpayer. The Oregon Film and Video office may approve, approve in part and deny in part, or deny tax credit reservation requests in its discretion. In determining whether to approve, approve in part and deny in part, or deny a tax credit reservation request, the Film and Video Office will consider the following factors:

(a) The current uncommitted balance in the Oregon Production Investment Fund;

(b) The amount of tax credits then available for issuance for the fiscal year with respect to which the reservation is requested;

(c) The number of pending applications for tax credits;

(d) The anticipated future demand for tax credits for the fiscal year with respect to which the reservation is requested.

(e) The number of tax credits the taxpayer is requesting the Film and Video Office to reserve.

(f) The length of time between the approval of the reservation and the anticipated receipt of the contributions with respect to the reserved tax credits;

ADMINISTRATIVE RULES

(g) Such other factors as the Film and Video office considers appropriate in the particular circumstance in order to further the purposes of the Oregon Production Investment Fund tax credits.

(12) The Film and Video Office shall notify a taxpayer requesting a tax credit reservation of the approval, approval in part and denial in part, or denial of the request within 45 days after the Film and Video Office's receipt of the request. If the reservation request is approved in whole or in part, the Film and Video Office shall reserve tax credits for future issuance consistent with that approval.

(13) A taxpayer with reserved tax credits must submit to the Film and Video Office sufficient contributions to support tax credits reserved for issuance during a particular fiscal year, no later than the date set forth in the Film and Video Office's notice of reservation approval. Contributions must be submitted to the Film and Video Office in care of the Oregon Business Development Department. If the contributions necessary to support issuance of reserved tax credits are not received by the applicable deadline, the reservation of those tax credits and the reservations of all other tax credits for that taxpayer shall automatically expire and those tax credits shall no longer be considered reserved tax credits and shall become immediately available for issuance to or reservation by other taxpayers in accordance with these administrative rules.

(14) No tax credits or tax credit certificates shall be issued with respect to reserved tax credits until the Film and Video Office receives sufficient contributions to support issuance of tax credits and tax credit certificates with respect to the reserved tax credits. The Film and Video Office shall issue tax credit certificates to the taxpayer with respect to reserved tax credits within 45 days after the Film and Video Office's receipt of verification from the Oregon Business Development Department of receipt of sufficient contributions to support issuance of the reserved tax credits.

Stat. Auth: ORS 284.335 & 315.514

Stats. Implemented: ORS 315.514

Hist: FVO 4-2004, f. & cert. ef. 11-26-04; FVO 3-2006, f. & cert. ef. 11-17-06; FVO 2-2008, f. & cert. ef. 6-27-08; FVO 1-2009(Temp), f. & cert. ef. 7-20-09 thru 12-1-09; Administrative correction 12-23-09; FVO 1-2010, f. & cert. ef. 4-26-10

Oregon Liquor Control Commission Chapter 845

Rule Caption: Housekeeping amendments standardizing rule language with other recent rule changes and adding clarifying language.

Adm. Order No.: OLCC 3-2010

Filed with Sec. of State: 4-19-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 2-1-2010

Rules Amended: 845-006-0340

Subject: This rule describes the minor postings that the Commission assigns to those licensed premises that allow on-premises consumption. These minor postings define if and under what conditions minors are allowed in areas where alcohol is consumed or there is a drinking environment. The amendments include the deletion of subsection (4)(b) thereby removing the reference to "happy hours" because of the rulemaking already under way to remove it from the advertising restriction rule (OAR 845-007-0020(2)). They also include the amendment of subsection (5)(f) regarding the Number V posting for tasting rooms in order to standardize the size of distilled spirits tastings with the recently adopted Distillery tastings rule (OAR 845-006-0452). Two other minor revisions are 1) the amendment of subsection (7)(b), adding language to clarify that licensees can't later contest a permanent minor posting change if they agreed to the change, and 2) restructuring subsections (10)(b) & (c) so that the language regarding assigning a posting where one is normally not assigned only applies to private clubs and catered events, not temporary licenses. And finally, due to the smoking ban and subsequent growth in sidewalk areas being licensed, the Commission has amended what will now be subsection (10)(c) by adding language creating an exception to the 24 hour application of minor postings for public right-of-ways.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-006-0340

Minor Postings

(1) The Commission is charged with regulating the sale of alcohol in a manner which protects the safety and welfare of the citizens, and ensures

that alcohol is used legally. As a policy making body, the Commission has a responsibility to send a clear message to the community and its youth that drinking alcohol is an adult activity, and that drinking environments are for adults. This rule applies only to licenses that allow on-premises alcohol consumption including tastings, except for tasting areas at an Off-Premises license approved under OAR 845-006-0450.

(2) Definitions. For this rule:

(a) "Eating food is the predominant activity" means the Commission has determined that more people eat food than drink alcohol (or the Commission determines that the licensee has reasonably projected this).

(b) "Drinking predominates" means the Commission has determined that more people are, or at times are likely to be, drinking alcohol than not drinking alcohol.

(c) "Drinking environment" means the Commission determines that there is a combination of conditions or factors in a premises, room, or area which make it likely that minors will obtain alcohol or which create an environment where drinking alcohol is or appears to be the predominant activity. Some examples of factors that contribute to a drinking environment include but are not limited to cocktail tables, a bar, bar equipment and accessories, dim lighting, alcohol advertising, events or entertainment primarily targeted to adults, and events or operations where the monitoring of patron behavior is or could be insufficient to prevent minors from obtaining alcohol.

(d) "Recent serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors, at the premises by the applicant or licensee within the last two years. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II or IIa administrative violation at the premises by the applicant or licensee within the last two years; or

(C) The applicant or licensee has incurred an immediate license suspension at the premises within the last two years; or

(D) There are two or more crimes or offenses involving liquor laws within the last two years at the premises.

(e) "Civic group" means a non-profit corporation, association or political entity, or any authorized representative of a governmental entity. Examples are parent-teacher associations, Rotary and Toastmasters. Civic group does not include any group made up primarily of minors.

(f) "Stage revue" means a live performance with adult or sexual themes of a type usually performed on a stage, involving players performing such activities as skits, song, dance and comedy routines.

(g) "Minor" means a person under the age of 21.

(h) "Adult" means a person 21 years of age or older.

(i) "Bar" means a counter at which the preparation, pouring, serving, sale or consumption of alcoholic beverages is the primary activity.

(j) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale or consumption of food.

(k) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(l) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(m) "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act.

(n) "Minor control plan" means a written, dated and signed plan submitted to the Commission by an applicant or licensee for a premises, room, or area that shows where and when minors are permitted and the control measures used to prevent minors from obtaining alcohol, prohibit minors when drinking alcohol predominates, and minimize minors' exposure to a drinking environment.

(3) The Commission uses Section (5) to assign minor postings to a premises, room, or area where alcohol is consumed or where there is a drinking environment. When the facts do not clearly and convincingly meet the criteria for allowing minors, the Commission interprets the rule to prohibit minors. The Commission does not assign more than one type of minor posting to an area unless there are definable boundaries.

(4) Even when minors are otherwise allowed under this rule:

ADMINISTRATIVE RULES

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in a room or area where there is entertainment which is often found in a drinking environment. Examples include but are not limited to: video lottery games; social games; stage revues; nude entertainment; and wet t-shirt events. Minors may not be in an area where this entertainment is visible.

(c) Subsections (4)(a) through (4)(b) of this rule do not apply to a minor in the immediate company of his/her spouse or Domestic Partner who is at least 21 years of age, if allowed by subsection (10)(d) of this rule.

(5) The Commission uses the following minor posting signs to tell the public where minors are allowed or prohibited, and to assist licensees in controlling the presence of minors. In those circumstances when the licensee's operation would qualify for a Number III, IIIA, IV, V, or VI minor posting, the licensee may have a Number I or II posting prohibiting minors.

(a) "No Minors Permitted Anywhere on This Premises", (Number I Minor Posting). The Commission assigns this posting to an entire premises where there is a drinking environment or drinking alcohol does or is likely to predominate most of the time. An example could be a tavern.

(b) "No Minors Permitted in This Portion of The Premises or at This Bar", (Number II Minor Posting). The Commission assigns this posting to rooms or areas of a premises where there is a drinking environment or drinking alcohol does or is likely to predominate most of the time. Some examples are lounges, gambling rooms, the bar and other rooms or areas where drinking alcohol is the predominant activity.

(c) "Minors Allowed in This Area", (Number III Minor Posting). The Commission assigns this posting to a premises, room, or area where there is no drinking environment and drinking alcohol will never predominate. The Commission does not generally require the Number III sign to be physically posted. Minors may use entertainment devices. Some examples are restaurants and dining rooms in premises with separate lounges.

(d) "Minors Allowed From: ___ To: ___ (Hours) On: ___ (days)", (Number III-A Minor Posting). The Commission assigns this posting to allow minors in a premises, room, or area during times when there is no drinking environment and drinking alcohol does not predominate and to prohibit minors during times when there is a drinking environment or drinking alcohol does or is likely to predominate. Minors may use entertainment devices during the times minors are allowed. An example is a pizza parlor with karaoke during some times. Minors are allowed in the area and may participate in karaoke during the times when there is no drinking environment and drinking alcohol does not predominate.

(e) "Minors Allowed During These Hours Only. On: (days) from: ___ to: ___ and only for the purpose of consuming food", (Number IV Minor Posting). The Commission assigns this posting to an area or entire premises that often has a drinking environment to let minors consume food during times when drinking does not predominate and eating food is the predominant activity. Eating food must predominate during all times when minors are allowed, even if minors are not present. Minors may not use entertainment devices in this area.

(f) "Minors Allowed Only with their Parent or Spouse or Domestic Partner age 21 or over", (Number V Minor Posting). The Commission assigns this posting to rooms or areas where the only alcoholic beverages served or consumed are sample tastings of distilled spirits, wine, malt beverages or cider. For purposes of this rule, a sample tasting is defined as a single container with no more than one and a half ounces of wine or cider, three ounces of malt beverages, one-half ounce of distilled spirits for the general public, or one ounce of distilled spirits for a trade visitor.

(g) "Minors Allowed in this Premises or in this Portion of this Premises only as provided in the Licensee's Minor Control Plan Approved by the Commission" (Number VI Minor Posting). The Commission may assign this posting to a premises, room, or area where minors will be allowed only as per the minor control plan approved by the Commission. Minors are allowed only during the days and times or types of events approved in the minor control plan. The Commission will not approve a minor control plan that proposes to allow minors in a premises, room, or area during times when the Commission determines that the predominant activity is the consumption of alcohol or when the drinking environment is not minimized. The minor control plan must be in writing, dated and signed by the licensee, and approved by the Commission prior to operating with this posting.

(6) Temporary Relaxation of Minor Postings. The Commission recognizes that under special, limited circumstances, it may be appropriate to allow minors in a premises, room, or area where minors are normally prohibited. Therefore, the Commission may grant a temporary relaxation of a

minor posting for an occasional event held on a licensed premises. The licensee must submit a written, dated, and signed request, including a minor control plan, to the Commission explaining the details of the temporary relaxation and how the licensee will prevent minors from obtaining alcohol, prohibit minors when drinking alcohol predominates, and minimize minors' exposure to a drinking environment. The licensee must obtain Commission approval prior to temporarily relaxing the minor posting.

(a) The Commission does not grant relaxations when:

(A) There has been a recent serious violation history in the room, area or entire premises; or

(B) During the activity, the premises, room, or area has or will have entertainment described under section (4)(b) of this rule. The Commission does not grant relaxations if any of this entertainment is visible from the area where the activity is held.

(b) The Commission may temporarily allow minors into a normally prohibited area under these circumstances:

(A) The licensee needs additional space for overflow family dining for widely recognized holidays, such as Mother's Day, Father's Day and Thanksgiving, and eating predominates during all times when minors are allowed, even if minors are not present;

(B) The activity is a family-oriented event held in a physically separate room or area. The general public is not allowed at the event. Some examples are wedding receptions and family reunions;

(C) The activity is sponsored and promoted by a civic group. An example is a school-sponsored party. The following conditions apply:

(i) The group must make a written statement that no other facility in the community is available that can reasonably accommodate the activity;

(ii) A group may sponsor one activity at a licensed premises per quarter;

(iii) All alcohol must be covered and may not be served or consumed in the room or area;

(iv) No imitation cocktails or non-alcoholic beer or non-alcoholic wine are allowed;

(v) No alcohol advertising is visible; and,

(vi) Minor posting signs which prohibit minors must be covered during the activity.

(c) When the Commission refuses to temporarily relax a minor posting, the licensee has a right to contest the decision. The licensee must comply with the assigned minor posting unless the refusal is overturned through the contested case process.

(7) Permanent Changes to Minor Postings:

(a) The Commission may change a minor posting at any time if:

(A) The existing posting is inconsistent with this rule;

(B) There has been a recent serious violation history in the premises, room, or area; or

(C) The Commission determines that the minor control plan that is the basis for the minor posting is not adequate to control the premises, room, or area.

(b) When the Commission changes a minor posting, and the licensee does not agree to the change, the licensee has a right to contest the decision. The licensee must comply with the changed minor posting unless the change is overturned through the contested case process.

(c) A licensee may not change a minor posting or the minor control plan on which a posting is based without prior written approval of the Commission. A licensee must submit a change request in writing. The Commission approves or denies a licensee's request in writing.

(d) The Commission may refuse a licensee's request to change a minor posting or minor control plan when:

(A) The requested posting is inconsistent with this rule;

(B) There has been a recent serious violation history in the premises, room, or area; or

(C) The Commission determines that the proposed minor control plan is not adequate to control the premises, room, or area.

(e) When the Commission refuses a licensee's request to change a minor posting or minor control plan, the licensee has a right to contest the decision. The licensee must comply with the assigned minor posting unless the refusal is overturned through the contested case process.

(8) Minor Control Plan:

(a) The minor control plan must explain where and when minors are permitted and the control measures the applicant or licensee will use to prevent minors from obtaining alcohol, prohibit minors when drinking alcohol predominates, and minimize minors' exposure to a drinking environment. Examples of elements to be addressed in a minor control plan include but are not limited to: amount and type of bar equipment and accessories; alcohol advertising; how identification will be checked; methods for identifying

ADMINISTRATIVE RULES

minors or adults (such as with wristbands); lighting; ratio of licensee's staff to patrons; drink identification; drink limits; container sizes; if minor patrons are allowed without parent or guardian; separation of minors from alcohol; types and amount of food service; defined times when minors are allowed; type of activity or entertainment; posting signs explaining where and when minors are allowed; addressing unique requirements of the premises, room, or area; addressing the history of compliance with liquor laws and rules at the premises, room, or area; the projected average age of attendees at the event; and a plan for dealing with issues that arise (such as a minor in a prohibited area, a minor with fake identification, a minor found with alcohol, etc.). Further guidance on the elements that may be required in particular circumstances is set forth in guidelines as developed by the Commission.

(b) When the Commission approves a minor control plan that is the basis to assign a minor posting or temporarily relax a minor posting, the licensee must follow that minor control plan. Failure to follow that control plan is a Category III violation.

(c) The licensee must keep the minor control plan that was the basis to assign a minor posting and last approved by the Commission on the licensed premises and make the minor control plan available at any time for immediate inspection by any Commission employee or any peace officer. Failure to comply with this requirement is a Category IV violation.

(9) Licensee Responsibilities:

(a) The burden is on the licensee to convince the Commission that the premises does not have a "drinking environment" or that "eating food is the predominant activity" where those standards apply;

(b) The licensee is responsible for developing and completing any required written minor control plan;

(c) A licensee must use the minor posting signs provided by the Commission and place minor posting signs in full public view as directed by the Commission. A licensee must immediately replace any altered, unreadable or missing sign. Failure to do so is a Category V violation.

(10) Other Information on Minor Postings.

(a) This rule does not apply to a premises with a temporary license that is not on any part of a premises with a permanent license issued by the Commission. Examples of a temporary license or authority include: a Temporary Sales License issued under ORS 471.190; a Special Events Winery license issued under 471.223; a Special Events Grower license issued under 471.227; and a temporary use of an annual license issued under OAR 845-005-0410.

(b) To prevent violations from occurring or reoccurring, or in response to the licensee's request, the Commission may assign a minor posting to the following businesses where a minor posting is not usually assigned:

(A) Private clubs licensed as per ORS 471.175;

(B) Pre-approved small-scale private catered events as per OAR 845-005-0405 and pre-approved large-scale private catered events as per 845-005-0410.

(c) Minor Postings apply 24 hours a day, including when the premises is closed to the public or the liquor license is suspended, except that the minor posting for an outdoor area that is on a sidewalk or other public right-of-way applies to that area only during the times the premises is open for business and there is the sale, service or consumption of alcohol in the outdoor area.

(d) Notwithstanding other provisions, a minor in the immediate company of his/her spouse or Domestic Partner who is at least 21 years old may be in a premises or area where minors are prohibited if the licensee permits it. The minor must not buy, possess, or drink alcoholic beverages.

Stat. Auth.: ORS 471.471.030, 471.430(3) & 471.730(1) & (5)

Stats. Implemented: ORS 471.430(3)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2003, f. 9-23-03 cert. ef. 11-1-03; OLCC 25-2007, f. 12-17-07, cert. ef. 1-1-08; OLCC 7-2008, f. 4-24-08, cert. ef. 6-1-08; OLCC 3-2010, f. 4-19-10, cert. ef. 5-1-10

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Rule Caption: Amendments to section (2) (happy hour) related to outside advertising of alcohol for on-premises consumption.

Adm. Order No.: OLCC 4-2010

Filed with Sec. of State: 4-19-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 1-1-2010

Rules Amended: 845-007-0020

Subject: This rule restricts the type of alcohol advertising that liquor licensees may use. Section (2) specifically regulates advertising outside a licensed premises of alcoholic beverages for on-premises consumption. Due to recent case history, staff recommended amendment

of section (2) of this rule in order to make it more enforceable and clearer to licensees. The new amended language clarifies that for promotions that encourage excessive consumption, such as unlimited drinks for a fixed price and drinking contests, not only is the activity itself prohibited under our prohibited conduct rule (OAR 845-006-0345(10)), but the advertising of those practices is prohibited as well. The amendments also include eliminating the prohibition against certain temporary price reduction terms such as "happy hour" and instead replacing it with a prohibition against both 1) a specified time period and 2) a price or discount, together in the same advertisement. The amendments also include new language prohibiting advertising where a consumer must purchase multiple drinks to receive a reduced price, such as "two for one".

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-007-0020

Restrictions

(1) The Commission prohibits advertising if it contains:

(a) False or misleading information;

(b) Claims that the alcoholic beverage has curative or therapeutic effects;

(c) Claims that any government agency endorses or supports the alcoholic beverage;

(d) The requirement of purchasing an alcoholic beverage in order to receive a prize or merchandise unless the manufacturer or wholesaler donates the prize or merchandise to a charitable cause or community non-profit entity;

(e) Material so appealing to minors that it encourages them to purchase, possess, or drink alcoholic beverages;

(f) A person displayed drinking an alcoholic beverage;

(g) Material that encourages the use of an alcoholic beverage because of its intoxicating effect;

(h) Statements or illustrations that an alcoholic beverage causes athletic or artistic success;

(i) Material that encourages excessive or rapid consumption.

(2) The Commission prohibits any advertising of the promotional practices that are prohibited under OAR 845-006-0345(10).

(3) Outside the licensed premises, the Commission prohibits advertising of an alcoholic beverage for on-premises consumption if that advertising contains **both** a specified limited time period when a price or discount is available **and** either the price of the alcoholic beverage, or a specified dollar amount or percentage discount on the alcoholic beverage. Examples of specified limited time periods could include terms that reference a time of day such as "night" or "hour", a day of the week such as "Thursdays", a specific date such as "St. Patrick's Day", or similar terms.

(a) Examples of advertising that is prohibited under this section include: \$2.00 draft beer on Fridays, \$4.50 well drinks 4:00–6:00 p.m., \$1.00 off draft beer on Thursdays, half price gin and tonics 6:00–9:00 p.m., or ladies night margaritas \$4.00.

(b) Advertising the regular price of an alcoholic beverage outside the licensed premises, such as on a menu in the window or on a website, is allowed as long as there is no mention of a specified limited time period for those prices. Advertising that uses terms such as "happy hour" is also allowed as long as there is no mention of an alcoholic beverage's price or discount.

(4) Outside the licensed premises, the Commission prohibits advertising of an alcoholic beverage for on-premises consumption where the expressed or implied meaning is that a customer, in order to receive a reduced price, would be required to purchase more than one drink at a time, such as "two for the price of one", "buy one — get one free", or "two for \$_____".

(5) Advertising is considered "outside the licensed premises" if the advertising is visible or audible from the outside, including advertising on a website or on a telephone answering machine recording. Responding via email or telephone to a question from a member of the public is not considered advertising and thus is allowed.

(6) The Commission prohibits advertising that violates OAR 845-015-0130 (Advertising a retail liquor store).

(7) The Commission prohibits manufacturers and wholesalers from giving retailers point-of-sale items and advertising that the financial assistance laws prohibit (ORS 471.398 and 471.400 and OAR 845-013-0050).

Stat. Auth.: ORS 471.471.030 & 471.730(1) & (5)

Stats. Implemented: ORS 471.730(7)

ADMINISTRATIVE RULES

Hist.: LCC 56, f. 10-20-76, ef. 12-1-76; Renumbered from 845-010-0096; LCC 7-1985, f. 7-30-85, ef. 9-1-85; OLCC 16-1989, f. 12-14-89, cert. ef. 1-1-90; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 4-2010, f. 4-19-10, cert. ef. 5-1-10

Rule Caption: Amendments allowing more flexibility in advertising a retail liquor store with prior Commission approval.

Adm. Order No.: OLCC 5-2010

Filed with Sec. of State: 4-19-2010

Certified to be Effective: 5-1-10

Notice Publication Date: 1-1-2010

Rules Amended: 845-015-0130

Subject: This rule describes the specific advertising the Commission allows a retail sales agent to use to advertise a retail liquor store. The Commission accepted a petition from Saleem Noorani (a Corvallis liquor agent) requesting amendment of this rule to provide much more flexibility in what advertising, including outside signage, a liquor store would be allowed to utilize. All liquor store advertising will require prior Commission approval. The amendments will also allow a liquor store website to list the specific brands of distilled spirits they carry, as well as their price.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-015-0130

Advertising a Retail Liquor Store

(1) A retail sales agent may advertise a retail liquor store with prior Commission approval. This approval shall be based on the standards contained in the Retail Operations Manual.

(2) The Commission prohibits any advertising that contains material so appealing to minors that it encourages them to purchase, possess, or drink alcoholic beverages (OAR 845-007-0020(1)(e)).

(3) A retail sales agent may support a local, non-profit community event and receive recognition for that support if the recognition given is the same as the minimum allowed for other supporters.

(4) Agents may not use or refer to specific brand names of distilled spirits in their advertising other than in a liquor store website that lists all brand names carried in their inventory. Prices may be included within the brand name website advertising.

Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5) & 471.750

Stats. Implemented: ORS 471.750(1) & (2)

Hist.: LCC 26-1986, f. 11-20-86, ef. 1-1-87; OLCC 16-1990, f. 6-29-90, cert. ef. 7-1-90; OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03; Renumbered from 845-015-0090; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06; OLCC 5-2010, f. 4-19-10, cert. ef. 5-1-10

Oregon Medical Board Chapter 847

Rule Caption: Define approved school of medicine and add re-entry plan language.

Adm. Order No.: BME 6-2010

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10

Notice Publication Date: 3-1-2010

Rules Amended: 847-020-0100, 847-020-0130, 847-020-0150, 847-020-0160, 847-020-0183

Subject: The 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. Rule amendments update the term “foreign” to “international” when used to modify “medical graduate,” “medical school” or “school of medicine.” 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—(971) 673-2713

847-020-0100

Definitions

(1) “Approved school of medicine” means a school offering a full-time resident program of study in medicine or osteopathy leading to a degree of Doctor of Medicine or Doctor of Osteopathy, such program having been fully accredited or conditionally approved by the Liaison Committee on Medical Education, or its successor agency, or the American

Osteopathic Association, or its successor agency, or having been otherwise determined by the Board to meet the association standards.

(2) As used in OAR 847-020-0130 through 847-031-0050 “school of medicine” means any school not approved by the Liaison Committee on Medical Education, the American Osteopathic Association, or the Committee on the Accreditation of the Canadian Medical Schools of the Canadian Medical Association. Graduates of international medical schools on the list of medical schools recognized by the Medical Board of California are eligible for licensure under OAR 847-020-0130.

Stat. Auth.: ORS 677.175 & 677.265

Stats. Implemented: ORS 677.010, 677.175 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 6-2010, f. & cert. ef. 4-26-10

847-020-0130

Basic Requirements for Licensure of an International Medical School Graduate

(1) The following requirements must be met in lieu of graduation from a school of medicine approved by the Liaison Committee on Medical Education of the American Medical Association or the Committee on the Accreditation of the Canadian Medical Schools of the Canadian Medical Association in order to qualify under ORS 677.100.

(2) The requirements for licensure of the international medical school graduate are as follows:

(a) Must speak English fluently and write English legibly.

(b) Must have graduated from an international school of medicine:

(A) The medical school must be chartered in the country in which it is located.

(B) The graduate must have attended at least four full terms of instruction of eight months each, with all courses having been completed by physical on-site attendance in the country in which the school is chartered. The requirement for four full terms of instruction of eight months each term may be waived for any applicant for licensure who has graduated from an international school of medicine, has substantially complied with the attendance requirements provided herein, and is certified by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association’s Bureau of Osteopathic Specialists (AOA-BOS).

(C) Any institutions in which clinical clerkships were obtained in a country other than that in which the school is chartered must provide a certificate to prove the time spent and the satisfactory completion of the clerkships. After June 30, 1988, clinical clerkships served in the United States or Canada shall be taken only in institutions which conduct residencies approved by the Accreditation Council for Graduate Medical Education or the College of Family Physicians of Canada or the Royal College of Physicians and Surgeons of Canada or the American Osteopathic Association in the specific subject of the clerkship.

(D) The applicant must provide the Board with documentation to substantiate that the medical school from which the applicant graduated provided a resident course of professional instruction equivalent to that provided in a medical school approved by either the Liaison Committee on Medical Education of the American Medical Association or by the Committee on Accreditation of Canadian Medical Schools of the Canadian Medical Association. The international medical school from which the applicant graduated may be considered equivalent if it is on the list of medical schools recognized by the Medical Board of California or if chartered in one of the countries determined by the United States Department of Education’s National Committee on Foreign Medical Education and Accreditation (NCFMEA) to use accreditation standards comparable to those used to accredit medical schools in the United States, and is accredited by that country’s accrediting body. The Board may determine that an international medical school is not equivalent if the Board receives documentation that the medical school has had its authorization, accreditation, certification or approval denied or removed by any state, country or territorial jurisdiction or that its graduates were refused a license by any state, country or territorial jurisdiction on the grounds that the school failed or fails to meet reasonable standards for medical education facilities.

(c) Must have obtained the Standard Educational Commission for Foreign Medical Graduates Certificate issued by the Educational Commission for Foreign Medical Graduates. This requirement may be waived if accredited postgraduate training was completed in Canada, or prior to the enforcement of the ECFMG certification, or if the applicant has been certified by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association’s Bureau of Osteopathic Specialists (AOA-BOS). In lieu of the ECFMG certificate, Fifth Pathway applicants shall show evidence of passing the examination pursuant to Oregon standards.

ADMINISTRATIVE RULES

(d) Must have satisfactorily completed an approved internship and/or residency (or clinical fellowship) in the United States or Canada of not less than three years of progressive training in not more than two specialties in not more than two training programs accredited for internship, residency or fellowship training by the Accreditation Council for Graduate Medical Education or the College of Family Physicians of Canada or the Royal College of Physicians and Surgeons of Canada or the American Osteopathic Association.

(A) The following may be used in lieu of the three years of post graduate training:

(i) A valid certificate issued by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS); or

(ii) Successful completion of four years of practice in Oregon under a Limited License, Medical Faculty, in accordance with OAR 847-020-0140 (1) (b)–(c), or

(ii) Successful completion of four years of practice in another state or the District of Columbia under a license substantially similar to the Board's Limited License, Medical Faculty.

(B) If the applicant is unable to satisfy the requirement in section (d) of this rule for postgraduate training, and the applicant has been granted a dispensation by a specialty board of the American Board of Medical Specialties (ABMS) or the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS) whereby the ABMS or AOA-BOS specialty board has granted credit to the applicant for postgraduate training completed abroad toward fulfillment of the specialty board's requirements for admission to a future specialty board's certification examination, the Board may consider the ABMS or AOA-BOS specialty board's dispensation as fulfilling that same portion of the Board's requirement for postgraduate training.

(e) A graduate of a school of medicine approved by the Oregon Medical Board pursuant to OAR 847-031-0001, 847-031-0010, 847-031-0020, 847-031-0030 and 847-031-0040 must have satisfactorily completed not less than one year of approved training in the United States or Canada in not more than one hospital accredited for internship, residency or fellowship training by the Accreditation Council for Graduate Medical Education or the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada.

(f) Must pass a written licensure examination as provided in ORS 677.110 and OAR 847-020-0170.

Stat. Auth.: ORS 677.175 & 677.265

Stats. Implemented: ORS 677.010, 677.175 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 8-2002, f. & cert. ef. 7-17-02; BME 10-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 15-2004, f. & cert. ef. 7-13-04; BME 8-2005, f. & cert. ef. 7-20-05; BME 4-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 10-2006, f. & cert. ef. 5-8-06; BME 20-2007, f. & cert. ef. 10-24-07; BME 4-2009, f. & cert. ef. 1-22-09; BME 6-2010, f. & cert. ef. 4-26-10

847-020-0150

Documents and Forms to be Submitted for Licensure

The documents submitted must be no larger than 8 1/2" x by 11". All documents and photographs will be retained by the Board as a permanent part of the application file. If original documents are larger than 8 1/2" x 11", the copies must be reduced to the correct size with all wording and signatures clearly shown. The application form, photographs and the results of the Practitioner Request for Information Disclosure (Self-Query) from the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank must be originals, and all other documents must be legible copies. The following documents are required for an applicant who is a graduate of an approved school of medicine or an international medical school as indicated:

(1) Application Form: Completed formal application form provided by the Board. Each and every question must be answered with dates, showing month and year.

(2) Birth Certificate: A copy of birth certificate for proof of name and birth date.

(3) Medical school Diploma: A copy of a diploma showing graduation from an approved school of medicine or an international school of medicine. International medical graduates must have graduated after attendance of at least four full terms of instruction of eight months each.

(4) Fifth Pathway Certificate: A copy of Fifth Pathway Certificate if such program has been completed.

(5) American Specialty Board Certificate: A copy of the certificate issued by the American Specialty Board in the applicant's specialty, if applicable.

(6) American Specialty Board Recertification Certificate: A copy of the certificate of recertification issued by the American Specialty Board in the applicant's specialty, if applicable.

(7) Photograph: A close-up, finished, original photograph (passport quality), no smaller than 2" x 2" and no larger than 2 1/2" x 3", front view, head and shoulders (not profile), with features distinct, taken within 90 days preceding the filing of the application with the applicant's signature in ink and date taken on the photograph side.

(8) The results of the Practitioner Request for Information Disclosure (Self-Query) from the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank sent to the Board by the applicant.

(9) An applicant shall be required to pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and an open-book examination on the Drug Enforcement Administration's regulations governing the use of controlled substances. If an applicant fails one or both examinations three times, the applicant's application will be reviewed by the Administrative Affairs Committee of the Oregon Medical Board. An applicant who has failed one or both open-book examinations three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the examination(s), before being given a fourth and final attempt to pass the examination(s). If the applicant does not pass the examination(s) on the fourth attempt, the applicant may be denied licensure.

Stat. Auth.: ORS 677.175 & 677.265

Stats. Implemented: ORS 677.010, 677.175 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 3-2006, f. & cert. ef. 2-8-06; BME 15-2007, f. & cert. ef. 7-23-07; BME 20-2007, f. & cert. ef. 10-24-07; BME 6-2010, f. & cert. ef. 4-26-10

847-020-0160

Letters and Official Grade Certifications to be Submitted for Licensure

The applicant, a graduate of an approved school of medicine or international medical graduate, must request official letters sent to the Board directly from:

(1) The Dean of the Medical/Osteopathic School: This letter is required in addition to the certification on the application form. A copy of the Dean's Letter of Recommendation which shall include a statement concerning the applicant's moral and ethical character and overall performance as a medical student.

(2) The Program Director, Chairman or other official of the Fifth Pathway Hospital, if such applies: A currently dated original letter (a copy is not acceptable), sent directly from the hospital in which such training was served, which shall include an evaluation of overall performance and specific beginning and ending dates of training.

(3) The Director of Medical Education, Chairman or other official of the internship, residency and fellowship hospitals in the United States and foreign countries sent directly from the hospitals in which the postgraduate training was served, which shall include an evaluation of overall performance and specific beginning and ending dates of training.

(4) The Director or other official for practice and employment in hospitals, clinics, etc. in the United States and foreign countries: A currently dated original letter (a copy is not acceptable), sent directly from the hospital/clinic which shall include an evaluation of overall performance and specific beginning and ending dates of practice and employment, for the past five (5) years only. If the applicant has not practiced for more than two years, employment verifications will be required for the past ten (10) years. For physicians who have been or are in solo practice without hospital privileges at the time of solo practice, provide three reference letters from physicians in the local medical community who are familiar with the applicant's practice and who have known the applicant for more than six months.

(5) The Executive Secretary of all State Boards in the United States or Canada where the applicant has ever been licensed; regardless of status, i.e., current, lapsed, never practiced there. The currently dated original letter (a copy is not acceptable), sent directly from the boards, shall show license number, date issued, grades if applicable and status.

(6) Official Grade Certifications: If such applies, an official grade certification is required directly from the National Board of Medical/Osteopathic Examiners, the Medical Council of Canada or the Federation of State Medical Boards.

(7) The Federation of State Medical Boards: A Board Action Databank Inquiry form sent directly from the Federation of State Medical Boards to the Board.

Stat. Auth.: ORS 677.175 & 677.265

Stats. Implemented: ORS 677.010, 677.175 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 8-2005, f. & cert. ef. 7-20-05; BME 15-2007, f. & cert. ef. 7-23-07; BME 18-2008, f. & cert. ef. 7-21-08; BME 6-2010, f. & cert. ef. 4-26-10

ADMINISTRATIVE RULES

847-020-0183

SPEX or COMVEX Examination, Re-Entry Plan, Assessment of Professional Competency and Personal Interview

(1) The applicant may also be required to pass the Special Purpose Examination (SPEX) or Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX). This requirement may be waived if:

(a) The applicant has within ten years of filing an application with the Board, completed one year of an accredited residency, or an accredited or Board approved clinical fellowship; or

(b) The applicant has within ten years of filing an application with the Board, been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(c) The applicant has received an appointment as Professor or Associate Professor at the Oregon Health and Science University; and

(d) Has not ceased the practice of medicine for a period of 12 to 24 consecutive months.

(e) The SPEX or COMVEX examination may be waived if the applicant, after ceasing practice for a period of 12 or more consecutive months, has subsequently:

(A) Completed one year of an accredited residency, or

(B) Completed one year of an accredited or Board approved clinical fellowship, or

(C) Been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association, or

(D) Obtained continuing medical education to the Board's satisfaction.

(2) The applicant who has ceased the practice of medicine for more than 24 consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The Board must review and approve a re-entry plan prior to the applicant beginning the re-entry plan. Depending on the amount of time out-of-practice, the applicant may be required to obtain one or more of the following:

(a) Pass the SPEX/COMVEX examination;

(b) Practice for a specified period of time under a mentor/supervising physician who will provide periodic reports to the Board;

(c) Certification or re-certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS);

(d) Completion of a re-entry program as determined appropriate by the Board;

(e) Completion of one year of accredited postgraduate or clinical fellowship training, which must be pre-approved by the Board's Medical Director.

(3) The applicant who fails the SPEX or COMVEX examination three times, whether in Oregon or other states, shall successfully complete one year of an accredited residency or an accredited or approved clinical fellowship before retaking the SPEX or COMVEX examination.

(a) After the first or second failed attempt, the Board may allow the applicant to take an oral specialty examination, at the applicant's expense, to be given by a panel of physicians in such specialty. The applicant shall remit the cost of administering the oral examination prior to the examination being scheduled.

(b) If an oral specialty examination is requested by the applicant, an Examination Panel of at least three physicians shall be appointed.

(c) The examination shall include questions which test basic knowledge and also test for knowledge expected of a physician with a practice similar in nature to the examinee's practice. The panel shall establish a system for weighing their score for each question in the examination. After it is prepared, the examination shall be submitted to the Board for review and approval.

(d) The Board shall require a passing grade of 75 on the oral specialty examination.

(e) If such oral examination is passed, the applicant would be granted a license limited to the applicant's specialty. If failed, the license would be denied and the applicant would not be eligible for licensure.

(4) The Limited License, SPEX/COMVEX may be granted for a period of 6 months and permits the licensee to practice medicine only until the grade results of the SPEX or COMVEX examination are available, and the applicant completes the initial registration process. The Limited License, SPEX/COMVEX would become invalid should the applicant fail the SPEX or COMVEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possi-

ble, but not to exceed two weeks after the applicant receives notice of failure of the examination.

(5) After the applicant has met all requirements for licensure, the applicant may be required to appear before the Board for a personal interview regarding information received during the processing of the application. The interview shall be conducted during a regular meeting of the Board.

(6) All of the rules, regulations and statutory requirements pertaining to the medical school graduate shall remain in full effect.

Stat. Auth.: ORS 677.175 & 677.265

Stats. Implemented: ORS 677.010, 677.175 & 677.265

Hist.: BME 20-2007, f. & cert. ef. 10-24-07; BME 4-2008, f. & cert. ef. 1-22-08; BME 6-2010, f. & cert. ef. 4-26-10

Rule Caption: Update "foreign" to "international" for medical schools or graduates.

Adm. Order No.: BME 7-2010

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10

Notice Publication Date: 3-1-2010

Rules Amended: 847-023-0010, 847-023-0015

Subject: The rule amendments update the term "foreign" to "international" when used to modify "medical graduate," "medical school" or "school of medicine."

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-023-0010

Documents and Forms to be Submitted for Licensure

The documents submitted must be no larger than 8 1/2" x 11". All documents and photographs will be retained by the Board as a permanent part of the application file. If original documents are larger than 8 1/2" x 11", the copies must be reduced to the correct size with all wording and signatures clearly shown. The application form and photographs must be originals and all other documents must be legible copies. The following documents are required for a physician applying for an Oregon license, with emeritus registration:

(1) Application Form: Completed formal application form provided by the Board. Each and every question must be answered with dates, showing month and year. The application fee is waived for physicians applying for an Oregon license, with emeritus registration.

(2) Birth Certificate: A copy of birth certificate for proof of name and birth date.

(3) Medical school Diploma: A copy of a diploma showing graduation from an approved school of medicine or an international school of medicine. International medical graduates must have graduated after meeting the attendance requirements specified in OAR 847-020-0130.

(4) Fifth Pathway Certificate: A copy of fifth Pathway Certificate if such program has been completed.

(5) American Specialty Board Certification or Recertification. A copy of the certification or recertification certificate issued by the American Board Specialty Board in the applicant's specialty, if applicable.

(6) Photograph: A close-up, finished, original photograph (passport quality), no smaller than 2" x 2" and no larger than 2 1/2" x 3", front view, head and shoulders (not profile), with features distinct, taken within 90 days preceding the filing of the application with the applicant's signature in ink and date taken on the photograph side.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: BME 9-2007(Temp), f. & cert. ef. 2-6-07 thru 8-3-07; BME 16-2007, f. & cert. ef. 7-23-07; BME 7-2010, f. & cert. ef. 4-26-10

847-023-0015

Letters and Official Grade Certifications to be Submitted for Licensure with Emeritus Registration

(1) The applicant for licensure with emeritus registration must either request official letters to be sent directly to the Board from the following sources or a certified copy from another state medical board where the applicant is licensed:

(a) The Dean of the Medical/Osteopathic School to complete the Verification of Medical Education form, which includes: degree issued, date of degree, dates of attendance, dates and reason of any leaves of absence or repeated years, and dates, name and location of medical school if a transfer student, and submit directly to the Board. Graduates of medical schools in the United States must have graduated from a school per OAR 847-020-0120 (2)(a) and graduates of international medical schools must have graduated from a school per 847-020-0130 (2)(b).

ADMINISTRATIVE RULES

(b) A copy of the Dean's Letter of Recommendation which shall include a statement concerning the applicant's moral and ethical character and overall performance as a medical student.

(c) The Program Director, Chairman or other official of the Fifth Pathway Hospital, if such applies: A currently dated original letter from the hospital in which such training was served, shall include an evaluation of overall performance and specific beginning and ending dates of training. A certified copy from the state medical board is acceptable.

(d) The Director of Medical Education, Chairman or other official of the internship, residency and fellowship hospitals in the United States and foreign countries, in which the postgraduate training was served, which shall include an evaluation of overall performance and specific beginning and ending dates of training.

(2) The applicant for licensure with emeritus registration must request official letters to be sent directly to the Board from the following sources:

(a) The Director or other official for practice and employment in hospitals, clinics, etc., in the United States and foreign countries: A currently dated original letter (a copy is not acceptable), from the hospital/clinic which shall include an evaluation of overall performance and specific beginning and ending dates of practice and employment, for the past five (5) years only. If the applicant has not practiced for more than two years, employment verifications will be required for the past ten (10) years. For physicians who have been or are in solo practice without hospital privileges at the time of solo practice, provide three reference letters from physicians in the local medical community who are familiar with the applicant's practice and who have known the applicant for more than six months.

(b) The Executive Secretary of the State Board in the United States or Canada where the applicant has been licensed and is currently practicing or most recently practiced. The currently dated original letter (a copy is not acceptable) from the board shall show license number, date issued and status.

(c) Official Grade Certifications: An official grade certification is required from the National Board of Medical Examiners (NBME), National Board of Osteopathic Medical Examiners (NBOME), Federation Licensing Examination (FLEX), or the Federation of State Medical Boards for the United States Medical Licensing Examination (USMLE).

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: BME 9-2007(Temp), f. & cert. ef. 2-6-07 thru 8-3-07; BME 16-2007, f. & cert. ef. 7-23-07; BME 7-2010, f. & cert. ef. 4-26-10

Rule Caption: Deletes sunset date for EMT-1 and EMT-P administration of seasonal and pandemic influenza vaccinations.

Adm. Order No.: BME 8-2010(Temp)

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10 thru 10-15-10

Notice Publication Date:

Rules Amended: 847-035-0030

Subject: The temporary rule deletes the sunset date of June 30, 2010 from the rule on language related to immunizations for EMT-Intermediates and EMT-Paramedics.

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 posses-

ADMINISTRATIVE RULES

sion 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 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: Naloxone hydrochloride;

(E) Antihypoglycemics:

(i) Hypertonic glucose,

(ii) Glucagon;

(F) Vasodilators: 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.

(i) Distribute medications at the direction of the Oregon State Public Health Officer as a component of a mass distribution effort.

(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; BME 8-2010(Temp), f. & cert. ef. 4-26-10 thru 10-15-10

Rule Caption: Allow volunteer and rotating practice assignments by physician assistants.

Adm. Order No.: BME 9-2010

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10

Notice Publication Date: 3-1-2010

Rules Adopted: 847-050-0046

Subject: The rule amendment 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—(971) 673-2713

ADMINISTRATIVE RULES

847-050-0046

Active Status for Temporary, Rotating Assignments

(1) A physician assistant, upon notification to the Board, may retire from active, permanent practice and change to Emeritus status which allows the physician assistant to practice temporary, volunteer assignments. A physician assistant with Emeritus status who wishes to volunteer at a medical facility must have a Board approved practice description prior to starting practice at each assignment.

(2) A physician assistant, upon notification to the Board, may retire from active, permanent practice and maintain Active status by practicing at medical facilities for assignments on a rotating basis.

(a) A physician assistant who wishes to maintain active status and practice in rotating assignments at permanent locations must have a Board approved practice description and must provide the Board with timely notification of the dates of each assignment prior to beginning each rotating assignment.

(b) The physician assistant must practice a minimum of thirty (30) days a year in order to continue to be eligible for Active status. The physician assistant will report the number of days practiced per year on the biennial registration renewal form.

Stat. Auth.: ORS 677.265 & 677.545

Stats. Implemented: ORS 677.265, 677.510 & 677.515

Hist.: BME 9-2010, f. & cert. ef. 4-26-10

Rule Caption: National certification exam attempt limit waiver for NCCPA certification for physician assistants.

Adm. Order No.: BME 10-2010(Temp)

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10 thru 10-15-10

Notice Publication Date:

Rules Amended: 847-050-0020

Subject: The temporary rule allows a waiver of the requirements to pass the NCCPA certification exam within four attempts if the applicant is currently certified by the NCCPA.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-050-0020

Qualifications

On or after January 25, 2008, an applicant for licensure as a physician assistant in this state, must possess the following qualifications:

(1) Have successfully completed a course in physician assistant training which is approved by the American Medical Association Committee on Allied Health Education and Accreditation (C.A.H.E.A.), the Commission on Accreditation for Allied Health Education Programs (C.A.A.H.E.P.), or the Accreditation Review Commission on Education for the Physician Assistant (A.R.C.P.A.).

(2) Have passed the Physician Assistant National Certifying Examination (PANCE) given by the National Commission on Certification of Physician Assistants (N.C.C.P.A.).

(a) The applicant may take the PANCE once in a 90-day period or three times per calendar year, whichever is fewer.

(A) The applicant has no more than four attempts in six years to pass the PANCE. If the applicant does not pass the PANCE within four attempts, the applicant is not eligible for licensure.

(B) An applicant who has passed the NCCPA certification exam, but not within the four attempts required by this rule, may request a waiver of this requirement if he/she has current certification by the NCCPA.

(b) Those who have met the requirements of section (1) of this rule may make application for a Limited License, Postgraduate before passing the PANCE examination with the stipulation that if the examination is not passed within one year from the date of application, the Board shall withdraw its approval.

(3) Applicants that apply for prescription privileges must meet the requirements specified in OAR 847-050-0041.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 10-1984, f. & ef. 7-20-84; ME 5-1986, f. & ef. 4-23-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1993, f. & cert. ef. 4-22-93; ME 17-1994, f. & cert. ef. 10-25-94; BME 1-1998, f. & cert. ef. 1-30-98; BME 2-2000, f. & cert. ef. 2-7-00; BME 1-2001, f. & cert. ef. 1-25-01; BME 6-2003, f. & cert. ef. 1-27-03; BME 6-2008, f. & cert. ef. 1-22-08; BME 10-2010(Temp), f. & cert. ef. 4-26-10 thru 10-15-10

Oregon Patient Safety Commission Chapter 325

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

Adm. Order No.: PSC 1-2010

Filed with Sec. of State: 4-26-2010

Certified to be Effective: 4-26-10

Notice Publication Date: 3-1-2010

Rules Adopted: 325-030-0001, 325-030-0005, 325-030-0010, 325-030-0015, 325-030-0020, 325-030-0025, 325-030-0030, 325-030-0035, 325-030-0040, 325-030-0045, 325-030-0050, 325-030-0055, 325-030-0060

Subject: 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—(503) 224-9226

325-030-0001

Definitions

As used in OAR 325-030-0001 to 325-030-0060:

(1) “**Commission**” means the Oregon Patient Safety Commission.

(2) “**Event Report**” means the form designated by the Commission to be used by Renal Dialysis Participants for the reporting of Reportable Renal Dialysis Adverse Events.

(3) “**Renal Dialysis Participant**” means an outpatient renal dialysis facility as defined in ORS 442.015, that has volunteered to participate in the Oregon Patient Safety Reporting Program.

(4) “**Oregon Patient Safety Reporting Program**” means the Patient Safety Reporting Program, as defined in ORS 442.837, and operated by the Commission.

(5) “**Participant**” means an entity that reports Patient Safety Data to the Oregon Patient Safety Reporting Program, and any agent, employee, consultant, representative, volunteer or medical staff member of the entity.

(6) “**Patient Safety Activities**” include but are not limited to:

(a) The collection and analysis of Patient Safety Data by a Participant;

(b) The collection and analysis of Patient Safety Data by the Oregon Patient Safety Commission established in ORS 442.820;

(c) The utilization of Patient Safety Data by Participants;

(d) The utilization of Patient Safety Data by the Oregon Patient Safety Commission to improve the quality of care with respect to patient safety and to provide assistance to health care providers to minimize patient risk; and

(e) Oral and written communication regarding Patient Safety Data among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to the Oregon Patient Safety Reporting Program.

(7) “**Patient Safety Data**” means oral communication or written reports, data, records, memoranda, analyses, deliberative work, statements, root cause analyses or action plans that are collected or developed to improve patient safety or health care quality that:

(a) Are prepared by a Participant for the purpose of reporting Patient Safety Data voluntarily to the Oregon Patient Safety Reporting Program, or that are communicated among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to the Oregon Patient Safety Reporting Program; or

(b) Are created by or at the direction of the Patient Safety Reporting Program, including communication, reports, notes, or records created in the course of an investigation undertaken at the direction of the Oregon Patient Safety Commission.

(8) “**Reportable Adverse Event**” for the purposes of OAR 325-030-0001 to 325-030-0060 means any unanticipated, usually preventable consequences of patient care that result in patient death or serious physical injury. This includes events that:

(a) Are not related to the natural course of the patient’s illness or underlying condition; and

(b) Resulted in temporary and/or permanent physical harm.

NOTE: In addition, Reportable Adverse Events include those described in [Appendix A](#).

NOTE: Appendix A is incorporated by reference.

Stat. Auth.: ORS 442.820

Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)

Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

ADMINISTRATIVE RULES

325-030-0005

Enrollment in the Oregon Patient Safety Reporting Program

(1) Participation in the Oregon Patient Safety Reporting Program is voluntary. Renal Dialysis Participants are entitled to the benefits and subject to the obligations set forth in these administrative rules.

(2) Interested Renal Dialysis Facilities may apply for participation in the Oregon Patient Safety Reporting Program by completing the Commission's registration form. The registration form must include the name of a designated contact person. Changes to any information on the registration form must be reported to the Commission with 30 days of the effective change.

(3) In agreeing to participate, a Renal Dialysis Facility must affirm that it is willing to share fully all requested Patient Safety Data with the Commission. This statement must be signed by the Renal Dialysis Facility's regional chief executive and Quality Director, or their equivalents.

(4) Upon enrolling in the Oregon Patient Safety Reporting Program, a Renal Dialysis Participant must have adopted policies and procedures describing patient safety activities, including how it triages adverse events; how it investigates adverse events, and how it provides notice of serious adverse events to a patient and/or family member. The Renal Dialysis Participant must provide copies to the Commission upon request.

(5) Within 30 calendar days of receipt and acceptance of the registration form the Commission will issue a certificate establishing a Renal Dialysis Participant's enrollment in the Oregon Patient Safety Reporting Program. The Renal Dialysis Participant should conspicuously post the certificate in public view.

(6) The Commission will issue a press release on a regular basis, which will provide a list of Renal Dialysis Participants to the public.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0010

Annual Renal Dialysis Fee

(1) All renal dialysis facilities, as defined in ORS 442.015, must pay an annual fee of \$750. Per ORS 442.850 these fees will be assessed independent of participation status in the Oregon Patient Safety Reporting Program.

(2) Annual Renal Dialysis fees will be due by December 1 for the next year's enrollment. A delinquent renewal fee of up to 25% of the renewal fee may be assessed against a Renal Dialysis Facility submitting fees post-marked after December 31st.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0015

Termination of Participation

(1) The Commission's reporting program relies on voluntary reporting. However, the Commission is responsible for ensuring that those who choose to participate also comply with the standards established by the Commission.

(2) Participation requirements include the reporting of all Reportable Adverse Events; fully completing Event Reports; creating and implementing acceptable action plans; and providing written disclosure to patients or families following a Reportable Adverse Event.

(3) If the Commission believes a Renal Dialysis Participant is not meeting its participation requirements, the Commission must provide the Renal Dialysis Participant with a written notice explaining why. The Renal Dialysis Participant will have 30 calendar days to respond and come into compliance.

(4) The Commission may deny, suspend, or revoke a Renal Dialysis Participant's status when the Commission finds that there has been a substantial failure to comply with the provisions of participation. Upon written notification by the Commission of revocation, suspension, or denial of a Renal Dialysis Participant enrollment in the Oregon Patient Safety Reporting Program, a Renal Dialysis Participant may request a hearing. Hearings will be held in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0020

Re-Issue of Suspended or Revoked Participation Certificate

The Commission may re-issue a participation certificate that has been suspended or revoked if the Commission determines that the Renal Dialysis applicant for re-enrollment meets the provisions of participation.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0025

Reporting Adverse Events

(1) The Commission will provide an Event Report form to be used by Renal Dialysis Participants for reporting Reportable Adverse Events. The Event Report will include a summary description of the event; a description of the Renal Dialysis Participant's complete, thorough, and credible analysis for that event; information about plans to implement improvements to reduce risk. The meaning of terms "complete," "thorough," and "credible" are explained in OAR 325-030-0035.

(2) Renal Dialysis Participants must use the Event Report form when reporting Adverse Events to the Commission.

(3) Renal Dialysis Participants must submit a completed Event Report to the Commission within 45 calendar days of discovery of a Reportable Adverse Event.

(4) If a Renal Dialysis Participant believes the Commission should immediately issue an alert to all Oregon Renal Dialysis Facilities based on a specific Reportable Adverse Event, the Renal Dialysis Participant should provide an initial report to the Commission within 3 business days of discovery of the event, or sooner. The Renal Dialysis Participant and Commission will work together to identify information to include in the alert.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0030

Renal Dialysis Reporting of Close Calls and Less Serious Events

(1) In addition to Reportable Adverse Events, Participating Renal Dialysis Facilities are also encouraged to report less serious events and close calls/near misses. Participating Renal Dialysis Facilities should do so when they believe such events present the potential for significant harm.

(2) To report such events, Renal Dialysis Participants should use the appropriate sections of the Event Report form. Renal Dialysis Participants will not be required to complete detailed root cause analysis for these close calls or less serious events.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0035

Commission Review of Reports

(1) When the Commission receives an Event Report from a Renal Dialysis Participant, the Commission will determine whether that Event Report is complete, thorough, credible, and acceptable. As used by the Commission:

(a) A report is *complete* if it contains all the information requested in the Event Report, or explains, to the Commission's satisfaction, why that information is not available or not necessary to provide;

(b) A report is *thorough* if the investigation (root cause analysis) of the event includes an analysis of all relevant systems issues and shows evidence of an inquiry into all appropriate areas;

(c) A report is *credible* if it shows evidence that the investigation of the Reportable Renal Dialysis Adverse Event included participation by leadership within the organization and was logically consistent; and

(d) A report is *acceptable* if all the above standards are met and the action plans clearly describe meaningful system-level improvement strategies designed to minimize risk, or indicate why only individual improvement strategies are appropriate for the reported event.

(2) If the Commission believes that an Event Report received from a Renal Dialysis Participant is incomplete or unacceptable in some manner, it will inform the Renal Dialysis Participant's contact person within 10 business days of receipt of the Event Report.

(3) On an annual basis, the Commission will query Renal Dialysis Participants regarding the status of action plans identified in their Event Reports.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0040

Public Health Officer Certification

(1) At least annually, the Commission will request that the Public Health Officer certify the completeness, credibility, and thoroughness of each Renal Dialysis Participant's reporting during the applicable period.

ADMINISTRATIVE RULES

(2) The Commission will request that the Public Health Officer develop independent and objective standards to evaluate the overall integrity of the Patient Safety Reporting Program. On an annual basis, the Commission will request that the Public Health Officer use those standards to certify the Oregon Patient Safety Reporting Program.

(3) The Commission will provide information to the Public Health Officer to assist the Public Health Officer in completing the certification processes listed in (1) and (2) of this rule, consistent with OAR 325-030-0055.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0045

Patient Notification

(1) After a Reportable Adverse Event that results in death or serious physical injury, a Renal Dialysis Participant must provide written notification to each affected patient, or, if necessary, to the patient's personal representative. Notification must be timely and should be consistent with the Renal Dialysis Participant's internal communication and disclosure policies.

(2) As provided in ORS 442.837(4), notice provided under this subsection may not be construed as an admission of liability in a civil action.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0050

Extensions and Waivers

(1) The Commission may grant an extension of any time requirement stipulated in these rules if the Renal Dialysis Participant provides justification that the delay is due to factors beyond its control or that the delay will not adversely affect the purposes of the Commission. A Renal Dialysis Participant requesting a waiver must submit a written request to the Commission prior to the deadline for the required action. Facsimile requests are acceptable.

(2) The Commission may grant a waiver of any other provision of these rules if the Renal Dialysis Participant provides justification that granting the waiver will not adversely affect the purposes of the Commission.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0055

Protection of Patient Safety Data

(1) The Commission is subject to all the confidentiality provisions set forth in ORS 442.819 to 442.846.

(2) The Commission will maintain the confidentiality of all Patient Safety Data that identifies or could be reasonably used to identify a Renal Dialysis Participant or an individual who is receiving or has received health care from the Renal Dialysis Participant.

(3) Before it takes receipt of any confidential Patient Safety Data, the Commission will have in place appropriate safeguards and security measures to ensure the technical integrity and physical safety of such data.

(4) Pursuant to ORS 442.820(4), meetings or portions of meetings where the Oregon Patient Safety Commission Board of Directors, or subcommittees or advisory committees consider information that identifies a participant or patient are not subject to the Oregon Public Meetings Law, ORS 192.610 to 192.690.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

325-030-0060

Commission's Use of Patient Safety Data

(1) The Commission will create a standing committee on best practices in patient safety. This committee will advise the Commission on effective methods for making use of and sharing information gathered from the Commission's review of Event Reports.

(2) At least quarterly, the Commission will provide Renal Dialysis Participants with patient safety quality improvement information derived from Patient Safety Data.

(3) During the second quarter of each year, the Commission will publish a report to the public summarizing Patient Safety Data for the preceding calendar year. This report will use aggregate, de-identified data from the program and will describe statewide adverse event patterns and best practices to avoid the occurrence or minimize the effects of adverse events.

(4) The Commission will maintain an easily accessible and well-publicized website to share patient safety information directly with consumers.

(5) The Commission, within its resource limitations, will provide technical assistance to Renal Dialysis Participants, including but not limited to recommendations and advice regarding methodology, communication, dissemination of information, data collection, security and confidentiality.

(6) The Commission will work with representatives of organizations participating in the Oregon Patient Safety Reporting Program and with other interested parties to develop recommendations for continued improvements in the collection and utilization of Patient Safety Data.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10

Oregon State Marine Board
Chapter 250

Rule Caption: Rule procedures for the aquatic invasive species prevention program.

Adm. Order No.: OSMB 7-2010

Filed with Sec. of State: 5-6-2010

Certified to be Effective: 5-6-10

Notice Publication Date: 2-1-2010

Rules Amended: 250-010-0650

Rules Repealed: 250-010-0650(T)

Subject: The 2009 Oregon Legislature passed HB 2220 directing the Marine Board to create an aquatic invasive prevention fund by charging a small fee on all registered powerboats and manually powered boats 10 feet or longer. This rule will clarify age requirements, purchase compliance and reciprocity.

Rules Coordinator: June LeTarte—(503) 378-2617

250-010-0650

Aquatic Invasive Species Prevention Permit

(1) Definitions:

(a) "Manually powered boat" means any watercraft as defined in ORS 830.005(2), but not a motorboat as defined in 830.005(6).

(b) "Aquatic Invasive Species Prevention Permit" means a document issued by the Oregon State Marine Board (Board) or through designated agents that certifies payment to the Aquatic Invasive Species Prevention Fund.

(c) "Board" means the Oregon State Marine Board.

(d) "Valid temporary permit" means a temporary aquatic invasive species prevention permit generated from a person purchasing a permit from a designated Internet agent.

(2) Permit Rules:

(a) A person may not operate a manually powered boat that is 10 feet or more in length, or a motorboat of any length, or a sailboat 12 feet or more in length, on the waters of this state without first obtaining an aquatic invasive species prevention permit from the Board or designated agent.

(b) The owner of a boat for which fees for a certificate of number or registration under ORS 830.790(1)(a)(b)(c) are required will pay an aquatic invasive species prevention permit surcharge of \$5 per biennium at the time of boat registration.

(A) The registration validation stickers are in lieu of an Aquatic Invasive Species Prevention Permit as described in (1)(b).

(B) The validation stickers are non-transferable.

(c) Persons age 14 and older operating manually powered boats that are 10 feet or more in length shall have a valid aquatic invasive species prevention permit or valid temporary permit on board when the boat is in use on the waters of this state.

(d) Out-of-state motorboats and out-of-state sailboats 12 feet in length or more shall carry a non-resident aquatic invasive species prevention permit on board when in use on waters of the state.

(e) Non-motorized and out-of-state resident permits are transferrable. The name on the permit does not need to match the name of the person operating the boat. Persons may purchase multiple permits for use by family and friends.

(f) Operators of manually powered boat liveries, and guides using manually powered watercraft for group-guided activities, may qualify to purchase aquatic invasive species prevention permits at a discounted rate described in HB 2220 (2009 Legislature). To qualify for the discounted rate:

(A) These operators shall register with the Board by documenting current business status as a livery.

ADMINISTRATIVE RULES

(B) All boats rented by the livery must be clearly labeled with the livery name.

(g) Clubs or organizations that possess or own boats for communal use by members, participants, racing teams, or for public educational purposes except as exempted under HB 2220, may purchase aquatic invasive species prevention permits under the name of the organization or the club's presiding officer or secretary.

(A) The aquatic invasive species prevention permit may be attached to the boat in a manner allowing it to be easily produced for inspection by a peace officer.

(B) For boats classified as university or college racing shells which compete in intercollegiate crew races, aquatic invasive species prevention permits numbering not less than the maximum number of boats in use on the water at any given time during a planned event may be held by the event organizer, coach or other designated person at the event site as long as the permits are readily available for inspection by a peace officer.

(h) The Board or designated agent may issue a temporary aquatic invasive species prevention permit to an individual who pays for the permit using a Board designated Internet agent.

(A) The temporary aquatic invasive species prevention permit will be valid for 14 days from the date of issue listed on the temporary permit.

(B) Each temporary permit shall contain a unique number that corresponds to the electronic record for the individual named on the permit and to the annual permit.

(i) A person is considered in violation of the provisions contained in HB 2220 and subject to the penalties prescribed by law when they:

(A) Alter an aquatic invasive species prevention permit; or

(B) Produce or possess an unauthorized replica of an aquatic invasive species prevention permit; or

(C) Exhibit an altered aquatic invasive species prevention permit to a peace officer.

(j) The aquatic invasive species prevention permit expires on December 31 of the year indicated on the permit.

(k) The following vessels or classifications are exempt from the requirement to carry an aquatic invasive species prevention permit:

(A) State-owned boats

(B) County-owned boats

(C) Municipality-owned boats

(D) Eleemosynary-owned boats

(E) A ship's lifeboat used solely for lifesaving purposes

(F) Seaplanes

(G) The Lightship Columbia

(l) Violation of the provisions contained in HB 2220 is punishable as a Class D Violation.

(3) Out-of-state motorboats and out-of-state sailboats 12 feet in length or more shall purchase and carry a non-resident aquatic invasive species prevention permit on board when in use on waters of the state.

(a) Motor boats and sailboats 12 feet in length or more, registered in Washington or Idaho, that launch directly into waters that form a common interstate boundary, or launch in Oregon tributaries within one mile of these waters, that have a current boat registration, Coast Guard documentation, or an aquatic invasive species prevention permit issued by the States of Idaho or Washington, are exempt from the non-resident Oregon aquatic invasive species prevention permit.

(b) Manually powered boats from Idaho that are 10 feet or longer and affixed with an Idaho Aquatic Invasive Species Prevention sticker, and all manually powered boats from Washington, are exempt from Oregon aquatic invasive species permit carriage requirements when launching into waters that form a common interstate boundary, or when launching into Oregon tributaries within one mile of these waters.

Stat. Auth.: ORS 830 & HB 2220

Stats. Implemented: ORS 830.110

Hist.: OSMB 4-2009, f. 10-30-09, cert. ef. 1-1-10; OSMB 1-2010(Temp), f. & cert. ef. 1-5-10 thru 6-30-10; OSMB 6-2010(Temp), f. & cert. ef. 1-15-10 thru 6-30-10; OSMB 7-2010, f. & cert. ef. 5-6-10

Rule Caption: Temporary Intermittent Closure of Sandy River in Clackamas County.

Adm. Order No.: OSMB 8-2010(Temp)

Filed with Sec. of State: 5-6-2010

Certified to be Effective: 6-1-10 thru 8-31-10

Notice Publication Date:

Rules Amended: 250-020-0033

Subject: This rule action will temporarily close the Sandy River, on an intermittent basis, due to construction associated with the Bull Run water supply.

Rules Coordinator: June LeTarte—(503) 378-2617

250-020-0033

Boat Operations in Clackamas County

(1) Clackamas River: No person shall operate a motorboat in excess of "Slow-No Wake" (5 MPH) from the Highway 99 Bridge downstream to the Willamette River, May 1st through October 15th.

(2) Molalla River: No person shall operate a motorboat with a jet pump drive upstream of the Highway 99 Bridge.

(3) Tualatin River: No person shall operate a motorboat for the purpose of towing a person on water skis, knee board, wake board, tube or similar device.

(4) North Fork Reservoir:

(a) No person shall operate a motorboat with a jet pump drive above a point 2.3 miles upstream of the North Fork Dam;

(b) No person shall operate a motorboat in excess of a 5 MPH slow no-wake speed on that portion of the reservoir north of Highway 224 known as North Arm or within 200 feet of the entrance to North Arm, as marked.

(5) Roslyn Lake: No person shall operate a boat with a motor.

(6) Sandy River: Is closed, due to construction activity, one-half mile above Dodge Park at approximate river mile 19.3 downstream to the Conduit Bridge at approximate river mile 18.8 from:

(a) June 6, 2010, 11:59 p.m. through June 11, 2010, 11:59 p.m.;

(b) July 11, 2010, 11:59 p.m. through July 16, 2010, 11:59 p.m.;

(c) August 15, 2010 11:59 p.m. through August 20, 2010, 11:59 p.m.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 2-1978, f. & ef. 4-5-78; MB 6-1978, f. & ef. 7-31-78; Renumbered from 250-020-0143; MB 21-1987, f. 12-31-87, ef. 1-1-88; OSMB 7-2000, f. & cert. ef. 12-1-00; OSMB 11-2001, f. & cert. ef. 10-29-01; OSMB 3-2004(Temp), f. 7-14-04, cert. ef. 7-15-04 thru 8-31-04; Administrative correction 9-28-04; OSMB 8-2010(Temp), f. 5-6-10, cert. ef. 6-1-10 thru 8-31-10

Rule Caption: Establish a speed restriction in the Miller Arm area of Siltcoos Lake.

Adm. Order No.: OSMB 9-2010(Temp)

Filed with Sec. of State: 5-6-2010

Certified to be Effective: 5-6-10 thru 9-30-10

Notice Publication Date:

Rules Amended: 250-020-0221

Subject: This rule action establishes a speed restriction of 10 MPH in Miller Arm, north of the buoy line, in Siltcoos Lake.

Rules Coordinator: June LeTarte—(503) 378-2617

250-020-0221

Boat Operations on Certain Waters in Lane County

(1) No person shall operate a motorboat in excess of 5 MPH ("Slow-No Wake") in the following areas:

(a) Triangle Lake: Within 200 feet of a marked swimming area or a designated public launching ramp;

(b) Fern Ridge Lake:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) In the Coyote Creek Channel;

(C) Between shore and buoy line which extends southerly from the north shore to a point approximately 200 feet of the northern most Eugene Yacht Club mooring dock thence generally south and west approximately 200 feet of the docks to a point approximately 200 feet south of the Tri Pass Club mooring dock thence generally west to the southern tip of the Tri Pass Club dock as buoyed except for the buoyed corridor immediately south of the Eugene Yacht Club southernmost dock;

(D) South of the buoy line which extends easterly from a point approximately 100 yards north of the Perkins Boat Ramp to the adjacent shoreline;

(E) In the Main Long Tom River Channel.

(c) Dexter Dam Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) Within 50 feet of the causeway crossing the reservoir.

(d) Lookout Point Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) East of the Southern Pacific Railroad bridge.

ADMINISTRATIVE RULES

- (e) Dorena Dam Reservoir:
(A) Within 200 feet of a marked swimming area or a designated public launching ramp.
(B) Southeast of a line between markers on Humphrey Point and the northeast shore.
(f) Cottage Grove Reservoir:
(A) Within 200 feet of a marked swimming area or a designated public launching ramp;
(B) South of a line between a marker on the east shore, near the Wilson Creek area, and on the west shore near Cedar Creek.
(g) Hills Creek Reservoir:
(A) Within 200 feet of a marked swimming area or a designated public launching ramp;
(B) On Packard Creek arm west of Rigdon Road (USFS Road #21);
(C) On Hills Creek south of the Hills Creek Crossing Bridge;
(D) On the Middle Fork, Willamette River south of the Rigdon Road (USFS #21) (Upper Crossing) Bridge;
(E) No person shall operate a motorboat for any purpose on Larison Creek arm west of Rigdon Road (USFS Road #21).
(h) Collard Lakes;
(i) Picket Lake;
(j) Munsel Lake: West of the line of marker buoys;
(k) Fall Creek Lake:
(A) Within 200 feet of a designated public launching ramp or marked swimming area;
(B) On Fall Creek upriver from the buoys located approximately 200 feet downstream of the Big Fall Creek Road;
(C) On Winberry Creek upriver from the buoys located approximately 1800 feet downstream of the Winberry Creek Road Bridge.
(l) Siltcoos Lake:
(A) Within 200 feet of a designated public launching ramp or marked swimming area;
(B) Between shore and buoy line at the mouth of Kiechle Arm beginning at a point at the east shoreline of Arrowhead Point and extending northerly approximately 900 yards to a point approximately 100 yards off shore of Camp Baker during the period of June 1 through September 30.
(C) In Miller Arm north of the buoy line, located at the entrance near Nightingales' Fishing Camp, no person shall operate a motorboat for any purpose in excess of 10 MPH during the period of May 1 through September 31.
(2) No person shall operate a motorboat in excess of 5 MPH on Leaburg Reservoir and the McKenzie River from the dam upstream to Good Pasture Bridge.
(3) No person shall operate a motorboat in excess of a "Slow-No Wake" speed within 300 feet of a boat launching ramp or a boat moorage on the following bodies of water (for purpose of this regulation, "Slow-No Wake" speed means the speed of a boat shall not exceed 5 MPH):
(a) Cougar Reservoir;
(b) Blue River Reservoir;
(c) Siuslaw River — between the river entrance and the highway bridge at Mapleton.
(4) No person shall operate a motorboat for any purpose on the following lakes: Scott, Melakwa, Hidden, Blair, Upper Erma Bell, Middle Erma Bell, Lower Erma Bell, Torrey, Whig, Wahanna, Rigdon, Lower Rigdon, Kiwa, Upper Eddeelee, Round, Betty, and Alameda.
(5) No person shall operate a motorboat for any purpose in excess of 10 MPH on Munsel Lake east of the line of marker buoys, except from June 1 through September 30, between the hours of 10 a.m. and 5 p.m.
(6) No person shall operate a motorboat on the McKenzie River above Good Pasture Bridge, except a representative of the Oregon State Police or the County Sheriff's Office pursuant to a criminal investigation or search and rescue operation.
(7) No person shall operate a motorboat, except with an electric motor:
(a) In the Old Long Tom River Channel;
(b) On Fern Ridge Reservoir south of State Highway 126;
(c) On Hult Reservoir.
(8) No person shall operate a propeller-driven airboat or non-displacement hull type hovercraft in the following areas on Fern Ridge Reservoir where there is emergent vegetation present:
(a) Coyote Creek area — east of a line beginning at the West Coyote Creek bridge at Highway 126 extending north approximately one mile to a point near the mouth of Coyote Creek, then extending north approximately 1.4 miles to a point located approximately 100 yards off shore of the northwest corner of Gibson Island;

(b) Amazon Bay area — east of a line beginning at a point located approximately 100 yards off shore of the northwest corner of Gibson Island extending northeast approximately one mile to the Shore Lane access;

(c) South Marsh area — west of a line extending from a point on the shoreline at the southern boundary of Zumwalt Park near the end of Vista Drive extending southeast approximately one mile to a point on the shoreline at the tip of Perkins Peninsula;

(d) Long Tom Area — southwest of a line beginning at a point on the shore line at the end of Moyer Lane extending southeast approximately 0.9 miles to a point on the west shoreline of the Jeans Peninsula at the north end of Winter Lane.

(9) No person shall operate a motorboat north and east of a line across the entrance of Bannister Cove on Lookout Point Reservoir, as marked.

(10) Use of internal combustion motors in boats and floatplanes operating on the surface of Waldo Lake is prohibited year round. "Watercraft" includes boats and floatplanes operating on the surface of Waldo Lake. Official use of internal combustion motors in watercraft operated on the surface of Waldo Lake by local, state or federal governmental officials or agents is allowed for the following activities: search and rescue, law enforcement and fire suppression. Previous approval by the Willamette National Forest Supervisor is required for other activities undertaken by local, state or federal government officials or agents that involve use of internal combustion motors in watercraft operated on the surface of Waldo Lake. Emergency landings of private or governmental floatplanes on Waldo Lake are allowed without previous approval.

Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented: ORS 830.175

Hist.: MB 21, f. 8-23-63; MB 27, f. 6-3-65; MB 31, f. 6-20-66; MB 42, f. 12-3-68; MB 44, f. 8-21-69; MB 48, f. 6-28-71, ef. 7-25-71; MB 49, f. 8-14-72, ef. 9-1-72; MB 3-1979(Temp), f. & ef. 6-22-79; MB 5-1979, f. 7-31-79, ef. 8-1-79; Renumbered from 250-020-0131; MB 8-1981, f. & ef. 11-16-81; MB 5-1982, f. & ef. 6-1-82; MB 6-1982, f. & ef. 6-1-82; MB 15-1984, f. 11-30-84, ef. 12-1-84; MB 6-1995, f. & cert. ef. 7-14-95; MB 9-1996, f. & cert. ef. 5-29-96; OSMB 2-2000, f. & cert. ef. 7-14-00; OSMB 2-2001, f. & cert. ef. 1-25-01; OSMB 1-2008, f. & cert. ef. 1-15-08; OSMB 3-2010, f. & cert. ef. 1-15-10; OSMB 9-2010(Temp), f. & cert. ef. 5-6-10 thru 9-30-10

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Rule Caption: Rule prohibits motorboats and float planes on Waldo Lake.

Adm. Order No.: OSMB 10-2010

Filed with Sec. of State: 5-6-2010

Certified to be Effective: 5-6-10

Notice Publication Date: 2-1-2010

Rules Amended: 250-030-0030

Rules Repealed: 250-030-0030(T)

Subject: This rule will prohibit motorboats and float planes on Waldo Lake. Exemptions include emergency landings or watercraft used for official purposes such as search and rescue, law enforcement and fire suppression with US Forest Service approval.

Rules Coordinator: June LeTarte—(503) 378-2617

250-030-0030

Regulations

The State Marine Board is authorized to carry out the provisions of the Federal Wild and Scenic Rivers Act (PL 90-542) and the State Scenic Waterways Act (ORS 390.805 to 390.925) under ORS 830.175 by regulating boat use through a permit system initiated by the Board. Authority to limit or prohibit motorboat use is also granted by this statute. The specific regulations which follow are adopted in accordance with these statutory provisions:

(1) In order to meet the goals and objectives of management and recreation plans for the subsequently named rivers, the State Marine Board will regulate commercial and noncommercial boat use, both for non-powered boats and for motorboats, by means of a permit system. On occasion the Board may find it necessary to establish interim boat use levels in order to protect the riverine environment and assure to the users a quality recreation experience. Such limits may be prescribed in those instances where, in the absence of river management or recreation plans, it finds it necessary to act to assure compliance with the objectives of appropriate federal and state laws.

(2) It is the policy of the State Marine Board to provide for equitable use of certain designated rivers by commercial and noncommercial boaters. A system of permits for all boaters, whether they plan to run a river as private individuals or as patrons of a commercial entrepreneur, may be initiated on controlled rivers when use approaches or exceeds approved levels or capacity.

ADMINISTRATIVE RULES

(3) No person, other than a member of the Department of State Police, county sheriff, and governmental agencies of this state and the federal government having jurisdiction over the following described waters, shall use a motor for propelling a boat for any purpose on the following described waters, with the exceptions stated:

(a) Deschutes River:

(A) That portion bordering the Warm Springs Reservation, no motors year round. (ORS 830.180)

(B) Between the northern boundary of the Warm Springs Reservation and the mouth of Buckhollow Creek (downstream from Sherars Falls), no person shall operate a motorboat with the exception of ingress/egress by landowners under permit issued by the Board.

(C) Between the mouth of Buckhollow Creek and Macks Canyon Campground, no motors from June 15 to September 30, with the exception of ingress/egress by landowners under permit by the Board.

(D) Between Macks Canyon Campground and the Heritage Landing boat ramp, motors will be prohibited during alternating Thursday, Friday, Saturday and Sunday periods commencing with the first Thursday to Sunday period that falls on or after June 15, continuing until September 30. No daily restrictions on motorized use from October 1 to June 14.

(E) Between Heritage Landing boat ramp and the confluence with the Columbia River, no prohibitions on motors, except for OAR 250-030-0041 rule for slow no wake, maximum 5 MPH.

(b) Illinois River — From Deer Creek downstream to Nancy Creek, which is located in the area immediately upstream of Oak Flat.

(c) John Day River — From State Highway 218 bridge at Clarno downstream to Tumwater Falls between May 1 and October 1.

(d) Minam River — From Minam Lake downstream to the Wallowa River.

(e) Owyhee River System:

(A) West Little Owyhee;

(B) North Fork Owyhee; and

(C) The mainstem Owyhee River above approximately river mile 70 at Pinnacle Rock, as marked.

(f) Rogue River — from Grave Creek downstream to the lowermost portion of Blossom Bar Rapids approximately 250 feet upstream of the top of Devil's Staircase Rapids as marked, between May 15 and November 15.

(g) Sandy River — From Dodge Park downstream to Dabney State Park.

(4) Use of internal combustion motors in boats and floatplanes operating on the surface of Waldo Lake is prohibited year round. "Watercraft" includes boats and floatplanes operating on the surface of Waldo Lake. Official use of internal combustion motors in watercraft operated on the surface of Waldo Lake by local, state or federal governmental officials or agents is allowed for the following activities: search and rescue, law enforcement and fire suppression. Previous approval by the Willamette National Forest Supervisor is required for other activities undertaken by local, state or federal government officials or agents that involve use of internal combustion motors in watercraft operated on the surface of Waldo Lake. Emergency landings of private or governmental floatplanes on Waldo Lake are allowed without previous approval.

Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 53, f. 9-25-73, ef. 1-1-74; MB 64, f. 2-18-75, ef. 3-11-75; MB 66, ef. 4-22-75(Temp), 5-11-75(Perm); MB 76, f. & ef. 5-27-76; MB 79, f. 1-20-77, ef. 5-27-77; MB 89, f. 12-27-77, ef. 1-1-78; MB 12-1984, f. 8-13-84, ef. 8-14-84; MB 12-1985, f. & ef. 7-31-85; MB 21-1985, f. & ef. 12-4-85; MB 3-1993, f. 2-4-93, cert. ef. 5-15-93; MB 4-1994, f. & cert. ef. 3-23-94; MB 15-1996, f. & cert. ef. 12-4-96; MB 6-1997, f. & cert. ef. 5-30-97; OSMB 5-1998, f. & cert. ef. 4-3-98; OSMB 5-2010(Temp), f. & cert. ef. 1-15-10 thru 6-30-10; OSMB 10-2010, f. & cert. ef. 5-6-10

Oregon University System, Eastern Oregon University Chapter 579

Rule Caption: Amend Special Student and Course Fees.

Adm. Order No.: EOU 1-2010

Filed with Sec. of State: 5-13-2010

Certified to be Effective: 5-13-10

Notice Publication Date: 1-1-2010

Rules Amended: 579-020-0006

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

Rules Coordinator: Lara Moore—(541) 962-3368

579-020-0006

Special Student Fees

Eastern Oregon University intends to adopt by reference Special Student Fees for the 2009–10 school year.

[ED NOTE: Fee list referenced is available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: EOSC 3, f. & ef. 6-23-76; EOSC 8, f. & ef. 6-16-77; EOSC 6-1978, f. & ef. 10-2-78; EOSC 1-1979, f. & ef. 6-27-79; EOSC 1-1981, f. & ef. 1-12-81; EOSC 3-1981, f. & ef. 7-1-81; EOSC 2-1983, f. & ef. 12-16-83; EOSC 2-1984, f. & ef. 10-25-84; EOSC 1-1986, f. & ef. 2-13-86; EOSC 2-1988, f. & cert. ef. 10-28-88; EOSC 2-1989, f. & cert. ef. 7-31-89; EOSC 2-1990, f. & cert. ef. 10-9-90; EOSC 3-1991, f. & cert. ef. 9-20-91; EOSC 5-1990, f. & cert. ef. 12-20-91 (and corrected 1-2-92); EOSC 1-1992, f. & cert. ef. 5-13-92; EOSC 2-1992, f. & cert. ef. 8-24-92; EOSC 4-1993, f. & cert. ef. 8-2-93; EOSC 4-1994, f. & cert. ef. 7-25-94; EOSC 1-1996, f. & cert. ef. 8-15-96; EOU 1-2001, f. & cert. ef. 9-28-01; EOU 1-2003, f. & cert. ef. 7-31-03; EOU 1-2005, f. & cert. ef. 5-16-05; EOU 1-2006, f. & cert. ef. 4-14-06; EOU 1-2007, f. & cert. ef. 5-14-07; EOU 4-2007(Temp), f. & cert. ef. 8-15-07 thru 1-15-08; Administrative Correction 1-24-08; EOU 1-2008, f. & cert. ef. 3-14-08; EOU 5-2008, f. & cert. ef. 8-15-08; EOU 1-2009, f. & cert. ef. 3-12-09; EOU 2-2009, f. & cert. ef. 8-14-09; EOU 3-2009, f. & cert. ef. 12-15-09; EOU 1-2010, f. & cert. ef. 5-13-10

Oregon University System, Southern Oregon University Chapter 573

Rule Caption: Repeal Southern Oregon University's Procedures for Allocation of Incidental Fees.

Adm. Order No.: SOU 2-2010

Filed with Sec. of State: 4-22-2010

Certified to be Effective: 4-22-10

Notice Publication Date: 5-1-2008

Rules Repealed: 573-041-0005, 573-041-0010, 573-041-0020, 573-041-0025, 573-041-0027, 573-041-0030, 573-041-0035, 573-041-0036, 573-041-0037, 573-041-0040, 573-041-0045, 573-041-0050, 573-041-0055, 573-041-0060, 573-041-0065, 573-041-0085, 573-041-0090, 573-041-0095, 573-041-0096, 573-041-0100

Subject: Repeals guidelines for allocation of incidental fees from OARs. Guidelines will be housed within SOU's student government and will remain compliant with OAR 580-010-0090. This is being refiled at the request of Legislative Council.

Rules Coordinator: Treasa Sprague—(541) 552-6319

Oregon University System, University of Oregon Chapter 571

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

Adm. Order No.: UO 1-2010

Filed with Sec. of State: 4-22-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 3-1-2010

Rules Amended: 571-060-0005

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

Rules Coordinator: Deb Donning—(541) 346-3082

571-060-0005

Special Fees, Fines, Penalties, Service Charges

The University of Oregon has adopted by reference a list of Special Fees, Fines, Penalties, Service Charges, etc., for the current fiscal year:

(1) The fees, fines, penalties and service charges listed by reference in this rule are updated annually and copies are on file in the listed departments by July 1.

(2) The amounts and conditions of these fees may change from time to time throughout the year due to administrative considerations, changing costs, changes in institutional budgets, etc. If the size and the amount of these fees are or could be of importance to users, they should verify the details prior to making a commitment, before entering into any planning activities or before actually incurring any charges.

(3) The master copy of the current list of fees is maintained in the Office of the Director of Business Affairs and is available upon request to any person during regular business hours. The Director of Business Affairs also maintains a bulletin board where fee changes made during each 30-day period are posted. Following that posted period, the changes are filed with the master copy.

ADMINISTRATIVE RULES

(4) University departments charging fees shall maintain a copy of at least that department's section of the list of special fees, fines, penalties and service charges including any updates made during the course of the fiscal year. The list and all current changes shall be available upon request to any person during regular departmental business hours.

(5) No department may change fees between annual amendments to this rule without first obtaining an approved statement of justification signed by the appropriate Vice-President. Prior to granting approval of any fee charged to students, the Vice-President shall consult with the Office of Student Advocacy. Changes in fees approved by the Vice-President and the justification statement shall be posted for 15 days in a public area of the departmental office. The new fee, fine, penalty or charge becomes effective at the end of the 15-day posting period after it is filed with the Director of Business Affairs along with the justification statement.

(6) However, student loan service charges, charges levied as penalties for prohibited conduct, general tuition, building fees, incidental fees, health service fees, and residence hall and housing charges, shall be adopted in accordance with the provision of ORS 183.310 to 183.500.

(7) Certain charges, fees or fee schedules may, according to ORS 351.072(b), be adopted without compliance with rulemaking provisions of ORS 183.310 to 183.500. They are: charges relating to symposiums, conferences, short courses, food, books or other retail goods, prices of admission to athletic, entertainment or cultural events or advertising rates in student or institutional publications.

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

Stat. Auth.: ORS 351.070, 351 & 352

Stats. Implemented: ORS 351.070

Hist.: UOO 20, f. & cert. ef. 4-27-76; UOO 34(Temp), f. & cert. ef. 8-8-77; UOO 37, f. & cert. ef. 9-30-77; UOO 3-1978, f. & cert. ef. 7-1-78; UOO 1-1979(Temp), f. 6-26-79, ef. 7-1-79; UOO 4-1979, f. & cert. ef. 10-3-79; UOO 7-1980, f. 6-30-80, ef. 7-1-80; UOO 7-1981(Temp), f. 6-16-81, ef. 7-1-81; UOO 9-1981(Temp), f. & cert. ef. 6-29-81; UOO 2-1982, f. & cert. ef. 4-14-82; UOO 4-1982, f. & cert. ef. 6-10-82; UOO 4-1983, f. & cert. ef. 6-10-83; UOO 5-1983(Temp), f. & cert. ef. 6-15-83; UOO 2-1984, f. 6-11-84, ef. 7-1-84; UOO 3-1985, f. 6-19-85, ef. 7-1-85; UOO 1-1986, f. 6-4-86, ef. 7-1-86; UOO 4-1986(Temp), f. & cert. ef. 11-10-86; UOO 7-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 8-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 1-1987, f. & cert. ef. 1-29-87; UOO 3-1987, f. 6-17-87, ef. 7-1-87; UOO 6-1988, f. 6-29-88, cert. ef. 7-1-88; UOO 8-1988, f. & cert. ef. 8-17-88; UOO 5-1989, f. 6-20-89, cert. ef. 7-1-89; UOO 7-1990, f. 6-14-90, cert. ef. 7-1-90; UOO 9-1991, f. 6-12-91, cert. ef. 7-1-91; UOO 1-1992, f. 4-9-92, cert. ef. 7-1-92; UOO 2-1993, f. 4-19-93, cert. ef. 7-1-93; UOO 9-1993, f. & cert. ef. 6-15-93; UOO 11-1993, f. 8-29-93, cert. ef. 9-1-93; UOO 2-1994, f. 6-13-94, cert. ef. 7-1-94; UOO 3-1994, f. 6-14-94, cert. ef. 7-1-94; UOO 4-1995, f. 6-13-95, cert. ef. 7-1-95; UOO 5-1995, f. 7-31-95, cert. ef. 8-1-95; UOO 3-1996, f. 6-6-96, cert. ef. 7-1-96; UOO 6-1997, f. 6-18-97, cert. ef. 7-1-97; UOO 7-1997, f. 6-18-97, cert. ef. 7-1-97; UOO 1-1998, f. 6-17-98, cert. ef. 7-1-98; UOO 2-1998, f. 6-17-98, cert. ef. 7-1-98; UOO 2-1999, f. 6-1-99, cert. ef. 7-1-99; UOO 3-1999, f. 6-1-99, cert. ef. 7-1-99; UOO 2-2000, f. 6-15-00, cert. ef. 7-1-00; UOO 1-2001, f. 6-18-01, cert. ef. 7-1-01; UOO 2-2001, f. 6-18-01, cert. ef. 7-1-01; UOO 2-2002, f. 6-19-02, cert. ef. 7-1-02; UOO 3-2002, f. 6-19-02, cert. ef. 7-1-02; UOO 1-2003, f. 6-23-03, cert. ef. 7-1-03; UOO 2-2003, f. 6-23-03, cert. ef. 7-1-03; UOO 2-2004, f. 5-11-04, cert. ef. 7-1-04; UOO 3-2004, f. 6-30-04, cert. ef. 7-1-04; UOO 6-2007, f. & cert. ef. 2-22-07; UOO 8-2007, f. & cert. ef. 3-12-07; UOO 9-2007, f. 5-10-07, cert. ef. 6-29-07; UOO 11-2007, f. 6-19-07, cert. ef. 6-29-07; UOO 2-2008, f. 5-6-08, cert. ef. 7-1-08; UOO 4-2008, f. 6-27-08, cert. ef. 7-1-08; UOO 1-2009, f. 4-24-09, cert. ef. 7-1-09; UOO 2-2009, f. 6-30-09, cert. ef. 7-1-09; UOO 1-2010, f. 4-22-10, cert. ef. 7-1-10

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Public Utility Commission, Board of Maritime Pilots Chapter 856

Rule Caption: Expands the number of qualifying continuing professional development courses and adds safety training.

Adm. Order No.: BMP 1-2010

Filed with Sec. of State: 4-27-2010

Certified to be Effective: 4-27-10

Notice Publication Date: 4-1-2010

Rules Adopted: 856-010-0027

Rules Amended: 856-010-0015

Subject: Continuing professional development (CPD) requirements were first adopted in 2000 and have not significantly changed since then. Since that time, numerous and varied types of courses and facilities have been developed for the maritime industry. The original CPD requirements are proposed to be deleted from the Renewal of License rules and incorporated into a new rule as an expanded list of approved topics from which licensees can choose, to comply with requirements for annual license renewals. The requirements must be completed within the 63 months prior to the expiration date of a license. The new rule also requires one day of personal safety training per year.

Rules Coordinator: Susan Johnson—(971) 673-1530

856-010-0015

Renewal of License

(1) Application for renewal of license shall be made on a form provided by the board, signed by the applicant, accompanied by the physical examination form provided by the board and presented to the administrator of the board at least thirty (30) days prior to expiration of license.

(2) All state-licensed pilots shall be required to have an annual physical examination by an Oregon or Washington licensed physician within ninety (90) days prior to expiration of their license, the physical requirements for which are the same as for the original license as specified in OAR 856-010-0010(2), except for drug testing.

(3) All state-licensed pilots shall, within six months prior to the expiration of their license, submit to a test indicating licensee is free of illegal substance abuse. Testing will be for the presence of Cocaine, Opiates, Marijuana (THC), Amphetamines and PCP (phencyclidine). Testing will be in accordance with the Department of Transportation (Coast Guard) guidelines outlined in the Code of Federal Regulations 46, CFR § 16 (2009). Urine specimens are to be analyzed by a laboratory that meets DHHS regulations set forth by the National Institute of Drug Abuse (NIDA); or provide proof to the board that licensee is participating in a US Coast Guard approved random drug testing program;

(4) All applicants for renewal of licenses shall submit a photocopy of their currently applicable United States government license with radar endorsement issued by the United States Coast Guard.

(5) All applicants for renewal of unlimited licenses shall provide certification of meeting the continuing professional development requirements specified in OAR 856-010-0027. Unless waived as provided below in this paragraph, failure to comply with all requirements for renewal of license shall constitute the failure to submit a complete application for renewal and will result in the withholding of the renewal license. A pilot who is unable to complete the requirements within the time allowed due to unexpected, emergency circumstances may request in writing a waiver and the Board may, upon good cause shown, permit a license renewal for one year without the requirements being met, provided that all required certifications must be made by the applicant at the time application for renewal is made the following year.

(6) Each license issued is valid for one year and only the unlimited state license may be renewed.

(7) Notwithstanding subsection (4) of this section, if a pilot has submitted an application for renewal of the pilot's federal license at least 60 days prior to the expiration date of his federal license, but the United States Coast Guard has not completed its renewal process by the expiration date for the federal license and the pilot has, for that reason, no currently applicable federal license at the time of renewing his state license, then the board may issue a provisionally renewed state license. Any pilot to whom a provisionally renewed state license is issued must report to the board every 30 days regarding the status of the pilot's federal license renewal. If the United States Coast Guard completes its processing for the federal license but declines to renew the federal license, the board may treat the refusal to renew the federal license as a suspension or revocation of the federal license.

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

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115 & 776.345

Hist.: PC 1, f. 10-29-57, ef. 7-1-57; MP 2-1984, f. & ef. 10-4-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 1-1995, f. & cert. ef. 5-9-96; BMOP 1-2000, f. & cert. ef. 12-6-00; BMP 4-2006, f. 9-28-06, cert. ef. 10-6-06; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 4-2008, f. & cert. ef. 1-24-08; BMP 1-2009(Temp), f. & cert. ef. 2-10-09 thru 8-7-09; Administrative correction 8-21-09; BMP 5-2009, f. & cert. ef. 8-24-09; BMP 1-2010, f. & cert. ef. 4-27-10

856-010-0027

Continuing Professional Development & Safety Training

(1) All applications for renewal of an unlimited license after January 1, 2012 shall, within the sixty-three (63) months preceding the expiration date of their license, complete a minimum of 10 days of continuing professional development training, as provided in paragraphs (a) and (b) below.

(a) Each pilot shall satisfactorily complete a five (5) day manned model course at a Board approved manned model facility.

(b) Each pilot shall satisfactorily complete an additional five (5) days of course work, at least one day of which must be Bridge Resources Management for Pilots. All courses must be conducted at an accredited college, maritime academy, U.S. Coast Guard approved training facility or conducted by an expert in a field related to the subject matter of the course. All courses must cover one or more subject matter topics approved by the

ADMINISTRATIVE RULES

Board in advance of the course being taken. The Board shall maintain a list of approved topics, which may include, but are not limited to:

- (A) Emergency Shiphandling for Pilots.
- (B) Advanced Electronic Navigation Systems.
- (C) Azipod Controls and Operations with Azipods.
- (D) Fatigue, Sleep and Medications for Pilots.
- (E) Legal Aspects of Pilotage, including State Statutes and Regulations for Pilots.
- (F) Maritime Domain Awareness and Security for Pilots.
- (G) Crisis Management and Media Response.
- (H) Pilot Self-Assessment Simulation.
- (I) Advanced Shiphandling Simulation.
- (J) Operation with Tugs for Pilots.
- (K) Radar Observer (credit limited to one day per reporting period).
- (L) Bridge Resources Management for Pilots.
- (M) Train the Trainer.

(2) In addition to satisfying the requirements set forth above, each pilot holding an unlimited license shall complete a minimum of one day of personal safety training during the 12-month period preceding the expiration date of their license. The Board shall maintain a list of pre-approved training, which may include, but are not limited to:

- (a) CPR.
- (b) Man Overboard (MOB).
- (c) Cold Water Survival.
- (d) Helicopter Dunker.
- (e) Pilot Boat Drills.
- (f) Rescue Systems.
- (g) STCW — Basic Safety Training.

(3) Each pilot shall, within 30 days after completing any training course required by paragraphs (1)(a) or (1)(b) above, submit to the Board an evaluation of the course, on a form provided by the Board. The requirement to provide a course evaluation goes into effect immediately upon the adoption of this rule.

Stat. Auth.: ORS 776 & 670
Stats. Implemented: ORS 776.115 & 670.310
Hist.: BMP 1-2010, f. & cert. ef. 4-27-10

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

Rule Caption: This rule sets notary administrative services fees.

Adm. Order No.: CORP 6-2010

Filed with Sec. of State: 4-27-2010

Certified to be Effective: 5-3-10

Notice Publication Date: 4-1-2010

Rules Amended: 160-100-0040

Subject: This rule sets the fees that Secretary of State shall charge for performing notary administrative services.

Rules Coordinator: Karen Hutchinson—(503) 986-2364

160-100-0040

Administrative Services Fees

The Secretary of State shall charge the following fees for performing the administrative services indicated:

- (1) \$10 for apostilles for public officials and notaries public.
- (2) \$10 for each notary public certificate of good standing.
- (3) \$10 for each notarial act performed by a Corporation Division notary public.
- (4) \$10 for each duplicate notary public commission.
- (5) \$10 for each duplicate Certificate of Authorization to Obtain Official Seal.
- (6) \$10 for processing a request to change the notary public's name on the notary public's written commission.
- (7) \$50 for each list of new notaries public.
- (8) \$50 for each standard list of all active notaries public.

Stat. Auth.: ORS 194.052 & 194.164
Stats. Implemented: ORS 177.130, 192.440, 194.020 194.052 & 194.164
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; Suspended by SOS-AD 2-1992(Temp), f. & cert. ef. 2-14-92; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0040; CORP 1-1994, f. 12-30-94, cert. ef. 1-1-95; CORP 7-2009, f. 12-22-09 cert. ef. 1-1-10; CORP 6-2010, f. 4-27-10, cert. ef. 5-3-10

Secretary of State, Elections Division Chapter 165

Rule Caption: Amendment of the 2010 Campaign Finance Manual.

Adm. Order No.: ELECT 3-2010

Filed with Sec. of State: 4-22-2010

Certified to be Effective: 4-22-10

Notice Publication Date: 4-1-2010

Rules Amended: 165-012-0005

Subject: This amendment revises the *2010 Campaign Finance Manual* by adopting updated circumstances of when a transaction is considered late. The amendment provides that if the transaction type is amended from any transaction type other than a contribution or expenditure to a contribution or expenditure, and the original transaction was filed after the deadline (the transaction is considered late from the transaction due date to the date the original transaction is filed).

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-012-0005

Designating the Campaign Finance Manual and Forms; Late Penalty Matrix

(1) Pursuant to ORS 260.156, the Secretary of State designates the **2010 Campaign Finance Manual** and associated forms as the procedures and guidelines to be used for compliance with Oregon campaign finance regulations.

(2) This amendment supplements the **2010 Campaign Finance Manual** by adding the following circumstance of when a transaction is considered late to the Penalty Matrix Late Filings: the transaction type is amended from any transaction type other than a contribution or expenditure to a contribution or expenditure, and the original transaction was filed after the deadline (the transaction is considered late from the transaction due date to the date the original transaction is filed).

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

Stat. Auth.: ORS 246.120, 246.150, 260.156 & 260.200
Stats. Implemented: ORS 246.120, 246.150, 260.156 & 260.200
Hist.: SD 101, f. & ef. 12-3-75; SD 120, f. & ef. 12-21-77; SD 34-1980, f. & ef. 3-6-80; SD 28-1983, f. & ef. 12-20-83; SD 3-1986, f. & ef. 2-26-86; ELECT 32-1988(Temp), f. & cert. ef. 8-26-88; ELECT 22-1989(Temp), f. & cert. ef. 11-9-89; ELECT 19-1990, f. & cert. ef. 6-4-90; ELECT 14-1992 (Temp), f. & cert. ef. 6-10-92; ELECT 37-1992, f. & cert. ef. 12-15-92; ELECT 34-1993, f. & cert. ef. 11-1-93; ELECT 1-1995(Temp), f. & cert. ef. 2-23-95; ELECT 15-1995, f. & cert. ef. 12-18-95; ELECT 9-1996, f. & cert. ef. 7-26-96; ELECT 5-1997, f. & cert. ef. 3-24-97; ELECT 6-1997(Temp), f. & cert. ef. 4-18-97; ELECT 15-1997, f. & cert. ef. 12-31-97; ELECT 5-1998, f. & cert. ef. 2-26-98; ELECT 8-1998, f. & cert. ef. 6-2-98; ELECT 9-1998, f. & cert. ef. 9-11-98; ELECT 13-1998(Temp), f. & cert. ef. 12-15-98 thru 6-13-99; ELECT 2-1999(Temp), f. & cert. ef. 1-15-99 thru 7-14-99; ELECT 3-1999, f. & cert. ef. 3-1-99; ELECT 1-2000, f. & cert. ef. 1-3-00; ELECT 3-2002, f. & cert. ef. 3-13-02; ELECT 23-2003, f. & cert. ef. 12-12-03; ELECT 13-2005, f. & cert. ef. 12-30-05; ELECT 1-2007, f. & cert. ef. 1-5-07; ELECT 2-2007(Temp), f. & cert. ef. 5-2-07 thru 10-29-07; ELECT 4-2007(Temp), f. & cert. ef. 7-16-07 thru 12-31-07; ELECT 13-2007, f. & cert. ef. 12-31-07; ELECT 8-2009, f. & cert. ef. 5-4-09; ELECT 16-2009, f. & cert. ef. 7-30-09; ELECT 27-2009, f. & cert. ef. 12-31-09; ELECT 3-2010, f. & cert. ef. 4-22-10

**Veterinary Medical Examining Board
Chapter 875**

Rule Caption: Allows Certified Veterinary Technician students to work in veterinary practices.

Adm. Order No.: VMEB 1-2010

Filed with Sec. of State: 5-6-2010

Certified to be Effective: 5-6-10

Notice Publication Date: 3-1-2010

Rules Amended: 875-010-0045

Subject: 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 V. Makinen—(971) 673-0224

875-010-0045

Preceptees and Student Interns

(1) Any person wishing to work in Oregon as a veterinary preceptee or veterinary or certified veterinary technician student intern may do so if he or she is engaged in a preceptee or student intern program administered by a veterinary college or university, or a veterinary technology program, approved by the Board or the American Veterinary Medical Association.

ADMINISTRATIVE RULES

(2) Supervision of veterinary preceptees or student interns. All acts which a veterinary preceptee or student intern may perform must be under the direct supervision of a licensed veterinarian. "Direct supervision" means that each act shall be performed by the veterinary student intern or preceptee only after receiving specific directions from and in the presence of an Oregon licensed veterinarian. Certified veterinary technician student interns may work under direct supervision of a licensed veterinarian or certified veterinary technician.

(3) Veterinary student interns or preceptees may perform the following acts:

(a) Obtaining and Recording Information. Preceptees or student interns may obtain and record the following information:

(A) Complete admission records, including recording the statements made by the client concerning the patient's problems and history. The preceptees and student interns may also record his or her own observations of the patient. However, the preceptees or student interns cannot state or record his or her opinion concerning diagnosis of the patient;

(B) Maintain daily progress records, surgery logs, X-ray logs, Drug Enforcement Agency logs, and all other routine records as directed by the supervising veterinarian.

(b) Perform surgery, if determined by the supervising veterinarian to be competent and possess the necessary training and experience;

(c) Preparation of patients, instruments, equipment, and medicants for surgery. Preceptees and Student Interns may:

(A) Prepare and sterilize surgical packs;

(B) Clip, surgically scrub, and disinfect the surgical site in preparation for surgery;

(C) Administer preanesthetic drugs as prescribed by the supervising veterinarian;

(D) Position the patient for anesthesia;

(E) Administer anesthesia as prescribed by the supervising veterinarian;

(F) Operate anesthetic machines, oxygen equipment, and monitoring equipment.

(d) Collection of specimens and performance of laboratory procedures. Preceptees and Student Interns may:

(A) Collect urine, feces, sputum, and all other excretions for laboratory analysis;

(B) Collect blood samples for laboratory;

(C) Collect skin scrapings;

(D) Perform routine laboratory procedures including urinalysis, fecal analyses, hematological, and serological examinations.

(e) Assisting the veterinarian in diagnostic medical and surgical procedures. Preceptees and student interns may assist supervising veterinarians in the following diagnostic, medical, and surgical proceedings:

(A) Take the patient's temperature, pulse and respiration;

(B) Medically bathe the patient;

(C) Administer topical, oral, hypodermic, and intravenous medication as directed by the supervising veterinarian;

(D) Operate diagnostic imaging equipment;

(E) Take electrocardiograms, electroencephalograms, and tracings;

(F) Perform dental prophylaxis, including operating ultrasonic dental instruments.

(f) Veterinary preceptees and student interns may perform other acts not specifically enumerated herein under the supervision of a veterinarian licensed to practice veterinary medicine in the State of Oregon.

(4) Certified veterinary technician student interns may perform all the acts enumerated in OAR 875-030-0040(2) and may not perform the acts prohibited in 875-030-0050.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.040(13)

Hist.: VE 7-1978, f. & ef. 7-10-78; VME 2-1994, f. & cert. ef. 11-30-94; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 1-2010, f. & cert. ef. 5-6-10

Rule Caption: Updates pain management minimum standards and clarifies examination requirements.

Adm. Order No.: VMEB 2-2010

Filed with Sec. of State: 5-6-2010

Certified to be Effective: 5-6-10

Notice Publication Date: 3-1-2010

Rules Amended: 875-015-0030

Subject: Adds requirements for 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 V. Makinen—(971) 673-0224

875-015-0030

Minimum Veterinary Practice Standards

Each veterinary medical facility shall comply with the following:

(1) Medical Records: A legible individual record shall be maintained for each animal. However, the medical record for a litter may be recorded either on the dam's record or on a litter record until the individual animals are permanently placed or reach the age of three months. Records for herd or flock animals may be maintained on a group or client basis. All records shall be readily retrievable and must be kept for a minimum of three (3) years following the last treatment or examination. However, three (3) years may not be adequate for liability purposes. Records shall include, but are not limited to, the following information:

(a) Name or initials of the veterinarian responsible for entries; any written entry to a medical record that is made subsequent to the date of treatment or service must include the date that the entry was added.

(b) Name, address and telephone number of the owner and/or client;

(c) Name, number of other identification of the animal and/or herd or flock;

(d) Species, breed, age, sex, and color or distinctive markings, where applicable, each individual animal;

(e) Vaccination history, if known, shall be part of the medical record;

(f) Beginning and ending dates of custody of the animal;

(g) Pertinent history and presenting complaint;

(h) A physical exam shall be performed to establish or maintain a VCPR; and then each time an animal is presented with a new health problem, unless the animal's temperament precludes examination, or physical exam is declined by the owner. For each physical exam the following conditions shall be evaluated and findings documented when applicable by species, even if such condition is normal:

(A) Temperature;

(B) Current weight;

(C) Body condition;

(D) Eyes, ears, nose and throat;

(E) Oral cavity;

(F) Respiratory system including auscultation of the thorax;

(G) Palpation of the abdomen;

(H) Lymph nodes;

(I) Musculoskeletal system;

(J) Neurological system;

(K) Genito/urinary system;

(L) All data obtained by instrumentation;

(M) Diagnostic assessment;

(N) If relevant, a prognosis of the animal's condition;

(O) Diagnosis or tentative diagnosis at the beginning of custody of animal;

(P) Treatments and intended treatment plan, medications, immunizations administered, dosages, frequency and route of administration;

(Q) All prescription or legend drugs dispensed, ordered or prescribed shall be recorded including: dosage, frequency, quantity and directions for use. Any changes made by telecommunications shall be recorded. Legend drugs in original unopened manufacturer's packaging dispensed or ordered for herd use are exempt from this rule. Legend and prescription drugs are as defined by the U.S. Food and Drug Administration in 'FDA and the Veterinarian'.

(R) Surgical procedures shall include a description of the procedure, name of the surgeon, type of sedative/anesthetic agent(s) used, dosage, route of administration, and strength, if available in more than one strength;

(S) Progress of the case while in the veterinary medical facility;

(T) Exposed radiographs shall have permanent facility and animal identification;

(U) If a client waives or declines any examinations, tests, or other recommended treatments, such waiver or denial shall be noted in the records.

(2) Surgery: Surgery shall be performed in a manner compatible with current veterinary practice with regard to anesthesia, sepsis or antisepsis, life support and monitoring procedures, and recovery care. The minimum standards for surgery shall be:

(a) Aseptic surgery shall be performed in a room or area designated for that purpose and isolated from other activities during the procedure. A separate, designated area is not necessarily required for herd or flock animal surgery or antiseptic surgery;

ADMINISTRATIVE RULES

(b) The surgery room or area shall be clean, orderly, well-lighted and maintained in a sanitary condition;

(c) All appropriate equipment shall be sterilized:

(A) Chemical disinfection ("cold sterilization") shall be used only for field conditions or antiseptic surgical procedures;

(B) Provisions for sterilization shall include a steam pressure sterilizer (autoclave) or gas sterilizer (e.g., ethylene oxide) or equivalent.

(d) For each aseptic surgical procedure, a separate sterile surgical pack shall be used for each animal. Surgeons and surgical assistants shall use aseptic technique throughout the entire surgical procedure;

(e) Minor surgical procedures shall be performed at least under antiseptic surgical techniques;

(f) All animals shall be prepared for surgery as follows:

(A) Clip and surgically prepare the surgical area for aseptic surgical procedures;

(B) Loose hair must be removed from the surgical area;

(C) Scrub the surgical area with appropriate surgical soap;

(D) Disinfect the surgical area;

(E) Drape the surgical area appropriately.

(3) A veterinarian shall use appropriate and humane methods or anesthesia, analgesia and sedation to minimize pain and distress during any procedures or conditions and shall comply with the following standards:

(a) Animals shall have a documented physical exam conducted within 24 hours prior to the administration of a sedative or anesthetic, which is necessary for veterinary procedures, unless the temperament of the patient precludes an exam prior to the use of chemical restraint;

(b) An animal under general anesthesia for a medical or surgical procedure shall be under direct observation throughout the anesthetic period and during recovery from anesthesia until the patient is awake and in sternal recumbency;

(c) A method of cardiac monitoring shall be employed to assess heart rate and rhythm repeatedly during anesthesia and may include a stethoscope or electronic monitor;

(d) A method of monitoring the respiratory system shall be employed to assess respiratory rate and pattern repeatedly during anesthesia and may include a stethoscope or electronic monitor.

(e) Where general anesthesia is performed in a hospital or clinic for companion animal species (excluding farm animals), anesthetic equipment available shall include an oxygen source, equipment to maintain an open airway and a stethoscope;

(f) Anesthetic and sedation procedures and anesthetic and sedative medications used shall be documented;

(g) Adequate means for resuscitation including intravenous catheter and fluids shall be available;

(h) Emergency drugs shall be immediately available at all times;

(i) While under sedation or general anesthesia, materials shall be provided to help prevent loss of body heat;

(j) Analgesic medications, techniques and/or husbandry methods shall be used to prevent and minimize pain in animals experiencing or expected to experience pain, including but not limited to all surgical procedures;

(k) Chemical restraint may be used in conjunction with, but not in lieu of, analgesic therapy;

(l) Appropriate analgesic therapy shall be guided by information specific to each case, including but not limited to species, breed, patient health and behavioral characteristics, the procedure performed, and the expected degree and duration of pain;

(4) Library: A library of appropriate and current veterinary journals and textbooks or access to veterinary internet resources shall be available for ready reference.

(5) Laboratory: Veterinarians shall have the capability for use of either in-house or outside laboratory service for appropriate diagnostic testing of animal samples.

(6) Biologicals and Drugs: The minimum standards for drug procedures shall be:

(a) All controlled substances shall be stored, maintained, administered, dispensed and prescribed in compliance with federal and state laws and manufacturers' recommendations;

(b) Legend drugs shall be dispensed, ordered or prescribed based on a VCPR and shall be labeled with the following:

(A) Name of client and identification of animal(s);

(B) Date dispensed;

(C) Complete directions for use;

(D) Name, strength, dosage and the amount of the drug dispensed;

(E) Manufacturer's expiration date;

(F) Name of prescribing veterinarian and veterinary medical facility.

(c) No biological or drug shall be administered or dispensed after the expiration date, for a fee.

(7) A veterinarian shall not use, or participate in the use of, any form of advertising or solicitation which contains a false, deceptive or misleading statement or claim:

(a) Specialty Services: Veterinarians shall not make a statement or claim as a specialist or specialty practice unless the veterinarian is a diplomate of a recognized specialty organization of the American Veterinary Medical Association;

(b) The public shall be informed of their options when an animal will be left unattended in the hospital.

(8) The veterinarian shall be readily available or has arranged for emergency coverage or follow-up evaluation in the event of adverse reaction or the failure of the treatment regimen.

(9) Euthanasia: Documented consent shall be obtained and a physical exam conducted prior to performing euthanasia. The exam may be limited to the elements necessary for the humane application of the procedure, such as a weight estimate and visual assessment if necessary due to the patient's condition or temperament. When ownership and identification of an animal cannot be reasonably established, the medical record for euthanasia shall contain a physical description of the animal.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.130

Hist.: VME 5-1992, f. & cert. ef. 12-10-92; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 2-2010, f. & cert. ef. 5-6-10

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

Adm. Order No.: VMEB 3-2010

Filed with Sec. of State: 5-6-2010

Certified to be Effective: 5-6-10

Notice Publication Date: 3-1-2010

Rules Amended: 875-030-0010

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

Rules Coordinator: Lori V. Makinen—(971) 673-0224

875-030-0010

Criteria for Becoming a Certified Veterinary Technician

In order to become a certified veterinary technician, an individual must:

(1) Pass the examinations referred to in OAR 875-030-0020; and

(2)(a) Hold a certificate in veterinary technology (or a comparable certificate) from a college accredited by the American Veterinary Medical Association, or other program approved by the board; or

(b) Have received at least 6,000 hours of on-the-job training in the following technical procedures, verified by a veterinarian or veterinarians with valid Oregon veterinary licensure, and substantiated by employment W-2 forms:

(A) Medical Terminology;

(B) Basic Comparative Animal Anatomy and Physiology;

(C) Veterinary Office Procedures;

(D) Basic Pharmacology;

(E) Practical Animal Nutrition;

(F) Nursing Care and Handling of Animals;

(G) Animal Behavior;

(H) Applied Radiography;

(I) Applied Anesthesiology;

(J) Applied Clinical Laboratory Procedures;

(K) Principles and Practices of Medical and Surgical Assistance;

(L) Animal Diseases; or

(3)(a) Have at a minimum a Bachelor's degree in a field approved by the Board, e.g., Veterinary Technology, Animal Technology, Animal Husbandry, Zoology, etc., and a minimum of 1,500 hours of on-the-job training that meets the requirements of (2)(b); or

(b) Have at a minimum an Associate's degree in a field approved by the Board, e.g., Veterinary Technology, Animal Husbandry, Zoology, etc., and a minimum of 3,000 hours of on-the-job training and that meets the requirements of (2)(b); or

(c) Have acquired a minimum of 30 credit hours of training from a school or program approved by the Board in a field approved by the Board, e.g., Veterinary Technology, Animal Husbandry, Zoology, etc., and

ADMINISTRATIVE RULES

a minimum of 4,500 hours of on-the-job training that meets the requirements of (2)(b); or

(d) Any other combination of Board-approved education and experience. For purposes of this section, on-the-job experience must have been obtained in Oregon and must be verified by a licensed Oregon veterinarian.

(e) On-the-job applicants shall provide proof of on-the-job experience such as W2 forms or other proof approved by the Board.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.350 - 686.370

Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 2-2000, f. & cert. ef. 6-21-00; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 10-2008, f. & cert. ef. 7-22-08; VMEB 15-2008, f. & cert. ef. 12-15-08; VMEB 3-2009, f. & cert. ef. 10-15-09; VMEB 3-2010, f. & cert. ef. 5-6-10

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
104-030-0000	1-21-2010	Adopt	3-1-2010	111-050-0020(T)	2-1-2010	Repeal	3-1-2010
104-030-0010	1-21-2010	Adopt	3-1-2010	111-050-0025	2-1-2010	Amend	3-1-2010
104-030-0020	1-21-2010	Adopt	3-1-2010	111-050-0025(T)	2-1-2010	Repeal	3-1-2010
104-030-0030	1-21-2010	Adopt	3-1-2010	111-050-0080	2-1-2010	Amend	3-1-2010
104-030-0040	1-21-2010	Adopt	3-1-2010	111-050-0080(T)	2-1-2010	Repeal	3-1-2010
104-030-0050	1-21-2010	Adopt	3-1-2010	111-060-0001	12-17-2009	Amend	2-1-2010
104-030-0060	1-21-2010	Adopt	3-1-2010	111-060-0001(T)	12-17-2009	Repeal	2-1-2010
104-030-0070	1-21-2010	Adopt	3-1-2010	111-070-0001	3-15-2010	Adopt	4-1-2010
104-030-0080	1-21-2010	Adopt	3-1-2010	111-070-0005	3-15-2010	Adopt	4-1-2010
104-080-0000	2-5-2010	Amend	3-1-2010	111-070-0015	3-15-2010	Adopt	4-1-2010
104-080-0010	2-5-2010	Amend	3-1-2010	111-070-0020	3-15-2010	Adopt	4-1-2010
104-080-0020	2-5-2010	Amend	3-1-2010	111-070-0030	3-15-2010	Adopt	4-1-2010
104-080-0021	2-5-2010	Amend	3-1-2010	111-070-0040	3-15-2010	Adopt	4-1-2010
104-080-0022	2-5-2010	Amend	3-1-2010	111-070-0050	3-15-2010	Adopt	4-1-2010
104-080-0024	2-5-2010	Amend	3-1-2010	111-070-0060	3-15-2010	Adopt	4-1-2010
104-080-0025	2-5-2010	Amend	3-1-2010	111-070-0070	3-15-2010	Adopt	4-1-2010
104-080-0026	2-5-2010	Amend	3-1-2010	111-080-0030	4-26-2010	Amend(T)	6-1-2010
104-080-0027	2-5-2010	Amend	3-1-2010	115-025-0060	4-13-2010	Amend(T)	5-1-2010
104-080-0030	2-5-2010	Amend	3-1-2010	123-008-0005	12-1-2009	Amend	1-1-2010
104-080-0040	2-5-2010	Amend	3-1-2010	123-008-0010	12-1-2009	Amend	1-1-2010
104-080-0050	2-5-2010	Amend	3-1-2010	123-008-0015	12-1-2009	Amend	1-1-2010
104-080-0060	2-5-2010	Amend	3-1-2010	123-008-0020	12-1-2009	Amend	1-1-2010
104-080-0070	2-5-2010	Amend	3-1-2010	123-008-0025	12-1-2009	Amend	1-1-2010
105-040-0015	1-1-2010	Amend	2-1-2010	123-008-0030	12-1-2009	Amend	1-1-2010
105-050-0025	1-1-2010	Adopt	2-1-2010	123-011-0021	5-1-2010	Amend	6-1-2010
105-050-0030	1-1-2010	Adopt	2-1-2010	123-011-0025	5-1-2010	Amend	6-1-2010
111-010-0015	12-17-2009	Amend	2-1-2010	123-011-0027	5-1-2010	Amend	6-1-2010
111-010-0015(T)	12-17-2009	Repeal	2-1-2010	123-011-0030	5-1-2010	Amend	6-1-2010
111-020-0001	3-15-2010	Amend	4-1-2010	123-011-0035	5-1-2010	Amend	6-1-2010
111-030-0001	12-17-2009	Amend	2-1-2010	123-011-0040	5-1-2010	Amend	6-1-2010
111-030-0001(T)	12-17-2009	Repeal	2-1-2010	123-016-0000	5-1-2010	Amend	6-1-2010
111-030-0005	12-17-2009	Amend	2-1-2010	123-016-0010	5-1-2010	Amend	6-1-2010
111-030-0005(T)	12-17-2009	Repeal	2-1-2010	123-016-0020	5-1-2010	Amend	6-1-2010
111-030-0020	12-17-2009	Adopt	2-1-2010	123-016-0030	5-1-2010	Amend	6-1-2010
111-030-0020(T)	12-17-2009	Repeal	2-1-2010	123-017-0007	12-1-2009	Amend	1-1-2010
111-030-0025	12-17-2009	Adopt	2-1-2010	123-017-0008	12-1-2009	Amend	1-1-2010
111-030-0025(T)	12-17-2009	Repeal	2-1-2010	123-017-0008	4-12-2010	Amend(T)	5-1-2010
111-030-0030	12-17-2009	Adopt	2-1-2010	123-017-0010	12-1-2009	Amend	1-1-2010
111-030-0030(T)	12-17-2009	Repeal	2-1-2010	123-017-0010	4-12-2010	Amend(T)	5-1-2010
111-040-0001	12-17-2009	Amend	2-1-2010	123-017-0015	12-1-2009	Amend	1-1-2010
111-040-0001(T)	12-17-2009	Repeal	2-1-2010	123-017-0015	4-12-2010	Amend(T)	5-1-2010
111-040-0025	12-17-2009	Amend	2-1-2010	123-017-0025	12-1-2009	Amend	1-1-2010
111-040-0025(T)	12-17-2009	Repeal	2-1-2010	123-017-0025	4-12-2010	Amend(T)	5-1-2010
111-040-0030	12-17-2009	Amend	2-1-2010	123-017-0030	12-1-2009	Amend	1-1-2010
111-040-0030(T)	12-17-2009	Repeal	2-1-2010	123-017-0030	4-12-2010	Amend(T)	5-1-2010
111-040-0040	12-17-2009	Amend	2-1-2010	123-017-0035	12-1-2009	Amend	1-1-2010
111-040-0040	3-3-2010	Amend(T)	4-1-2010	123-017-0035	4-12-2010	Amend(T)	5-1-2010
111-040-0040(T)	12-17-2009	Repeal	2-1-2010	123-017-0037	12-1-2009	Amend	1-1-2010
111-040-0050	12-17-2009	Amend	2-1-2010	123-017-0040	12-1-2009	Repeal	1-1-2010
111-040-0050(T)	12-17-2009	Repeal	2-1-2010	123-017-0055	12-1-2009	Amend	1-1-2010
111-050-0010	2-1-2010	Amend	3-1-2010	123-018-0010	5-1-2010	Amend	6-1-2010
111-050-0010(T)	2-1-2010	Repeal	3-1-2010	123-018-0020	5-1-2010	Amend	6-1-2010
111-050-0015	2-1-2010	Amend	3-1-2010	123-018-0080	5-1-2010	Amend	6-1-2010
111-050-0015(T)	2-1-2010	Repeal	3-1-2010	123-018-0085	5-1-2010	Amend	6-1-2010
111-050-0016	2-1-2010	Adopt	3-1-2010	123-018-0100	5-1-2010	Amend	6-1-2010
111-050-0020	2-1-2010	Amend	3-1-2010	123-018-0120	5-1-2010	Amend	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-018-0150	5-1-2010	Amend	6-1-2010	123-043-0055	12-1-2009	Amend	1-1-2010
123-018-0160	5-1-2010	Amend	6-1-2010	123-043-0055	1-14-2010	Amend(T)	2-1-2010
123-019-0000	4-12-2010	Amend(T)	5-1-2010	123-043-0065	12-1-2009	Amend	1-1-2010
123-019-0010	4-12-2010	Amend(T)	5-1-2010	123-043-0075	12-1-2009	Amend	1-1-2010
123-019-0020	4-12-2010	Amend(T)	5-1-2010	123-043-0085	12-1-2009	Amend	1-1-2010
123-019-0030	4-12-2010	Amend(T)	5-1-2010	123-043-0085	1-14-2010	Amend(T)	2-1-2010
123-019-0040	4-12-2010	Amend(T)	5-1-2010	123-043-0095	12-1-2009	Amend	1-1-2010
123-019-0050	4-12-2010	Amend(T)	5-1-2010	123-043-0095	1-14-2010	Amend(T)	2-1-2010
123-019-0060	4-12-2010	Amend(T)	5-1-2010	123-043-0102	12-1-2009	Amend	1-1-2010
123-019-0070	4-12-2010	Amend(T)	5-1-2010	123-043-0105	12-1-2009	Amend	1-1-2010
123-019-0080	4-12-2010	Amend(T)	5-1-2010	123-043-0115	12-1-2009	Amend	1-1-2010
123-019-0090	4-12-2010	Amend(T)	5-1-2010	123-043-0115	1-14-2010	Amend(T)	2-1-2010
123-019-0100	4-12-2010	Amend(T)	5-1-2010	123-049-0005	2-1-2010	Amend	3-1-2010
123-021-0020	5-1-2010	Amend	6-1-2010	123-049-0010	2-1-2010	Amend	3-1-2010
123-022-0070	12-1-2009	Amend	1-1-2010	123-049-0020	2-1-2010	Amend	3-1-2010
123-022-0080	12-1-2009	Amend	1-1-2010	123-049-0030	2-1-2010	Amend	3-1-2010
123-022-0090	12-1-2009	Amend	1-1-2010	123-049-0040	2-1-2010	Amend	3-1-2010
123-022-0100	12-1-2009	Amend	1-1-2010	123-049-0050	2-1-2010	Amend	3-1-2010
123-022-0110	12-1-2009	Amend	1-1-2010	123-049-0060	2-1-2010	Amend	3-1-2010
123-023-1000	5-1-2010	Am. & Ren.	6-1-2010	123-065-0010	1-5-2010	Amend(T)	2-1-2010
123-023-1100	5-1-2010	Am. & Ren.	6-1-2010	123-070-1000	12-1-2009	Amend	1-1-2010
123-023-1200	5-1-2010	Renumber	6-1-2010	123-070-1100	12-1-2009	Amend	1-1-2010
123-023-1250	5-1-2010	Renumber	6-1-2010	123-070-1150	12-1-2009	Amend	1-1-2010
123-023-1300	5-1-2010	Renumber	6-1-2010	123-070-1200	12-1-2009	Repeal	1-1-2010
123-023-1400	5-1-2010	Am. & Ren.	6-1-2010	123-070-1300	12-1-2009	Amend	1-1-2010
123-023-1500	5-1-2010	Am. & Ren.	6-1-2010	123-070-1500	12-1-2009	Amend	1-1-2010
123-023-1525	5-1-2010	Renumber	6-1-2010	123-070-1600	12-1-2009	Amend	1-1-2010
123-023-1550	5-1-2010	Am. & Ren.	6-1-2010	123-070-1700	12-1-2009	Repeal	1-1-2010
123-023-1600	5-1-2010	Am. & Ren.	6-1-2010	123-070-1800	12-1-2009	Amend	1-1-2010
123-023-1700	5-1-2010	Am. & Ren.	6-1-2010	123-070-1900	12-1-2009	Amend	1-1-2010
123-023-1800	5-1-2010	Am. & Ren.	6-1-2010	123-070-2000	12-1-2009	Repeal	1-1-2010
123-023-1900	5-1-2010	Am. & Ren.	6-1-2010	123-070-2300	12-1-2009	Amend	1-1-2010
123-023-1950	5-1-2010	Am. & Ren.	6-1-2010	123-070-2400	12-1-2009	Amend	1-1-2010
123-023-2000	5-1-2010	Am. & Ren.	6-1-2010	123-080-0000	1-1-2010	Amend	2-1-2010
123-023-3000	5-1-2010	Am. & Ren.	6-1-2010	123-080-0010	1-1-2010	Amend	2-1-2010
123-023-3100	5-1-2010	Am. & Ren.	6-1-2010	123-080-0030	1-1-2010	Amend	2-1-2010
123-023-3200	5-1-2010	Am. & Ren.	6-1-2010	123-080-0040	1-1-2010	Amend	2-1-2010
123-023-3300	5-1-2010	Renumber	6-1-2010	123-087-0010	1-1-2010	Amend	2-1-2010
123-023-3400	5-1-2010	Am. & Ren.	6-1-2010	123-087-0030	1-1-2010	Amend	2-1-2010
123-023-4000	5-1-2010	Am. & Ren.	6-1-2010	123-087-0040	1-1-2010	Repeal	2-1-2010
123-023-4100	5-1-2010	Am. & Ren.	6-1-2010	123-090-0000	1-1-2010	Amend	2-1-2010
123-024-0011	12-1-2009	Amend	1-1-2010	123-090-0010	1-1-2010	Amend	2-1-2010
123-024-0031	12-1-2009	Amend	1-1-2010	123-090-0030	1-1-2010	Amend	2-1-2010
123-024-0046	12-1-2009	Adopt	1-1-2010	123-090-0040	1-1-2010	Amend	2-1-2010
123-030-0050	5-1-2010	Amend	6-1-2010	123-090-0060	1-1-2010	Amend	2-1-2010
123-043-0000	12-1-2009	Amend	1-1-2010	123-135-0000	4-1-2010	Amend	5-1-2010
123-043-0010	12-1-2009	Amend	1-1-2010	123-135-0010	4-1-2010	Amend	5-1-2010
123-043-0010	1-14-2010	Amend(T)	2-1-2010	123-135-0020	4-1-2010	Amend	5-1-2010
123-043-0015	12-1-2009	Amend	1-1-2010	123-135-0030	4-1-2010	Amend	5-1-2010
123-043-0015	1-14-2010	Amend(T)	2-1-2010	123-135-0040	4-1-2010	Amend	5-1-2010
123-043-0025	12-1-2009	Amend	1-1-2010	123-135-0050	4-1-2010	Amend	5-1-2010
123-043-0025	1-14-2010	Amend(T)	2-1-2010	123-135-0060	4-1-2010	Repeal	5-1-2010
123-043-0035	12-1-2009	Amend	1-1-2010	123-135-0065	4-1-2010	Adopt	5-1-2010
123-043-0035	1-14-2010	Amend(T)	2-1-2010	123-135-0070	4-1-2010	Repeal	5-1-2010
123-043-0041	1-14-2010	Adopt(T)	2-1-2010	123-135-0080	4-1-2010	Amend	5-1-2010
123-043-0045	12-1-2009	Repeal	1-1-2010	123-135-0087	4-1-2010	Amend	5-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-135-0090	4-1-2010	Amend	5-1-2010	123-500-0005	3-1-2010	Amend	4-1-2010
123-135-0100	4-1-2010	Amend	5-1-2010	123-500-0010	3-1-2010	Adopt	4-1-2010
123-135-0110	4-1-2010	Amend	5-1-2010	123-500-0015	3-1-2010	Adopt	4-1-2010
123-140-0010	4-1-2010	Amend	5-1-2010	123-500-0020	3-1-2010	Am. & Ren.	4-1-2010
123-140-0020	4-1-2010	Amend	5-1-2010	123-500-0030	3-1-2010	Am. & Ren.	4-1-2010
123-140-0030	4-1-2010	Amend	5-1-2010	123-500-0035	3-1-2010	Adopt	4-1-2010
123-140-0050	4-1-2010	Amend	5-1-2010	123-500-0040	3-1-2010	Am. & Ren.	4-1-2010
123-155-0000	2-1-2010	Amend	3-1-2010	123-500-0045	3-1-2010	Adopt	4-1-2010
123-155-0050	2-1-2010	Amend	3-1-2010	123-500-0050	3-1-2010	Am. & Ren.	4-1-2010
123-155-0100	2-1-2010	Amend	3-1-2010	123-500-0055	3-1-2010	Adopt	4-1-2010
123-155-0150	2-1-2010	Amend	3-1-2010	123-500-0060	3-1-2010	Am. & Ren.	4-1-2010
123-155-0200	2-1-2010	Amend	3-1-2010	123-500-0075	3-1-2010	Adopt	4-1-2010
123-155-0250	2-1-2010	Amend	3-1-2010	123-500-0080	3-1-2010	Adopt	4-1-2010
123-155-0270	2-1-2010	Amend	3-1-2010	123-500-0150	3-1-2010	Adopt	4-1-2010
123-155-0300	2-1-2010	Amend	3-1-2010	123-500-0160	3-1-2010	Adopt	4-1-2010
123-155-0350	2-1-2010	Amend	3-1-2010	123-500-0170	3-1-2010	Adopt	4-1-2010
123-155-0400	2-1-2010	Amend	3-1-2010	123-500-0175	3-1-2010	Adopt	4-1-2010
123-165-0010	1-14-2010	Adopt(T)	2-1-2010	125-045-0210	11-19-2009	Amend	1-1-2010
123-165-0010	5-1-2010	Adopt	6-1-2010	125-045-0215	11-19-2009	Amend	1-1-2010
123-165-0010(T)	5-1-2010	Repeal	6-1-2010	125-045-0225	11-19-2009	Amend	1-1-2010
123-165-0020	1-14-2010	Adopt(T)	2-1-2010	125-246-0110	1-1-2010	Amend	2-1-2010
123-165-0020	5-1-2010	Adopt	6-1-2010	125-246-0130	1-1-2010	Amend	2-1-2010
123-165-0020(T)	5-1-2010	Repeal	6-1-2010	125-246-0150	1-1-2010	Amend	2-1-2010
123-165-0030	1-14-2010	Adopt(T)	2-1-2010	125-246-0165	1-1-2010	Adopt	2-1-2010
123-165-0030	5-1-2010	Adopt	6-1-2010	125-246-0170	1-1-2010	Amend	2-1-2010
123-165-0030(T)	5-1-2010	Repeal	6-1-2010	125-246-0200	1-1-2010	Amend	2-1-2010
123-165-0040	1-14-2010	Adopt(T)	2-1-2010	125-246-0210	1-1-2010	Amend	2-1-2010
123-165-0040	5-1-2010	Adopt	6-1-2010	125-246-0220	1-1-2010	Amend	2-1-2010
123-165-0040(T)	5-1-2010	Repeal	6-1-2010	125-246-0310	1-1-2010	Amend	2-1-2010
123-165-0045	1-14-2010	Adopt(T)	2-1-2010	125-246-0312	1-1-2010	Adopt	2-1-2010
123-165-0045	5-1-2010	Adopt	6-1-2010	125-246-0314	1-1-2010	Adopt	2-1-2010
123-165-0045(T)	5-1-2010	Repeal	6-1-2010	125-246-0330	1-1-2010	Amend	2-1-2010
123-165-0050	1-14-2010	Adopt(T)	2-1-2010	125-246-0333	1-1-2010	Amend	2-1-2010
123-165-0050	5-1-2010	Adopt	6-1-2010	125-246-0335	1-1-2010	Amend	2-1-2010
123-165-0050(T)	5-1-2010	Repeal	6-1-2010	125-246-0345	1-1-2010	Amend	2-1-2010
123-200-0005	5-1-2010	Adopt	6-1-2010	125-246-0351	1-1-2010	Amend	2-1-2010
123-200-0010	5-1-2010	Adopt	6-1-2010	125-246-0352	1-1-2010	Repeal	2-1-2010
123-200-0020	5-1-2010	Adopt	6-1-2010	125-246-0360	1-1-2010	Amend	2-1-2010
123-200-0030	5-1-2010	Adopt	6-1-2010	125-246-0365	1-1-2010	Amend	2-1-2010
123-200-0040	5-1-2010	Adopt	6-1-2010	125-246-0550	1-1-2010	Repeal	2-1-2010
123-200-0050	5-1-2010	Adopt	6-1-2010	125-246-0560	1-1-2010	Amend	2-1-2010
123-200-0060	5-1-2010	Adopt	6-1-2010	125-246-0570	1-1-2010	Amend	2-1-2010
123-200-0070	5-1-2010	Adopt	6-1-2010	125-246-0575	1-1-2010	Repeal	2-1-2010
123-200-0080	5-1-2010	Adopt	6-1-2010	125-246-0576	1-1-2010	Amend	2-1-2010
123-200-0090	5-1-2010	Adopt	6-1-2010	125-246-0621	1-1-2010	Adopt	2-1-2010
123-200-0100	5-1-2010	Adopt	6-1-2010	125-246-0635	1-1-2010	Amend	2-1-2010
123-200-0120	5-1-2010	Adopt	6-1-2010	125-247-0005	1-1-2010	Repeal	2-1-2010
123-200-0130	5-1-2010	Adopt	6-1-2010	125-247-0110	1-1-2010	Adopt	2-1-2010
123-200-0140	5-1-2010	Adopt	6-1-2010	125-247-0200	1-1-2010	Amend	2-1-2010
123-200-0150	5-1-2010	Adopt	6-1-2010	125-247-0255	1-1-2010	Amend	2-1-2010
123-200-0160	5-1-2010	Adopt	6-1-2010	125-247-0256	1-1-2010	Repeal	2-1-2010
123-200-0170	5-1-2010	Adopt	6-1-2010	125-247-0260	1-1-2010	Amend	2-1-2010
123-200-0180	5-1-2010	Adopt	6-1-2010	125-247-0261	1-1-2010	Repeal	2-1-2010
123-200-0190	5-1-2010	Adopt	6-1-2010	125-247-0270	1-1-2010	Amend	2-1-2010
123-200-0200	5-1-2010	Adopt	6-1-2010	125-247-0275	1-1-2010	Amend	2-1-2010
123-500-0000	3-1-2010	Amend	4-1-2010	125-247-0280	1-1-2010	Amend	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
137-049-0400	1-1-2010	Amend	1-1-2010	137-055-1090	1-4-2010	Amend	2-1-2010
137-049-0430	1-1-2010	Amend	1-1-2010	137-055-1120	1-4-2010	Amend	2-1-2010
137-049-0440	1-1-2010	Amend	1-1-2010	137-055-1140	1-4-2010	Amend	2-1-2010
137-049-0620	1-1-2010	Amend	1-1-2010	137-055-1145	1-4-2010	Amend	2-1-2010
137-049-0645	1-1-2010	Amend	1-1-2010	137-055-2160	1-4-2010	Amend(T)	2-1-2010
137-049-0650	1-1-2010	Amend	1-1-2010	137-055-2360	1-4-2010	Amend	2-1-2010
137-049-0670	1-1-2010	Amend	1-1-2010	137-055-2380	1-4-2010	Amend	2-1-2010
137-049-0680	1-1-2010	Amend	1-1-2010	137-055-3020	1-4-2010	Amend	2-1-2010
137-049-0800	1-1-2010	Amend	1-1-2010	137-055-3080	1-4-2010	Amend	2-1-2010
137-049-0815	1-1-2010	Amend	1-1-2010	137-055-3220	1-4-2010	Amend	2-1-2010
137-049-0820	1-1-2010	Amend	1-1-2010	137-055-3260	1-4-2010	Amend	2-1-2010
137-049-0860	1-1-2010	Amend	1-1-2010	137-055-3300	1-4-2010	Amend	2-1-2010
137-050-0320	1-4-2010	Repeal	1-1-2010	137-055-3340	1-4-2010	Amend(T)	2-1-2010
137-050-0330	1-4-2010	Repeal	1-1-2010	137-055-3340	1-12-2010	Amend(T)	2-1-2010
137-050-0333	1-4-2010	Repeal	1-1-2010	137-055-3340	4-1-2010	Amend	5-1-2010
137-050-0335	1-4-2010	Repeal	1-1-2010	137-055-3340(T)	1-12-2010	Suspend	2-1-2010
137-050-0340	1-4-2010	Repeal	1-1-2010	137-055-3340(T)	4-1-2010	Repeal	5-1-2010
137-050-0350	1-4-2010	Repeal	1-1-2010	137-055-3400	1-4-2010	Amend	2-1-2010
137-050-0360	1-4-2010	Repeal	1-1-2010	137-055-3420	1-4-2010	Amend	2-1-2010
137-050-0370	1-4-2010	Repeal	1-1-2010	137-055-3435	1-4-2010	Adopt	2-1-2010
137-050-0390	1-4-2010	Repeal	1-1-2010	137-055-3660	1-4-2010	Amend	2-1-2010
137-050-0400	1-4-2010	Repeal	1-1-2010	137-055-4210	1-4-2010	Adopt	2-1-2010
137-050-0405	1-4-2010	Repeal	1-1-2010	137-055-4420	1-4-2010	Amend	2-1-2010
137-050-0410	1-4-2010	Repeal	1-1-2010	137-055-4450	1-4-2010	Amend	2-1-2010
137-050-0420	1-4-2010	Repeal	1-1-2010	137-055-4455	1-4-2010	Amend	2-1-2010
137-050-0430	1-4-2010	Repeal	1-1-2010	137-055-4620	1-4-2010	Amend	2-1-2010
137-050-0450	1-4-2010	Repeal	1-1-2010	137-055-4640	1-4-2010	Amend	2-1-2010
137-050-0455	1-4-2010	Repeal	1-1-2010	137-055-5110	1-4-2010	Amend	2-1-2010
137-050-0465	1-4-2010	Repeal	1-1-2010	137-055-5220	1-4-2010	Amend	2-1-2010
137-050-0475	1-4-2010	Repeal	1-1-2010	137-055-6022	1-4-2010	Amend	2-1-2010
137-050-0485	1-4-2010	Repeal	1-1-2010	137-055-6024	1-4-2010	Amend	2-1-2010
137-050-0490	1-4-2010	Repeal	1-1-2010	137-055-6260	1-4-2010	Amend	2-1-2010
137-050-0700	1-4-2010	Adopt	1-1-2010	137-060-0110	3-12-2010	Amend	4-1-2010
137-050-0700	2-12-2010	Amend(T)	3-1-2010	137-060-0120	3-12-2010	Amend	4-1-2010
137-050-0710	1-4-2010	Adopt	1-1-2010	137-060-0130	3-12-2010	Amend	4-1-2010
137-050-0710	2-12-2010	Amend(T)	3-1-2010	137-060-0150	3-12-2010	Amend	4-1-2010
137-050-0715	1-4-2010	Adopt	1-1-2010	137-060-0210	3-12-2010	Amend	4-1-2010
137-050-0715	2-12-2010	Amend(T)	3-1-2010	137-060-0220	3-12-2010	Amend	4-1-2010
137-050-0720	1-4-2010	Adopt	1-1-2010	137-060-0230	3-12-2010	Amend	4-1-2010
137-050-0725	1-4-2010	Adopt	1-1-2010	137-060-0250	3-12-2010	Amend	4-1-2010
137-050-0730	1-4-2010	Adopt	1-1-2010	137-060-0310	3-12-2010	Amend	4-1-2010
137-050-0735	1-4-2010	Adopt	1-1-2010	137-060-0320	3-12-2010	Amend	4-1-2010
137-050-0740	1-4-2010	Adopt	1-1-2010	137-060-0330	3-12-2010	Amend	4-1-2010
137-050-0745	1-4-2010	Adopt	1-1-2010	137-060-0350	3-12-2010	Amend	4-1-2010
137-050-0750	1-4-2010	Adopt	1-1-2010	137-060-0410	3-12-2010	Amend	4-1-2010
137-050-0755	1-4-2010	Adopt	1-1-2010	137-060-0420	3-12-2010	Amend	4-1-2010
137-050-0760	1-4-2010	Adopt(T)	1-1-2010	137-060-0430	3-12-2010	Amend	4-1-2010
137-050-0760	1-8-2010	Amend(T)	2-1-2010	137-060-0450	3-12-2010	Amend	4-1-2010
137-050-0760	2-12-2010	Adopt(T)	3-1-2010	137-105-0050	4-19-2010	Adopt(T)	6-1-2010
137-050-0760(T)	1-8-2010	Suspend	2-1-2010	141-085-0506	1-1-2010	Amend	1-1-2010
137-050-0760(T)	2-12-2010	Suspend	3-1-2010	141-085-0510	1-1-2010	Amend	1-1-2010
137-050-0765	1-4-2010	Adopt	1-1-2010	141-085-0515	1-1-2010	Amend	1-1-2010
137-055-1020	1-4-2010	Amend	2-1-2010	141-085-0530	1-1-2010	Amend	1-1-2010
137-055-1070	1-4-2010	Amend(T)	2-1-2010	141-085-0534	1-1-2010	Adopt	1-1-2010
137-055-1070	4-1-2010	Amend	5-1-2010	141-085-0535	1-1-2010	Amend	1-1-2010
137-055-1070(T)	4-1-2010	Repeal	5-1-2010	141-085-0545	1-1-2010	Amend	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
141-085-0550	1-1-2010	Amend	1-1-2010	150-307.547	1-1-2010	Adopt	2-1-2010
141-085-0555	1-1-2010	Amend	1-1-2010	150-308.875-(A)	1-1-2010	Amend	2-1-2010
141-085-0565	1-1-2010	Amend	1-1-2010	150-309.100-(D)	1-1-2010	Adopt	2-1-2010
141-085-0570	1-1-2010	Am. & Ren.	1-1-2010	150-311.668(1)(a)-(A)	1-1-2010	Amend	2-1-2010
141-085-0575	1-1-2010	Amend	1-1-2010	150-311.668(1)(a)-(B)	1-1-2010	Amend	2-1-2010
141-085-0585	1-1-2010	Amend	1-1-2010	150-311.688	1-1-2010	Amend	2-1-2010
141-085-0590	1-1-2010	Amend	1-1-2010	150-311.689	1-1-2010	Amend	2-1-2010
141-085-0665	1-1-2010	Amend	1-1-2010	150-311.691	1-1-2010	Amend	2-1-2010
141-085-0670	1-1-2010	Repeal	1-1-2010	150-311.706	1-1-2010	Amend	2-1-2010
141-085-0675	1-1-2010	Amend	1-1-2010	150-314.280-(N)	1-1-2010	Amend	2-1-2010
141-085-0680	1-1-2010	Amend	1-1-2010	150-314.610(4)	1-1-2010	Repeal	2-1-2010
141-085-0685	1-1-2010	Amend	1-1-2010	150-315.204-(A)	1-1-2010	Amend	2-1-2010
141-085-0690	1-1-2010	Amend	1-1-2010	150-315.204-(A)	3-15-2010	Amend	4-1-2010
141-085-0700	1-1-2010	Amend	1-1-2010	150-315.262	1-1-2010	Amend	2-1-2010
141-085-0705	1-1-2010	Amend	1-1-2010	150-317.090	2-19-2010	Amend	4-1-2010
141-085-0720	1-1-2010	Amend	1-1-2010	150-317.097	1-1-2010	Amend	2-1-2010
141-085-0725	1-1-2010	Amend	1-1-2010	150-317.326	1-1-2010	Repeal	2-1-2010
141-085-0730	1-1-2010	Amend	1-1-2010	150-323.500(9)	1-1-2010	Adopt	2-1-2010
141-085-0735	1-1-2010	Amend	1-1-2010	150-323.500(9)(T)	1-1-2010	Repeal	2-1-2010
141-085-0745	1-1-2010	Amend	1-1-2010	150-358.505	1-1-2010	Adopt	2-1-2010
141-085-0750	1-1-2010	Amend	1-1-2010	160-001-0000	2-1-2010	Amend	3-1-2010
141-089-0095	1-1-2010	Adopt	1-1-2010	160-005-0008	1-1-2010	Adopt	2-1-2010
141-089-0350	1-1-2010	Repeal	1-1-2010	160-010-0200	1-1-2010	Amend	2-1-2010
141-089-0355	1-1-2010	Repeal	1-1-2010	160-010-0210	1-1-2010	Adopt	2-1-2010
141-089-0360	1-1-2010	Repeal	1-1-2010	160-010-0220	1-1-2010	Adopt	2-1-2010
141-089-0365	1-1-2010	Repeal	1-1-2010	160-010-0230	1-1-2010	Adopt	2-1-2010
141-089-0370	1-1-2010	Repeal	1-1-2010	160-010-0240	1-1-2010	Adopt	2-1-2010
141-089-0375	1-1-2010	Repeal	1-1-2010	160-040-0103	1-1-2010	Amend	2-1-2010
141-089-0380	1-1-2010	Repeal	1-1-2010	160-040-0104	1-1-2010	Amend	2-1-2010
141-089-0385	1-1-2010	Repeal	1-1-2010	160-040-0311	1-1-2010	Amend	2-1-2010
141-089-0390	1-1-2010	Repeal	1-1-2010	160-040-0507	1-1-2010	Adopt	2-1-2010
141-102-0000	4-1-2010	Amend	4-1-2010	160-050-0140	2-27-2010	Amend(T)	3-1-2010
141-102-0010	4-1-2010	Amend	4-1-2010	160-050-0140	4-2-2010	Amend	5-1-2010
141-102-0020	4-1-2010	Amend	4-1-2010	160-050-0140(T)	4-2-2010	Repeal	5-1-2010
141-102-0030	4-1-2010	Amend	4-1-2010	160-050-0215	2-27-2010	Amend(T)	3-1-2010
141-102-0040	4-1-2010	Amend	4-1-2010	160-050-0215	4-2-2010	Amend	5-1-2010
141-142-0010	12-15-2009	Adopt	1-1-2010	160-050-0215(T)	4-2-2010	Repeal	5-1-2010
141-142-0015	12-15-2009	Adopt	1-1-2010	160-100-0040	1-1-2010	Amend	2-1-2010
141-142-0020	12-15-2009	Adopt	1-1-2010	160-100-0040	5-3-2010	Amend	6-1-2010
141-142-0025	12-15-2009	Adopt	1-1-2010	160-100-0100	2-3-2010	Amend	3-1-2010
141-142-0030	12-15-2009	Adopt	1-1-2010	160-100-0301	3-1-2010	Adopt	4-1-2010
141-142-0035	12-15-2009	Adopt	1-1-2010	160-100-0400	1-1-2010	Amend	2-1-2010
141-142-0040	12-15-2009	Adopt	1-1-2010	160-100-0610	1-1-2010	Amend	2-1-2010
150-118.160-(B)	2-19-2010	Amend(T)	4-1-2010	160-100-0700	1-1-2010	Adopt	2-1-2010
150-118.225	1-1-2010	Amend	2-1-2010	161-002-0000	1-1-2010	Amend(T)	1-1-2010
150-118.NOTE	5-7-2010	Adopt(T)	6-1-2010	161-002-0000	4-23-2010	Amend	6-1-2010
150-294.175(2)-(B)	3-9-2010	Amend(T)	4-1-2010	161-002-0000(T)	4-23-2010	Repeal	6-1-2010
150-305.100-(C)	3-19-2010	Adopt	4-1-2010	161-010-0010	2-1-2010	Amend(T)	3-1-2010
150-305.100-(C)(T)	3-19-2010	Repeal	4-1-2010	161-010-0010	4-23-2010	Amend	6-1-2010
150-305.220(1)	1-1-2010	Amend	2-1-2010	161-010-0010(T)	4-23-2010	Repeal	6-1-2010
150-305.220(2)	1-1-2010	Amend	2-1-2010	161-010-0020	2-1-2010	Amend(T)	3-1-2010
150-305.290	1-1-2010	Repeal	2-1-2010	161-010-0020	4-23-2010	Amend	6-1-2010
150-306.126(2)	1-1-2010	Amend	2-1-2010	161-010-0020(T)	4-23-2010	Repeal	6-1-2010
150-307.250(1)(b)	1-1-2010	Am. & Ren.	2-1-2010	161-010-0055	2-1-2010	Suspend	3-1-2010
150-307.270(1)-(A)	1-1-2010	Amend	2-1-2010	161-010-0055	4-23-2010	Repeal	6-1-2010
150-307.330	1-1-2010	Amend	2-1-2010	161-010-0085	2-1-2010	Amend(T)	3-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
161-010-0085	4-23-2010	Amend	6-1-2010	162-010-0330	4-1-2010	Amend	5-1-2010
161-010-0085(T)	4-23-2010	Repeal	6-1-2010	162-040-0000	4-1-2010	Renumber	5-1-2010
161-015-0000	2-1-2010	Amend(T)	3-1-2010	162-040-0001	4-1-2010	Adopt	5-1-2010
161-015-0000	4-23-2010	Amend	6-1-2010	162-040-0020	4-1-2010	Amend	5-1-2010
161-015-0000(T)	4-23-2010	Repeal	6-1-2010	162-040-0060	4-1-2010	Amend	5-1-2010
161-015-0010	2-1-2010	Amend(T)	3-1-2010	162-040-0065	4-1-2010	Amend	5-1-2010
161-015-0010	4-23-2010	Amend	6-1-2010	162-040-0110	4-1-2010	Amend	5-1-2010
161-015-0010(T)	4-23-2010	Repeal	6-1-2010	162-040-0115	4-1-2010	Amend	5-1-2010
161-015-0025	2-1-2010	Amend(T)	3-1-2010	162-040-0130	4-1-2010	Amend	5-1-2010
161-015-0025	4-23-2010	Amend	6-1-2010	162-040-0135	4-1-2010	Amend	5-1-2010
161-015-0025(T)	4-23-2010	Repeal	6-1-2010	162-040-0136	4-1-2010	Adopt	5-1-2010
161-015-0030	2-1-2010	Amend(T)	3-1-2010	162-040-0148	4-1-2010	Amend	5-1-2010
161-015-0030	4-23-2010	Amend	6-1-2010	162-040-0160	4-1-2010	Amend	5-1-2010
161-015-0030(T)	4-23-2010	Repeal	6-1-2010	165-001-0015	12-31-2009	Amend	2-1-2010
161-020-0005	2-1-2010	Amend(T)	3-1-2010	165-001-0025	12-31-2009	Amend	2-1-2010
161-020-0005	4-23-2010	Amend	6-1-2010	165-001-0035	12-31-2009	Amend	2-1-2010
161-020-0005(T)	4-23-2010	Repeal	6-1-2010	165-001-0040	12-31-2009	Amend	2-1-2010
161-020-0110	2-1-2010	Amend(T)	3-1-2010	165-001-0045	12-31-2009	Amend	2-1-2010
161-020-0110	4-23-2010	Amend	6-1-2010	165-001-0050	12-31-2009	Amend	2-1-2010
161-020-0110(T)	4-23-2010	Repeal	6-1-2010	165-001-0055	12-31-2009	Amend	2-1-2010
161-020-0130	2-1-2010	Amend(T)	3-1-2010	165-001-0065	12-31-2009	Repeal	2-1-2010
161-020-0130	4-23-2010	Amend	6-1-2010	165-001-0080	12-31-2009	Amend	2-1-2010
161-020-0130(T)	4-23-2010	Repeal	6-1-2010	165-002-0010	12-31-2009	Amend	2-1-2010
161-020-0150	2-1-2010	Amend(T)	3-1-2010	165-002-0020	12-31-2009	Amend	2-1-2010
161-020-0150	4-23-2010	Amend	6-1-2010	165-005-0130	12-31-2009	Amend	2-1-2010
161-020-0150(T)	4-23-2010	Repeal	6-1-2010	165-005-0160	2-26-2010	Adopt	4-1-2010
161-025-0025	2-1-2010	Amend(T)	3-1-2010	165-007-0035	12-31-2009	Amend	2-1-2010
161-025-0025	4-23-2010	Amend	6-1-2010	165-007-0290	12-31-2009	Amend	2-1-2010
161-025-0025(T)	4-23-2010	Repeal	6-1-2010	165-007-0300	12-4-2009	Adopt	1-1-2010
161-025-0030	2-1-2010	Amend(T)	3-1-2010	165-007-0310	12-31-2009	Adopt	2-1-2010
161-025-0030	4-23-2010	Amend	6-1-2010	165-007-2011	2-26-2010	Adopt(T)	4-1-2010
161-025-0030(T)	4-23-2010	Repeal	6-1-2010	165-010-0005	12-31-2009	Amend	2-1-2010
161-025-0060	1-1-2010	Amend(T)	1-1-2010	165-010-0120	12-31-2009	Repeal	2-1-2010
161-025-0060	4-23-2010	Amend	6-1-2010	165-012-0005	12-31-2009	Amend	2-1-2010
161-025-0060(T)	4-23-2010	Repeal	6-1-2010	165-012-0005	4-22-2010	Amend	6-1-2010
161-030-0000	2-1-2010	Amend(T)	3-1-2010	165-012-0050	12-31-2009	Amend	2-1-2010
161-030-0000	4-23-2010	Amend	6-1-2010	165-012-0240	12-31-2009	Amend	2-1-2010
161-030-0000(T)	4-23-2010	Repeal	6-1-2010	165-013-0010	12-31-2009	Amend	2-1-2010
161-050-0000	2-1-2010	Amend(T)	3-1-2010	165-013-0020	12-31-2009	Amend	2-1-2010
161-050-0000	4-23-2010	Amend	6-1-2010	165-014-0005	12-31-2009	Amend	2-1-2010
161-050-0000(T)	4-23-2010	Repeal	6-1-2010	165-014-0100	12-31-2009	Amend	2-1-2010
161-050-0050	2-1-2010	Amend(T)	3-1-2010	165-014-0280	12-31-2009	Amend	2-1-2010
161-050-0050	4-23-2010	Amend	6-1-2010	165-020-0005	12-31-2009	Amend	2-1-2010
161-050-0050(T)	4-23-2010	Repeal	6-1-2010	165-020-0020	12-31-2009	Amend	2-1-2010
162-010-0000	4-1-2010	Amend	5-1-2010	165-020-0050	12-31-2009	Amend	2-1-2010
162-010-0020	4-1-2010	Amend	5-1-2010	165-020-0060	12-31-2009	Amend	2-1-2010
162-010-0030	4-1-2010	Amend	5-1-2010	166-150-0035	12-23-2009	Amend	2-1-2010
162-010-0050	4-1-2010	Amend	5-1-2010	170-040-0110	11-19-2009	Adopt	1-1-2010
162-010-0130	4-1-2010	Amend	5-1-2010	170-061-0000	2-2-2010	Amend	3-1-2010
162-010-0150	4-1-2010	Amend	5-1-2010	170-061-0015	1-15-2010	Amend	2-1-2010
162-010-0200	4-1-2010	Amend	5-1-2010	170-061-0015	1-26-2010	Amend(T)	3-1-2010
162-010-0230	4-1-2010	Amend	5-1-2010	170-061-0015(T)	1-15-2010	Repeal	2-1-2010
162-010-0240	4-1-2010	Amend	5-1-2010	170-063-0000	1-15-2010	Amend	2-1-2010
162-010-0270	4-1-2010	Amend	5-1-2010	170-063-0000(T)	1-15-2010	Repeal	2-1-2010
162-010-0310	4-1-2010	Amend	5-1-2010	173-001-0005	3-25-2010	Amend(T)	5-1-2010
162-010-0316	4-1-2010	Adopt	5-1-2010	173-001-0010	3-25-2010	Amend(T)	5-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
173-001-0015	3-25-2010	Amend(T)	5-1-2010	199-001-0000	3-15-2010	Amend	4-1-2010
173-001-0020	3-25-2010	Adopt(T)	5-1-2010	199-001-0005	3-15-2010	Amend	4-1-2010
173-005-0000	3-25-2010	Amend(T)	5-1-2010	199-001-0007	3-15-2010	Adopt	4-1-2010
173-005-0005	3-25-2010	Adopt(T)	5-1-2010	199-001-0010	3-15-2010	Amend	4-1-2010
173-006-0000	3-25-2010	Amend(T)	5-1-2010	199-001-0014	3-15-2010	Adopt	4-1-2010
173-006-0005	3-25-2010	Amend(T)	5-1-2010	199-001-0015	3-15-2010	Adopt	4-1-2010
173-007-0000	3-25-2010	Amend(T)	5-1-2010	199-001-0020	3-15-2010	Amend	4-1-2010
173-007-0005	3-25-2010	Amend(T)	5-1-2010	199-001-0035	3-15-2010	Amend	4-1-2010
173-008-0000	3-25-2010	Amend(T)	5-1-2010	199-001-0040	3-15-2010	Amend	4-1-2010
173-008-0005	3-25-2010	Amend(T)	5-1-2010	199-005-0001	3-15-2010	Adopt	4-1-2010
173-008-0010	3-25-2010	Amend(T)	5-1-2010	199-005-0003	3-15-2010	Adopt	4-1-2010
173-009-0000	3-25-2010	Amend(T)	5-1-2010	199-005-0003	3-15-2010	Amend	4-1-2010
173-009-0005	3-25-2010	Amend(T)	5-1-2010	199-005-0005	3-15-2010	Amend	4-1-2010
173-009-0010	3-25-2010	Amend(T)	5-1-2010	199-005-0010	3-15-2010	Amend	4-1-2010
173-009-0015	3-25-2010	Amend(T)	5-1-2010	199-005-0015	3-15-2010	Amend	4-1-2010
173-010-0000	3-25-2010	Amend(T)	5-1-2010	199-005-0020	3-15-2010	Amend	4-1-2010
173-010-0025	3-25-2010	Amend(T)	5-1-2010	199-005-0025	3-15-2010	Amend	4-1-2010
173-011-0000	3-25-2010	Amend(T)	5-1-2010	199-005-0027	3-15-2010	Adopt	4-1-2010
173-012-0000	3-25-2010	Amend(T)	5-1-2010	199-005-0035	3-15-2010	Amend	4-1-2010
173-012-0005	3-25-2010	Amend(T)	5-1-2010	199-010-0005	3-15-2010	Amend	4-1-2010
173-014-0000	3-25-2010	Amend(T)	5-1-2010	199-010-0025	3-15-2010	Amend	4-1-2010
173-014-0005	3-25-2010	Amend(T)	5-1-2010	199-010-0035	3-15-2010	Amend	4-1-2010
173-014-0010	3-25-2010	Amend(T)	5-1-2010	199-010-0060	3-15-2010	Amend	4-1-2010
173-015-0010	3-25-2010	Amend(T)	5-1-2010	199-010-0070	3-15-2010	Amend	4-1-2010
173-016-0010	3-25-2010	Adopt(T)	5-1-2010	199-010-0075	3-15-2010	Amend	4-1-2010
177-010-0003	3-21-2010	Amend	5-1-2010	199-010-0080	3-15-2010	Amend	4-1-2010
177-020-0100	2-1-2010	Amend	3-1-2010	199-010-0085	3-15-2010	Amend	4-1-2010
177-036-0200	1-20-2010	Suspend	3-1-2010	199-010-0090	3-15-2010	Amend	4-1-2010
177-036-0200	3-21-2010	Repeal	5-1-2010	199-010-0095	3-15-2010	Amend	4-1-2010
177-036-0200(T)	3-21-2010	Repeal	5-1-2010	199-010-0100	3-15-2010	Amend	4-1-2010
177-040-0050	3-15-2010	Amend(T)	4-1-2010	199-010-0150	3-15-2010	Amend	4-1-2010
177-040-0051	3-15-2010	Amend(T)	4-1-2010	199-020-0005	3-15-2010	Amend	4-1-2010
177-046-0110	3-21-2010	Amend	5-1-2010	199-020-0008	3-15-2010	Adopt	4-1-2010
177-050-0027	2-1-2010	Amend	3-1-2010	213-003-0001	1-1-2010	Amend	2-1-2010
177-070-0005	3-21-2010	Amend	5-1-2010	213-003-0001(T)	1-1-2010	Repeal	2-1-2010
177-070-0025	2-1-2010	Amend	3-1-2010	213-008-0002	4-15-2010	Amend(T)	5-1-2010
177-098-0000	3-21-2010	Adopt	5-1-2010	213-017-0004	12-13-2009	Amend	1-1-2010
177-098-0010	3-21-2010	Adopt	5-1-2010	213-017-0004	1-1-2010	Amend	2-1-2010
177-098-0020	3-21-2010	Adopt	5-1-2010	213-017-0004(T)	12-13-2009	Repeal	1-1-2010
177-098-0030	3-21-2010	Adopt	5-1-2010	213-017-0005	1-1-2010	Amend	2-1-2010
177-098-0040	3-21-2010	Adopt	5-1-2010	213-017-0006	12-13-2009	Amend	1-1-2010
177-098-0050	3-21-2010	Adopt	5-1-2010	213-017-0006	1-1-2010	Amend	2-1-2010
177-098-0060	3-21-2010	Adopt	5-1-2010	213-017-0006(T)	12-13-2009	Repeal	1-1-2010
177-098-0070	3-21-2010	Adopt	5-1-2010	213-017-0009(T)	1-1-2010	Suspend	1-1-2010
177-098-0080	3-21-2010	Adopt	5-1-2010	213-018-0022	12-13-2009	Adopt	1-1-2010
177-098-0090	3-21-2010	Adopt	5-1-2010	213-018-0022(T)	12-13-2009	Repeal	1-1-2010
177-098-0100	3-21-2010	Adopt	5-1-2010	213-018-0058	1-1-2010	Adopt	2-1-2010
177-098-0110	3-21-2010	Adopt	5-1-2010	250-010-0154	1-15-2010	Amend	2-1-2010
177-099-0100	2-1-2010	Amend	3-1-2010	250-010-0650	1-5-2010	Amend(T)	2-1-2010
177-099-0100(T)	2-1-2010	Repeal	3-1-2010	250-010-0650	1-15-2010	Amend(T)	2-1-2010
177-200-0005	3-15-2010	Amend(T)	4-1-2010	250-010-0650	5-6-2010	Amend	6-1-2010
177-200-0010	3-15-2010	Amend(T)	4-1-2010	250-010-0650(T)	1-15-2010	Suspend	2-1-2010
177-200-0020	2-1-2010	Amend	3-1-2010	250-010-0650(T)	5-6-2010	Repeal	6-1-2010
177-200-0020	3-15-2010	Amend(T)	4-1-2010	250-020-0033	6-1-2010	Amend(T)	6-1-2010
177-200-0032	3-15-2010	Amend(T)	4-1-2010	250-020-0221	1-15-2010	Amend	2-1-2010
177-200-0077	3-15-2010	Adopt(T)	4-1-2010	250-020-0221	5-6-2010	Amend(T)	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
250-020-0240	1-15-2010	Amend	2-1-2010	259-008-0017	5-1-2010	Adopt	5-1-2010
250-030-0030	1-15-2010	Amend(T)	2-1-2010	259-008-0025	12-15-2009	Amend	1-1-2010
250-030-0030	5-6-2010	Amend	6-1-2010	259-008-0025	5-1-2010	Amend	5-1-2010
250-030-0030(T)	5-6-2010	Repeal	6-1-2010	259-008-0025(T)	12-15-2009	Repeal	1-1-2010
255-032-0005	3-26-2010	Amend	5-1-2010	259-008-0040	5-1-2010	Amend	5-1-2010
255-032-0005(T)	3-26-2010	Repeal	5-1-2010	259-008-0060	1-11-2010	Amend	2-1-2010
255-032-0011	3-26-2010	Amend	5-1-2010	259-008-0060	3-15-2010	Amend	4-1-2010
255-032-0011(T)	3-26-2010	Repeal	5-1-2010	259-008-0064	1-11-2010	Amend	2-1-2010
255-032-0015	3-26-2010	Amend	5-1-2010	259-008-0064	3-15-2010	Amend	4-1-2010
255-032-0015(T)	3-26-2010	Repeal	5-1-2010	259-008-0075	5-1-2010	Amend	5-1-2010
255-032-0025	3-26-2010	Amend	5-1-2010	259-009-0005	12-15-2009	Amend(T)	1-1-2010
255-032-0025(T)	3-26-2010	Repeal	5-1-2010	259-009-0062	12-15-2009	Amend(T)	1-1-2010
255-032-0026	3-26-2010	Repeal	5-1-2010	274-006-0001	1-1-2010	Adopt	2-1-2010
255-032-0029	3-26-2010	Amend	5-1-2010	274-006-0002	1-1-2010	Adopt	2-1-2010
255-032-0029(T)	3-26-2010	Repeal	5-1-2010	274-006-0004	1-1-2010	Adopt	2-1-2010
255-062-0005	1-5-2010	Adopt(T)	2-1-2010	274-006-0005	1-1-2010	Adopt	2-1-2010
255-062-0010	1-5-2010	Adopt(T)	2-1-2010	274-006-0010	1-1-2010	Adopt	2-1-2010
255-062-0015	1-5-2010	Adopt(T)	2-1-2010	274-006-0011	1-1-2010	Adopt	2-1-2010
255-062-0020	1-5-2010	Adopt(T)	2-1-2010	274-006-0012	1-1-2010	Adopt	2-1-2010
255-062-0025	1-5-2010	Adopt(T)	2-1-2010	274-006-0013	1-1-2010	Adopt	2-1-2010
255-062-0030	1-5-2010	Adopt(T)	2-1-2010	274-006-0014	1-1-2010	Adopt	2-1-2010
255-070-0001	1-1-2010	Amend	2-1-2010	274-006-0015	1-1-2010	Adopt	2-1-2010
255-094-0000	2-26-2010	Am. & Ren.	4-1-2010	274-006-0018	1-1-2010	Adopt	2-1-2010
255-094-0002	2-26-2010	Adopt	4-1-2010	274-006-0020	1-1-2010	Adopt	2-1-2010
255-094-0010	2-26-2010	Amend	4-1-2010	291-058-0046	2-24-2010	Amend	4-1-2010
255-094-0015	2-26-2010	Amend	4-1-2010	291-070-0130	11-20-2009	Amend	1-1-2010
255-094-0020	2-26-2010	Amend	4-1-2010	291-084-0010	11-20-2009	Repeal	1-1-2010
257-001-0005	1-1-2010	Amend(T)	2-1-2010	291-084-0020	11-20-2009	Repeal	1-1-2010
257-045-0010	1-1-2010	Adopt(T)	2-1-2010	291-084-0030	11-20-2009	Repeal	1-1-2010
257-045-0020	1-1-2010	Adopt(T)	2-1-2010	291-084-0040	11-20-2009	Repeal	1-1-2010
257-045-0030	1-1-2010	Adopt(T)	2-1-2010	291-097-0005	11-20-2009	Amend	1-1-2010
257-045-0040	1-1-2010	Adopt(T)	2-1-2010	291-097-0005	4-14-2010	Amend(T)	5-1-2010
257-045-0050	1-1-2010	Adopt(T)	2-1-2010	291-097-0010	11-20-2009	Amend	1-1-2010
257-050-0020	1-1-2010	Amend(T)	2-1-2010	291-097-0010	4-14-2010	Amend(T)	5-1-2010
257-050-0040	1-1-2010	Amend(T)	2-1-2010	291-097-0015	11-20-2009	Amend	1-1-2010
257-050-0050	1-1-2010	Amend(T)	2-1-2010	291-097-0015	4-14-2010	Amend(T)	5-1-2010
257-050-0060	1-1-2010	Amend(T)	2-1-2010	291-097-0020	11-20-2009	Amend	1-1-2010
257-050-0070	1-1-2010	Amend(T)	2-1-2010	291-097-0020	4-14-2010	Amend(T)	5-1-2010
257-050-0090	1-1-2010	Amend(T)	2-1-2010	291-097-0023	11-20-2009	Adopt	1-1-2010
257-050-0095	1-1-2010	Amend(T)	2-1-2010	291-097-0023	4-14-2010	Amend(T)	5-1-2010
257-050-0100	1-1-2010	Amend(T)	2-1-2010	291-097-0025	11-20-2009	Amend	1-1-2010
257-050-0110	1-1-2010	Amend(T)	2-1-2010	291-097-0025	4-14-2010	Amend(T)	5-1-2010
257-050-0115	1-1-2010	Amend(T)	2-1-2010	291-097-0030	4-14-2010	Amend(T)	5-1-2010
257-050-0125	1-1-2010	Amend(T)	2-1-2010	291-097-0040	11-20-2009	Amend	1-1-2010
257-050-0130	1-1-2010	Amend(T)	2-1-2010	291-097-0040	4-14-2010	Amend(T)	5-1-2010
257-050-0140	1-1-2010	Amend(T)	2-1-2010	291-097-0080	11-20-2009	Amend	1-1-2010
257-050-0145	1-1-2010	Amend(T)	2-1-2010	291-097-0100	11-20-2009	Amend	1-1-2010
257-050-0150	1-1-2010	Amend(T)	2-1-2010	291-157-0005	4-6-2010	Amend	5-1-2010
257-050-0155	1-1-2010	Amend(T)	2-1-2010	291-157-0005(T)	4-6-2010	Repeal	5-1-2010
257-050-0157	1-1-2010	Amend(T)	2-1-2010	291-157-0010	4-6-2010	Amend	5-1-2010
257-050-0170	1-1-2010	Amend(T)	2-1-2010	291-157-0010(T)	4-6-2010	Repeal	5-1-2010
257-050-0180	1-1-2010	Amend(T)	2-1-2010	291-157-0015	4-6-2010	Amend	5-1-2010
257-050-0200	1-1-2010	Amend(T)	2-1-2010	291-157-0015(T)	4-6-2010	Repeal	5-1-2010
259-008-0000	12-15-2009	Amend	1-1-2010	291-157-0020	4-6-2010	Repeal	5-1-2010
259-008-0015	1-11-2010	Amend	2-1-2010	291-157-0021	4-6-2010	Adopt	5-1-2010
259-008-0015	3-15-2010	Amend	4-1-2010	291-157-0021(T)	4-6-2010	Repeal	5-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
291-157-0025	4-6-2010	Repeal	5-1-2010	309-016-0350	3-4-2010	Suspend	4-1-2010
291-157-0035	4-6-2010	Amend	5-1-2010	309-016-0360	3-4-2010	Suspend	4-1-2010
291-157-0035(T)	4-6-2010	Repeal	5-1-2010	309-016-0370	3-4-2010	Suspend	4-1-2010
291-157-0041	4-6-2010	Repeal	5-1-2010	309-016-0380	3-4-2010	Suspend	4-1-2010
291-157-0055	4-6-2010	Repeal	5-1-2010	309-016-0390	3-4-2010	Suspend	4-1-2010
291-180-0274	1-4-2010	Adopt(T)	2-1-2010	309-016-0400	3-4-2010	Suspend	4-1-2010
291-206-0005	2-24-2010	Adopt	4-1-2010	309-016-0410	3-4-2010	Suspend	4-1-2010
291-206-0005	3-23-2010	Amend(T)	5-1-2010	309-016-0420	3-4-2010	Suspend	4-1-2010
291-206-0010	2-24-2010	Adopt	4-1-2010	309-016-0430	3-4-2010	Suspend	4-1-2010
291-206-0010	3-23-2010	Amend(T)	5-1-2010	309-016-0440	3-4-2010	Suspend	4-1-2010
291-206-0015	2-24-2010	Adopt	4-1-2010	309-016-0450	3-4-2010	Suspend	4-1-2010
291-206-0015	3-23-2010	Amend(T)	5-1-2010	309-032-0001	3-4-2010	Repeal	4-1-2010
291-206-0020	2-24-2010	Adopt	4-1-2010	309-032-0070	3-4-2010	Repeal	4-1-2010
291-206-0020	3-23-2010	Amend(T)	5-1-2010	309-032-0075	3-4-2010	Repeal	4-1-2010
291-206-0025	2-24-2010	Adopt	4-1-2010	309-032-0080	3-4-2010	Repeal	4-1-2010
291-206-0025	3-23-2010	Amend(T)	5-1-2010	309-032-0085	3-4-2010	Repeal	4-1-2010
291-206-0030	2-24-2010	Adopt	4-1-2010	309-032-0090	3-4-2010	Repeal	4-1-2010
309-016-0000	3-4-2010	Amend(T)	4-1-2010	309-032-0095	3-4-2010	Repeal	4-1-2010
309-016-0005	3-4-2010	Amend(T)	4-1-2010	309-032-0100	3-4-2010	Repeal	4-1-2010
309-016-0010	3-4-2010	Amend(T)	4-1-2010	309-032-0105	3-4-2010	Repeal	4-1-2010
309-016-0015	3-4-2010	Amend(T)	4-1-2010	309-032-0110	3-4-2010	Repeal	4-1-2010
309-016-0020	3-4-2010	Amend(T)	4-1-2010	309-032-0115	3-4-2010	Repeal	4-1-2010
309-016-0027	3-4-2010	Suspend	4-1-2010	309-032-0220	3-4-2010	Repeal	4-1-2010
309-016-0030	3-4-2010	Amend(T)	4-1-2010	309-032-0225	3-4-2010	Repeal	4-1-2010
309-016-0035	3-4-2010	Amend(T)	4-1-2010	309-032-0230	3-4-2010	Repeal	4-1-2010
309-016-0040	3-4-2010	Amend(T)	4-1-2010	309-032-0235	3-4-2010	Repeal	4-1-2010
309-016-0070	3-4-2010	Amend(T)	4-1-2010	309-032-0240	3-4-2010	Repeal	4-1-2010
309-016-0072	3-4-2010	Amend(T)	4-1-2010	309-032-0245	3-4-2010	Repeal	4-1-2010
309-016-0075	3-4-2010	Amend(T)	4-1-2010	309-032-0250	3-4-2010	Repeal	4-1-2010
309-016-0077	3-4-2010	Amend(T)	4-1-2010	309-032-0455	3-4-2010	Repeal	4-1-2010
309-016-0080	3-4-2010	Amend(T)	4-1-2010	309-032-0460	3-4-2010	Repeal	4-1-2010
309-016-0085	3-4-2010	Amend(T)	4-1-2010	309-032-0465	3-4-2010	Repeal	4-1-2010
309-016-0088	3-4-2010	Amend(T)	4-1-2010	309-032-0470	3-4-2010	Repeal	4-1-2010
309-016-0095	3-4-2010	Amend(T)	4-1-2010	309-032-0475	3-4-2010	Repeal	4-1-2010
309-016-0100	3-4-2010	Amend(T)	4-1-2010	309-032-0480	3-4-2010	Repeal	4-1-2010
309-016-0102	3-4-2010	Amend(T)	4-1-2010	309-032-0485	3-4-2010	Repeal	4-1-2010
309-016-0105	3-4-2010	Amend(T)	4-1-2010	309-032-0490	3-4-2010	Repeal	4-1-2010
309-016-0110	3-4-2010	Amend(T)	4-1-2010	309-032-0495	3-4-2010	Repeal	4-1-2010
309-016-0115	3-4-2010	Amend(T)	4-1-2010	309-032-0500	3-4-2010	Repeal	4-1-2010
309-016-0120	3-4-2010	Amend(T)	4-1-2010	309-032-0505	3-4-2010	Repeal	4-1-2010
309-016-0130	3-4-2010	Suspend	4-1-2010	309-032-0510	3-4-2010	Repeal	4-1-2010
309-016-0140	3-4-2010	Amend(T)	4-1-2010	309-032-0515	3-4-2010	Repeal	4-1-2010
309-016-0150	3-4-2010	Suspend	4-1-2010	309-032-0525	3-4-2010	Repeal	4-1-2010
309-016-0160	3-4-2010	Suspend	4-1-2010	309-032-0535	3-4-2010	Repeal	4-1-2010
309-016-0170	3-4-2010	Suspend	4-1-2010	309-032-0545	3-4-2010	Repeal	4-1-2010
309-016-0180	3-4-2010	Suspend	4-1-2010	309-032-0555	3-4-2010	Repeal	4-1-2010
309-016-0190	3-4-2010	Suspend	4-1-2010	309-032-0565	3-4-2010	Repeal	4-1-2010
309-016-0200	3-4-2010	Suspend	4-1-2010	309-032-0575	3-4-2010	Repeal	4-1-2010
309-016-0210	3-4-2010	Suspend	4-1-2010	309-032-0585	3-4-2010	Repeal	4-1-2010
309-016-0220	3-4-2010	Amend(T)	4-1-2010	309-032-0595	3-4-2010	Repeal	4-1-2010
309-016-0230	3-4-2010	Suspend	4-1-2010	309-032-0605	3-4-2010	Repeal	4-1-2010
309-016-0300	3-4-2010	Suspend	4-1-2010	309-032-0720	3-4-2010	Repeal	4-1-2010
309-016-0310	3-4-2010	Suspend	4-1-2010	309-032-0730	3-4-2010	Repeal	4-1-2010
309-016-0320	3-4-2010	Suspend	4-1-2010	309-032-0740	3-4-2010	Repeal	4-1-2010
309-016-0330	3-4-2010	Suspend	4-1-2010	309-032-0750	3-4-2010	Repeal	4-1-2010
309-016-0340	3-4-2010	Suspend	4-1-2010	309-032-0760	3-4-2010	Repeal	4-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-032-0770	3-4-2010	Repeal	4-1-2010	309-032-1530	3-4-2010	Adopt	4-1-2010
309-032-0780	3-4-2010	Repeal	4-1-2010	309-032-1535	3-4-2010	Adopt	4-1-2010
309-032-0790	3-4-2010	Repeal	4-1-2010	309-032-1540	3-4-2010	Adopt	4-1-2010
309-032-0800	3-4-2010	Repeal	4-1-2010	309-032-1545	3-4-2010	Adopt	4-1-2010
309-032-0810	3-4-2010	Repeal	4-1-2010	309-032-1550	3-4-2010	Adopt	4-1-2010
309-032-0820	3-4-2010	Repeal	4-1-2010	309-032-1555	3-4-2010	Adopt	4-1-2010
309-032-0820	3-4-2010	Repeal	4-1-2010	309-032-1560	3-4-2010	Adopt	4-1-2010
309-032-0950	3-4-2010	Repeal	4-1-2010	309-032-1565	3-4-2010	Adopt	4-1-2010
309-032-0960	3-4-2010	Repeal	4-1-2010	309-033-0270	12-17-2009	Amend	2-1-2010
309-032-0970	3-4-2010	Repeal	4-1-2010	309-034-0150	3-4-2010	Amend(T)	4-1-2010
309-032-0980	3-4-2010	Repeal	4-1-2010	309-034-0160	3-4-2010	Amend(T)	4-1-2010
309-032-0990	3-4-2010	Repeal	4-1-2010	309-034-0170	3-4-2010	Amend(T)	4-1-2010
309-032-1000	3-4-2010	Repeal	4-1-2010	309-034-0180	3-4-2010	Amend(T)	4-1-2010
309-032-1010	3-4-2010	Repeal	4-1-2010	309-034-0190	3-4-2010	Amend(T)	4-1-2010
309-032-1020	3-4-2010	Repeal	4-1-2010	309-034-0205	3-4-2010	Amend(T)	4-1-2010
309-032-1030	3-4-2010	Repeal	4-1-2010	309-034-0210	3-4-2010	Amend(T)	4-1-2010
309-032-1040	3-4-2010	Repeal	4-1-2010	309-034-0240	3-4-2010	Amend(T)	4-1-2010
309-032-1050	3-4-2010	Repeal	4-1-2010	309-034-0250	3-4-2010	Amend(T)	4-1-2010
309-032-1060	3-4-2010	Repeal	4-1-2010	309-034-0260	3-4-2010	Amend(T)	4-1-2010
309-032-1070	3-4-2010	Repeal	4-1-2010	309-034-0270	3-4-2010	Amend(T)	4-1-2010
309-032-1080	3-4-2010	Repeal	4-1-2010	309-034-0290	3-4-2010	Amend(T)	4-1-2010
309-032-1095	3-4-2010	Repeal	4-1-2010	309-034-0310	3-4-2010	Amend(T)	4-1-2010
309-032-1100	3-4-2010	Repeal	4-1-2010	309-034-0320	3-4-2010	Amend(T)	4-1-2010
309-032-1110	3-4-2010	Repeal	4-1-2010	309-034-0400	3-4-2010	Amend(T)	4-1-2010
309-032-1120	3-4-2010	Repeal	4-1-2010	309-034-0410	3-4-2010	Amend(T)	4-1-2010
309-032-1130	3-4-2010	Repeal	4-1-2010	309-034-0420	3-4-2010	Amend(T)	4-1-2010
309-032-1140	3-4-2010	Repeal	4-1-2010	309-034-0430	3-4-2010	Amend(T)	4-1-2010
309-032-1150	3-4-2010	Repeal	4-1-2010	309-034-0440	3-4-2010	Amend(T)	4-1-2010
309-032-1160	3-4-2010	Repeal	4-1-2010	309-034-0450	3-4-2010	Amend(T)	4-1-2010
309-032-1170	3-4-2010	Repeal	4-1-2010	309-034-0460	3-4-2010	Amend(T)	4-1-2010
309-032-1180	3-4-2010	Repeal	4-1-2010	309-034-0470	3-4-2010	Amend(T)	4-1-2010
309-032-1190	3-4-2010	Repeal	4-1-2010	309-034-0480	3-4-2010	Amend(T)	4-1-2010
309-032-1200	3-4-2010	Repeal	4-1-2010	309-034-0490	3-4-2010	Amend(T)	4-1-2010
309-032-1210	3-4-2010	Repeal	4-1-2010	309-035-0155	12-17-2009	Amend	2-1-2010
309-032-1220	3-4-2010	Repeal	4-1-2010	309-035-0380	12-17-2009	Amend	2-1-2010
309-032-1230	3-4-2010	Repeal	4-1-2010	309-040-0410	1-29-2010	Amend	3-1-2010
309-032-1240	3-4-2010	Repeal	4-1-2010	309-040-0410(T)	1-29-2010	Repeal	3-1-2010
309-032-1245	3-4-2010	Repeal	4-1-2010	309-041-0550	12-9-2009	Renumber	1-1-2010
309-032-1250	3-4-2010	Repeal	4-1-2010	309-041-0560	12-9-2009	Renumber	1-1-2010
309-032-1255	3-4-2010	Repeal	4-1-2010	309-041-0570	12-9-2009	Renumber	1-1-2010
309-032-1260	3-4-2010	Repeal	4-1-2010	309-041-0580	12-9-2009	Renumber	1-1-2010
309-032-1265	3-4-2010	Repeal	4-1-2010	309-041-0590	12-9-2009	Renumber	1-1-2010
309-032-1270	3-4-2010	Repeal	4-1-2010	309-041-0600	12-9-2009	Renumber	1-1-2010
309-032-1275	3-4-2010	Repeal	4-1-2010	309-041-0610	12-9-2009	Renumber	1-1-2010
309-032-1280	3-4-2010	Repeal	4-1-2010	309-041-0620	12-9-2009	Renumber	1-1-2010
309-032-1285	3-4-2010	Repeal	4-1-2010	309-041-0630	12-9-2009	Renumber	1-1-2010
309-032-1290	3-4-2010	Repeal	4-1-2010	309-041-0640	12-9-2009	Renumber	1-1-2010
309-032-1295	3-4-2010	Repeal	4-1-2010	309-041-0650	12-9-2009	Renumber	1-1-2010
309-032-1300	3-4-2010	Repeal	4-1-2010	309-041-0660	12-9-2009	Renumber	1-1-2010
309-032-1305	3-4-2010	Repeal	4-1-2010	309-041-0670	12-9-2009	Renumber	1-1-2010
309-032-1500	3-4-2010	Adopt	4-1-2010	309-041-0680	12-9-2009	Renumber	1-1-2010
309-032-1505	3-4-2010	Adopt	4-1-2010	309-041-0690	12-9-2009	Renumber	1-1-2010
309-032-1510	3-4-2010	Adopt	4-1-2010	309-041-0700	12-9-2009	Renumber	1-1-2010
309-032-1515	3-4-2010	Adopt	4-1-2010	309-041-0710	12-9-2009	Renumber	1-1-2010
309-032-1520	3-4-2010	Adopt	4-1-2010	309-041-0715	12-9-2009	Renumber	1-1-2010
309-032-1525	3-4-2010	Adopt	4-1-2010	309-041-0720	12-9-2009	Renumber	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-041-0730	12-9-2009	Renumber	1-1-2010	331-515-0010	4-1-2010	Amend	5-1-2010
309-041-0740	12-9-2009	Renumber	1-1-2010	331-515-0020	4-1-2010	Amend	5-1-2010
309-041-0750	12-9-2009	Renumber	1-1-2010	331-515-0030	4-1-2010	Amend	5-1-2010
309-041-0760	12-9-2009	Renumber	1-1-2010	331-520-0000	4-1-2010	Amend	5-1-2010
309-041-0770	12-9-2009	Renumber	1-1-2010	331-520-0010	4-1-2010	Amend	5-1-2010
309-041-0780	12-9-2009	Renumber	1-1-2010	331-520-0030	4-1-2010	Amend	5-1-2010
309-041-0790	12-9-2009	Renumber	1-1-2010	331-520-0040	4-1-2010	Amend	5-1-2010
309-041-0800	12-9-2009	Renumber	1-1-2010	331-520-0060	4-1-2010	Repeal	5-1-2010
309-041-0805	12-9-2009	Renumber	1-1-2010	331-520-0070	4-1-2010	Amend	5-1-2010
309-041-0810	12-9-2009	Renumber	1-1-2010	331-525-0020	4-1-2010	Amend	5-1-2010
309-041-0820	12-9-2009	Renumber	1-1-2010	331-525-0035	4-1-2010	Amend	5-1-2010
309-041-0830	12-9-2009	Renumber	1-1-2010	331-525-0038	4-1-2010	Amend	5-1-2010
309-114-0005	12-28-2009	Amend	2-1-2010	331-525-0040	4-1-2010	Amend	5-1-2010
309-114-0005	3-12-2010	Amend(T)	4-1-2010	331-525-0055	4-1-2010	Amend	5-1-2010
309-114-0020	3-24-2010	Amend(T)	5-1-2010	331-525-0060	4-1-2010	Amend	5-1-2010
325-030-0001	4-26-2010	Adopt	6-1-2010	331-525-0065	4-1-2010	Amend	5-1-2010
325-030-0005	4-26-2010	Adopt	6-1-2010	331-530-0000	4-1-2010	Amend	5-1-2010
325-030-0010	4-26-2010	Adopt	6-1-2010	331-530-0020	4-1-2010	Amend	5-1-2010
325-030-0015	4-26-2010	Adopt	6-1-2010	331-535-0000	4-1-2010	Amend	5-1-2010
325-030-0020	4-26-2010	Adopt	6-1-2010	331-535-0010	4-1-2010	Amend	5-1-2010
325-030-0025	4-26-2010	Adopt	6-1-2010	331-535-0020	4-1-2010	Amend	5-1-2010
325-030-0030	4-26-2010	Adopt	6-1-2010	331-535-0030	4-1-2010	Amend	5-1-2010
325-030-0035	4-26-2010	Adopt	6-1-2010	331-535-0040	4-1-2010	Amend	5-1-2010
325-030-0040	4-26-2010	Adopt	6-1-2010	331-535-0050	4-1-2010	Amend	5-1-2010
325-030-0045	4-26-2010	Adopt	6-1-2010	331-535-0060	4-1-2010	Amend	5-1-2010
325-030-0050	4-26-2010	Adopt	6-1-2010	331-535-0070	4-1-2010	Amend	5-1-2010
325-030-0055	4-26-2010	Adopt	6-1-2010	331-535-0080	4-1-2010	Amend	5-1-2010
325-030-0060	4-26-2010	Adopt	6-1-2010	331-540-0000	4-1-2010	Amend	5-1-2010
330-001-0005	1-27-2010	Amend	3-1-2010	331-540-0010	4-1-2010	Amend	5-1-2010
330-001-0025	1-27-2010	Adopt	3-1-2010	331-540-0020	4-1-2010	Amend	5-1-2010
330-075-0005	12-21-2009	Amend(T)	2-1-2010	331-540-0030	4-1-2010	Amend	5-1-2010
330-075-0010	12-21-2009	Amend(T)	2-1-2010	331-545-0000	4-1-2010	Amend	5-1-2010
330-075-0015	12-21-2009	Amend(T)	2-1-2010	331-545-0020	4-1-2010	Amend	5-1-2010
330-075-0025	12-21-2009	Amend(T)	2-1-2010	331-550-0000	4-1-2010	Amend	5-1-2010
330-075-0030	12-21-2009	Suspend	2-1-2010	331-555-0010	4-1-2010	Amend	5-1-2010
330-075-0035	12-21-2009	Amend(T)	2-1-2010	331-555-0030	4-1-2010	Amend	5-1-2010
330-090-0105	4-30-2010	Amend	6-1-2010	331-555-0040	4-1-2010	Amend	5-1-2010
330-090-0105(T)	4-30-2010	Repeal	6-1-2010	331-560-0000	4-1-2010	Amend	5-1-2010
330-090-0110	4-30-2010	Amend	6-1-2010	331-560-0010	4-1-2010	Amend	5-1-2010
330-090-0110(T)	4-30-2010	Repeal	6-1-2010	331-560-0020	4-1-2010	Amend	5-1-2010
330-090-0120	4-30-2010	Amend	6-1-2010	331-560-0030	4-1-2010	Amend	5-1-2010
330-090-0120(T)	4-30-2010	Repeal	6-1-2010	331-560-0050	4-1-2010	Repeal	5-1-2010
330-090-0130	4-30-2010	Amend	6-1-2010	331-560-0060	4-1-2010	Amend	5-1-2010
330-090-0130(T)	4-30-2010	Repeal	6-1-2010	331-565-0000	4-1-2010	Amend	5-1-2010
330-090-0133	4-30-2010	Adopt	6-1-2010	331-565-0020	4-1-2010	Amend	5-1-2010
330-090-0133(T)	4-30-2010	Repeal	6-1-2010	331-565-0025	4-1-2010	Amend	5-1-2010
330-090-0135	4-30-2010	Amend	6-1-2010	331-565-0030	4-1-2010	Amend	5-1-2010
330-090-0135(T)	4-30-2010	Repeal	6-1-2010	331-565-0040	4-1-2010	Amend	5-1-2010
330-090-0140	1-8-2010	Amend	2-1-2010	331-565-0050	4-1-2010	Amend	5-1-2010
330-090-0140(T)	1-8-2010	Repeal	2-1-2010	331-565-0060	4-1-2010	Amend	5-1-2010
330-090-0150	4-30-2010	Amend	6-1-2010	331-565-0075	4-1-2010	Repeal	5-1-2010
330-090-0150(T)	4-30-2010	Repeal	6-1-2010	331-565-0080	4-1-2010	Amend	5-1-2010
331-505-0000	4-1-2010	Amend	5-1-2010	331-565-0085	4-1-2010	Amend	5-1-2010
331-505-0010	4-1-2010	Amend	5-1-2010	331-565-0090	4-1-2010	Adopt	5-1-2010
331-510-0000	4-1-2010	Amend	5-1-2010	331-565-0095	4-1-2010	Adopt	5-1-2010
331-515-0000	4-1-2010	Amend	5-1-2010	331-570-0000	4-1-2010	Amend	5-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
331-570-0020	4-1-2010	Amend	5-1-2010	333-019-0027	3-11-2010	Amend	4-1-2010
331-575-0000	4-1-2010	Amend	5-1-2010	333-019-0036	3-11-2010	Amend	4-1-2010
331-575-0010	4-1-2010	Amend	5-1-2010	333-026-0030	3-11-2010	Adopt	4-1-2010
331-575-0020	4-1-2010	Amend	5-1-2010	333-029-0025	12-23-2009	Amend	2-1-2010
331-575-0030	4-1-2010	Amend	5-1-2010	333-029-0030	12-23-2009	Repeal	2-1-2010
331-575-0050	4-1-2010	Amend	5-1-2010	333-029-0045	12-23-2009	Amend	2-1-2010
331-580-0000	4-1-2010	Amend	5-1-2010	333-029-0050	12-23-2009	Amend	2-1-2010
331-580-0010	4-1-2010	Amend	5-1-2010	333-029-0060	12-23-2009	Amend	2-1-2010
331-580-0020	4-1-2010	Amend	5-1-2010	333-029-0070	12-23-2009	Amend	2-1-2010
331-580-0030	4-1-2010	Amend	5-1-2010	333-029-0080	12-23-2009	Amend	2-1-2010
331-585-0000	4-1-2010	Amend	5-1-2010	333-029-0115	12-23-2009	Amend	2-1-2010
331-585-0010	4-1-2010	Amend	5-1-2010	333-050-0020	12-21-2009	Amend(T)	2-1-2010
331-585-0020	4-1-2010	Amend	5-1-2010	333-050-0050	12-21-2009	Amend(T)	2-1-2010
331-585-0030	4-1-2010	Amend	5-1-2010	333-050-0120	12-21-2009	Amend(T)	2-1-2010
331-585-0040	4-1-2010	Amend	5-1-2010	333-060-0125	12-23-2009	Amend	2-1-2010
331-590-0000	4-1-2010	Amend	5-1-2010	333-060-0128	12-23-2009	Adopt	2-1-2010
331-590-0020	4-1-2010	Amend	5-1-2010	333-060-0505	12-23-2009	Amend	2-1-2010
331-705-0060	12-1-2009	Amend(T)	1-1-2010	333-060-0510	12-23-2009	Amend	2-1-2010
331-705-0060	3-1-2010	Amend	4-1-2010	333-061-0005	4-19-2010	Amend	6-1-2010
331-705-0060(T)	3-1-2010	Repeal	4-1-2010	333-061-0010	4-19-2010	Amend	6-1-2010
331-800-0010	3-15-2010	Amend	4-1-2010	333-061-0015	4-19-2010	Amend	6-1-2010
331-800-0020	3-15-2010	Amend	4-1-2010	333-061-0020	4-19-2010	Amend	6-1-2010
331-810-0020	3-15-2010	Amend	4-1-2010	333-061-0030	4-19-2010	Amend	6-1-2010
331-810-0035	3-15-2010	Repeal	4-1-2010	333-061-0032	4-19-2010	Amend	6-1-2010
331-810-0040	3-15-2010	Amend	4-1-2010	333-061-0034	4-19-2010	Amend	6-1-2010
331-840-0070	3-15-2010	Adopt	4-1-2010	333-061-0036	4-19-2010	Amend	6-1-2010
332-020-0020	4-1-2010	Amend(T)	5-1-2010	333-061-0040	4-19-2010	Amend	6-1-2010
333-011-0106	2-3-2010	Amend	3-1-2010	333-061-0042	4-19-2010	Amend	6-1-2010
333-012-0500	1-14-2010	Amend	2-1-2010	333-061-0043	4-19-2010	Amend	6-1-2010
333-015-0035	1-14-2010	Amend	2-1-2010	333-061-0045	4-19-2010	Amend	6-1-2010
333-015-0040	1-14-2010	Amend	2-1-2010	333-061-0050	4-19-2010	Amend	6-1-2010
333-015-0075	1-14-2010	Amend	2-1-2010	333-061-0055	4-19-2010	Amend	6-1-2010
333-015-0085	1-14-2010	Amend	2-1-2010	333-061-0057	4-19-2010	Amend	6-1-2010
333-015-0100	1-1-2010	Adopt	2-1-2010	333-061-0058	4-19-2010	Amend	6-1-2010
333-015-0105	1-1-2010	Adopt	2-1-2010	333-061-0060	4-19-2010	Amend	6-1-2010
333-015-0110	1-1-2010	Adopt	2-1-2010	333-061-0061	4-19-2010	Amend	6-1-2010
333-015-0115	1-1-2010	Adopt	2-1-2010	333-061-0062	4-19-2010	Amend	6-1-2010
333-015-0120	1-1-2010	Adopt	2-1-2010	333-061-0063	4-19-2010	Amend	6-1-2010
333-015-0125	1-1-2010	Adopt	2-1-2010	333-061-0064	4-19-2010	Amend	6-1-2010
333-015-0130	1-1-2010	Adopt	2-1-2010	333-061-0065	4-19-2010	Amend	6-1-2010
333-015-0135	1-1-2010	Adopt	2-1-2010	333-061-0070	4-19-2010	Amend	6-1-2010
333-015-0140	1-1-2010	Adopt	2-1-2010	333-061-0071	4-19-2010	Amend	6-1-2010
333-015-0145	1-1-2010	Adopt	2-1-2010	333-061-0072	4-19-2010	Amend	6-1-2010
333-015-0150	1-1-2010	Adopt	2-1-2010	333-061-0073	4-19-2010	Amend	6-1-2010
333-015-0155	1-1-2010	Adopt	2-1-2010	333-061-0076	4-19-2010	Amend	6-1-2010
333-015-0160	1-1-2010	Adopt	2-1-2010	333-061-0077	4-19-2010	Amend	6-1-2010
333-015-0165	1-1-2010	Adopt	2-1-2010	333-061-0090	4-19-2010	Amend	6-1-2010
333-017-0000	3-11-2010	Amend	4-1-2010	333-061-0215	4-19-2010	Repeal	6-1-2010
333-017-0005	3-11-2010	Amend	4-1-2010	333-061-0228	4-19-2010	Amend	6-1-2010
333-018-0000	3-11-2010	Amend	4-1-2010	333-061-0230	4-19-2010	Amend	6-1-2010
333-018-0010	3-11-2010	Amend	4-1-2010	333-061-0235	4-19-2010	Amend	6-1-2010
333-018-0013	3-11-2010	Adopt	4-1-2010	333-061-0245	4-19-2010	Amend	6-1-2010
333-018-0015	3-11-2010	Amend	4-1-2010	333-061-0265	4-19-2010	Amend	6-1-2010
333-018-0017	3-11-2010	Adopt	4-1-2010	333-061-0272	3-16-2010	Amend(T)	5-1-2010
333-018-0018	3-11-2010	Amend	4-1-2010	333-061-0274	3-16-2010	Adopt(T)	5-1-2010
333-019-0017	3-11-2010	Amend	4-1-2010	333-061-0290	4-19-2010	Amend	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-061-0295	4-19-2010	Repeal	6-1-2010	333-102-0110	2-16-2010	Amend	4-1-2010
333-061-0305	4-19-2010	Amend	6-1-2010	333-102-0115	2-16-2010	Amend	4-1-2010
333-061-0310	4-19-2010	Amend	6-1-2010	333-102-0190	2-16-2010	Amend	4-1-2010
333-061-0315	4-19-2010	Repeal	6-1-2010	333-102-0245	2-16-2010	Amend	4-1-2010
333-061-0320	4-19-2010	Repeal	6-1-2010	333-102-0285	2-16-2010	Amend	4-1-2010
333-061-0324	4-19-2010	Adopt	6-1-2010	333-102-0290	2-16-2010	Amend	4-1-2010
333-061-0325	4-19-2010	Amend	6-1-2010	333-102-0305	2-16-2010	Amend	4-1-2010
333-061-0330	4-19-2010	Amend	6-1-2010	333-102-0325	2-16-2010	Amend	4-1-2010
333-061-0335	4-19-2010	Amend	6-1-2010	333-102-0340	2-16-2010	Amend	4-1-2010
333-062-0100	12-23-2009	Amend	2-1-2010	333-103-0001	2-16-2010	Amend	4-1-2010
333-062-0103	12-23-2009	Adopt	2-1-2010	333-103-0010	2-16-2010	Amend	4-1-2010
333-070-0075	4-26-2010	Adopt	6-1-2010	333-106-0005	2-16-2010	Amend	4-1-2010
333-070-0080	4-26-2010	Adopt	6-1-2010	333-106-0215	2-16-2010	Amend	4-1-2010
333-070-0085	4-26-2010	Adopt	6-1-2010	333-106-0320	2-16-2010	Amend	4-1-2010
333-070-0090	4-26-2010	Adopt	6-1-2010	333-116-0020	2-16-2010	Amend	4-1-2010
333-070-0095	4-26-2010	Adopt	6-1-2010	333-116-0035	2-16-2010	Amend	4-1-2010
333-070-0100	4-26-2010	Adopt	6-1-2010	333-116-0140	2-16-2010	Amend	4-1-2010
333-070-0105	4-26-2010	Adopt	6-1-2010	333-116-0170	2-16-2010	Amend	4-1-2010
333-070-0110	4-26-2010	Adopt	6-1-2010	333-116-0190	2-16-2010	Amend	4-1-2010
333-070-0115	4-26-2010	Adopt	6-1-2010	333-116-0300	2-16-2010	Amend	4-1-2010
333-070-0120	4-26-2010	Adopt	6-1-2010	333-116-0360	2-16-2010	Amend	4-1-2010
333-070-0125	4-26-2010	Adopt	6-1-2010	333-116-0485	2-16-2010	Adopt	4-1-2010
333-070-0130	4-26-2010	Adopt	6-1-2010	333-116-0660	2-16-2010	Amend	4-1-2010
333-070-0135	4-26-2010	Adopt	6-1-2010	333-116-0670	2-16-2010	Amend	4-1-2010
333-070-0140	4-26-2010	Adopt	6-1-2010	333-116-0683	2-16-2010	Amend	4-1-2010
333-070-0145	4-26-2010	Adopt	6-1-2010	333-116-0687	2-16-2010	Amend	4-1-2010
333-070-0150	4-26-2010	Adopt	6-1-2010	333-116-0690	2-16-2010	Amend	4-1-2010
333-070-0155	4-26-2010	Adopt	6-1-2010	333-116-0700	2-16-2010	Amend	4-1-2010
333-070-0160	4-26-2010	Adopt	6-1-2010	333-116-0810	2-16-2010	Amend	4-1-2010
333-092-0000	12-21-2009	Repeal	2-1-2010	333-116-0905	2-16-2010	Amend	4-1-2010
333-092-0005	12-21-2009	Repeal	2-1-2010	333-118-0020	2-16-2010	Amend	4-1-2010
333-092-0010	12-21-2009	Repeal	2-1-2010	333-118-0050	2-16-2010	Amend	4-1-2010
333-092-0015	12-21-2009	Repeal	2-1-2010	333-118-0051	2-16-2010	Adopt	4-1-2010
333-092-0020	12-21-2009	Repeal	2-1-2010	333-118-0052	2-16-2010	Adopt	4-1-2010
333-092-0025	12-21-2009	Repeal	2-1-2010	333-118-0053	2-16-2010	Adopt	4-1-2010
333-092-0030	12-21-2009	Repeal	2-1-2010	333-118-0070	2-16-2010	Amend	4-1-2010
333-092-0035	12-21-2009	Repeal	2-1-2010	333-118-0110	2-16-2010	Amend	4-1-2010
333-092-0040	12-21-2009	Repeal	2-1-2010	333-118-0120	2-16-2010	Amend	4-1-2010
333-092-0045	12-21-2009	Repeal	2-1-2010	333-118-0125	2-16-2010	Adopt	4-1-2010
333-092-0050	12-21-2009	Repeal	2-1-2010	333-118-0140	2-16-2010	Amend	4-1-2010
333-092-0055	12-21-2009	Repeal	2-1-2010	333-118-0150	2-16-2010	Amend	4-1-2010
333-092-0060	12-21-2009	Repeal	2-1-2010	333-118-0160	2-16-2010	Amend	4-1-2010
333-092-0065	12-21-2009	Repeal	2-1-2010	333-118-0162	2-16-2010	Adopt	4-1-2010
333-092-0070	12-21-2009	Repeal	2-1-2010	333-118-0190	2-16-2010	Amend	4-1-2010
333-092-0075	12-21-2009	Repeal	2-1-2010	333-118-0200	2-16-2010	Amend	4-1-2010
333-092-0080	12-21-2009	Repeal	2-1-2010	333-119-0010	2-16-2010	Amend	4-1-2010
333-092-0085	12-21-2009	Repeal	2-1-2010	333-119-0020	2-16-2010	Amend	4-1-2010
333-092-0090	12-21-2009	Repeal	2-1-2010	333-119-0080	2-16-2010	Amend	4-1-2010
333-092-0095	12-21-2009	Repeal	2-1-2010	333-119-0090	2-16-2010	Amend	4-1-2010
333-100-0020	2-16-2010	Amend	4-1-2010	333-119-0100	2-16-2010	Amend	4-1-2010
333-100-0065	2-16-2010	Amend	4-1-2010	333-120-0015	2-16-2010	Amend	4-1-2010
333-102-0010	2-16-2010	Amend	4-1-2010	333-120-0800	2-16-2010	Amend	4-1-2010
333-102-0015	2-16-2010	Amend	4-1-2010	333-124-0001	2-16-2010	Adopt	4-1-2010
333-102-0020	2-16-2010	Repeal	4-1-2010	333-124-0010	2-16-2010	Adopt	4-1-2010
333-102-0035	2-16-2010	Amend	4-1-2010	333-270-0010	12-3-2009	Adopt	1-1-2010
333-102-0105	2-16-2010	Amend	4-1-2010	333-270-0020	12-3-2009	Adopt	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-270-0030	12-3-2009	Adopt	1-1-2010	340-252-0100	3-5-2010	Repeal	4-1-2010
333-270-0040	12-3-2009	Adopt	1-1-2010	340-252-0110	3-5-2010	Repeal	4-1-2010
333-270-0050	12-3-2009	Adopt	1-1-2010	340-252-0120	3-5-2010	Repeal	4-1-2010
333-270-0060	12-3-2009	Adopt	1-1-2010	340-252-0130	3-5-2010	Repeal	4-1-2010
333-270-0070	12-3-2009	Adopt	1-1-2010	340-252-0140	3-5-2010	Repeal	4-1-2010
333-270-0080	12-3-2009	Adopt	1-1-2010	340-252-0150	3-5-2010	Repeal	4-1-2010
333-300-0000	12-21-2009	Repeal	2-1-2010	340-252-0160	3-5-2010	Repeal	4-1-2010
334-001-0055	4-12-2010	Adopt	5-1-2010	340-252-0170	3-5-2010	Repeal	4-1-2010
335-070-0065	11-16-2009	Amend	1-1-2010	340-252-0180	3-5-2010	Repeal	4-1-2010
335-095-0060	11-16-2009	Amend	1-1-2010	340-252-0190	3-5-2010	Repeal	4-1-2010
339-005-0000	3-1-2010	Amend	2-1-2010	340-252-0200	3-5-2010	Repeal	4-1-2010
340-045-0033	1-22-2010	Amend	3-1-2010	340-252-0210	3-5-2010	Repeal	4-1-2010
340-054-0010	5-4-2010	Amend(T)	6-1-2010	340-252-0220	3-5-2010	Repeal	4-1-2010
340-054-0025	5-4-2010	Amend(T)	6-1-2010	340-252-0230	3-5-2010	Amend	4-1-2010
340-054-0065	5-4-2010	Amend(T)	6-1-2010	340-252-0240	3-5-2010	Repeal	4-1-2010
340-071-0140	1-4-2010	Amend	2-1-2010	340-252-0250	3-5-2010	Repeal	4-1-2010
340-093-0030	5-14-2010	Amend	6-1-2010	340-252-0260	3-5-2010	Repeal	4-1-2010
340-093-0260	5-14-2010	Adopt	6-1-2010	340-252-0270	3-5-2010	Repeal	4-1-2010
340-093-0270	5-14-2010	Adopt	6-1-2010	340-252-0280	3-5-2010	Repeal	4-1-2010
340-093-0280	5-14-2010	Adopt	6-1-2010	340-252-0290	3-5-2010	Repeal	4-1-2010
340-093-0290	5-14-2010	Adopt	6-1-2010	345-001-0010	11-24-2009	Amend	1-1-2010
340-097-0120	5-14-2010	Amend	6-1-2010	345-001-0220	5-11-2010	Amend	6-1-2010
340-200-0040	12-16-2009	Amend	2-1-2010	345-024-0590	11-24-2009	Amend	1-1-2010
340-200-0040	3-5-2010	Amend	4-1-2010	350-090-0010	6-1-2010	Repeal	6-1-2010
340-209-0030	12-16-2009	Amend	2-1-2010	350-090-0020	6-1-2010	Repeal	6-1-2010
340-210-0100	12-16-2009	Amend	2-1-2010	350-090-0030	6-1-2010	Repeal	6-1-2010
340-210-0110	12-16-2009	Amend	2-1-2010	350-090-0040	6-1-2010	Repeal	6-1-2010
340-210-0120	12-16-2009	Amend	2-1-2010	350-090-0050	6-1-2010	Repeal	6-1-2010
340-215-0050	1-1-2010	Adopt(T)	2-1-2010	350-090-0060	6-1-2010	Repeal	6-1-2010
340-216-0020	12-16-2009	Amend	2-1-2010	350-090-0070	6-1-2010	Repeal	6-1-2010
340-216-0020	1-1-2010	Amend(T)	2-1-2010	350-090-0080	6-1-2010	Repeal	6-1-2010
340-216-0060	12-16-2009	Amend	2-1-2010	350-090-0090	6-1-2010	Repeal	6-1-2010
340-216-0062	12-16-2009	Adopt	2-1-2010	350-090-0100	6-1-2010	Repeal	6-1-2010
340-216-0064	12-16-2009	Amend	2-1-2010	350-090-0110	6-1-2010	Repeal	6-1-2010
340-220-0050	1-1-2010	Amend(T)	2-1-2010	350-090-0120	6-1-2010	Repeal	6-1-2010
340-228-0606	12-16-2009	Amend	2-1-2010	350-090-0130	6-1-2010	Repeal	6-1-2010
340-228-0621	12-16-2009	Amend	2-1-2010	350-090-0140	6-1-2010	Repeal	6-1-2010
340-228-0623	12-16-2009	Amend	2-1-2010	350-090-0150	6-1-2010	Repeal	6-1-2010
340-228-0625	12-16-2009	Amend	2-1-2010	350-090-0160	6-1-2010	Repeal	6-1-2010
340-228-0627	12-16-2009	Amend	2-1-2010	350-090-0170	6-1-2010	Repeal	6-1-2010
340-228-0639	12-16-2009	Adopt	2-1-2010	350-090-0180	6-1-2010	Repeal	6-1-2010
340-238-0040	12-16-2009	Amend	2-1-2010	350-090-0190	6-1-2010	Repeal	6-1-2010
340-244-0030	12-16-2009	Amend	2-1-2010	350-090-0200	6-1-2010	Repeal	6-1-2010
340-244-0220	12-16-2009	Amend	2-1-2010	350-090-0210	6-1-2010	Repeal	6-1-2010
340-244-0238	12-16-2009	Amend	2-1-2010	350-090-0220	6-1-2010	Repeal	6-1-2010
340-244-0240	12-16-2009	Amend	2-1-2010	350-090-0230	6-1-2010	Repeal	6-1-2010
340-244-0242	12-16-2009	Amend	2-1-2010	350-090-0240	6-1-2010	Repeal	6-1-2010
340-244-0246	12-16-2009	Amend	2-1-2010	350-090-0250	6-1-2010	Repeal	6-1-2010
340-252-0020	3-5-2010	Repeal	4-1-2010	350-090-0260	6-1-2010	Repeal	6-1-2010
340-252-0030	3-5-2010	Amend	4-1-2010	350-090-0270	6-1-2010	Repeal	6-1-2010
340-252-0040	3-5-2010	Repeal	4-1-2010	350-090-0280	6-1-2010	Repeal	6-1-2010
340-252-0050	3-5-2010	Repeal	4-1-2010	350-090-0290	6-1-2010	Repeal	6-1-2010
340-252-0060	3-5-2010	Amend	4-1-2010	350-090-0300	6-1-2010	Repeal	6-1-2010
340-252-0070	3-5-2010	Amend	4-1-2010	350-090-0310	6-1-2010	Repeal	6-1-2010
340-252-0080	3-5-2010	Repeal	4-1-2010	350-090-0320	6-1-2010	Repeal	6-1-2010
340-252-0090	3-5-2010	Repeal	4-1-2010	350-090-0330	6-1-2010	Repeal	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
350-110-0220	6-1-2010	Repeal	6-1-2010	407-007-0220	1-1-2010	Amend	2-1-2010
350-110-0230	6-1-2010	Repeal	6-1-2010	407-007-0230	1-1-2010	Amend	2-1-2010
350-110-0240	6-1-2010	Repeal	6-1-2010	407-007-0240	1-1-2010	Amend	2-1-2010
350-110-0250	6-1-2010	Repeal	6-1-2010	407-007-0250	1-1-2010	Amend	2-1-2010
350-110-0260	6-1-2010	Repeal	6-1-2010	407-007-0275	5-5-2010	Adopt(T)	6-1-2010
350-110-0270	6-1-2010	Repeal	6-1-2010	407-007-0280	1-1-2010	Amend	2-1-2010
350-110-0280	6-1-2010	Repeal	6-1-2010	407-007-0290	1-1-2010	Amend	2-1-2010
350-110-0290	6-1-2010	Repeal	6-1-2010	407-007-0300	1-1-2010	Amend	2-1-2010
350-110-0300	6-1-2010	Repeal	6-1-2010	407-007-0315	1-1-2010	Adopt	2-1-2010
350-110-0310	6-1-2010	Repeal	6-1-2010	407-007-0320	1-1-2010	Amend	2-1-2010
350-110-0320	6-1-2010	Repeal	6-1-2010	407-007-0325	1-1-2010	Adopt	2-1-2010
350-110-0330	6-1-2010	Repeal	6-1-2010	407-007-0330	1-1-2010	Amend	2-1-2010
350-110-0340	6-1-2010	Repeal	6-1-2010	407-007-0340	1-1-2010	Amend	2-1-2010
350-110-0350	6-1-2010	Repeal	6-1-2010	407-007-0350	1-1-2010	Amend	2-1-2010
350-110-0360	6-1-2010	Repeal	6-1-2010	407-007-0355	1-1-2010	Repeal	2-1-2010
350-110-0370	6-1-2010	Repeal	6-1-2010	407-007-0370	1-1-2010	Amend	2-1-2010
350-110-0380	6-1-2010	Repeal	6-1-2010	407-007-0400	3-29-2010	Adopt	5-1-2010
350-110-0390	6-1-2010	Repeal	6-1-2010	407-007-0400(T)	3-29-2010	Repeal	5-1-2010
350-110-0400	6-1-2010	Repeal	6-1-2010	407-007-0410	3-29-2010	Adopt	5-1-2010
350-110-0410	6-1-2010	Repeal	6-1-2010	407-007-0410(T)	3-29-2010	Repeal	5-1-2010
350-110-0420	6-1-2010	Repeal	6-1-2010	407-007-0420	3-29-2010	Adopt	5-1-2010
350-110-0430	6-1-2010	Repeal	6-1-2010	407-007-0420(T)	3-29-2010	Repeal	5-1-2010
350-110-0440	6-1-2010	Repeal	6-1-2010	407-007-0430	3-29-2010	Adopt	5-1-2010
350-110-0450	6-1-2010	Repeal	6-1-2010	407-007-0430(T)	3-29-2010	Repeal	5-1-2010
350-110-0460	6-1-2010	Repeal	6-1-2010	407-007-0440	1-8-2010	Adopt(T)	2-1-2010
350-110-0470	6-1-2010	Repeal	6-1-2010	407-007-0440	3-29-2010	Adopt	5-1-2010
350-110-0480	6-1-2010	Repeal	6-1-2010	407-007-0440(T)	3-29-2010	Repeal	5-1-2010
350-110-0490	6-1-2010	Repeal	6-1-2010	407-007-0450	3-29-2010	Adopt	5-1-2010
350-110-0500	6-1-2010	Repeal	6-1-2010	407-007-0450(T)	3-29-2010	Repeal	5-1-2010
350-110-0510	6-1-2010	Repeal	6-1-2010	407-007-0460	3-29-2010	Adopt	5-1-2010
350-110-0520	6-1-2010	Repeal	6-1-2010	407-007-0460(T)	3-29-2010	Repeal	5-1-2010
350-110-0530	6-1-2010	Repeal	6-1-2010	407-043-0010	1-1-2010	Amend	2-1-2010
350-110-0540	6-1-2010	Repeal	6-1-2010	407-043-0010(T)	1-1-2010	Repeal	2-1-2010
350-110-0550	6-1-2010	Repeal	6-1-2010	407-045-0260	1-1-2010	Amend(T)	2-1-2010
350-110-0560	6-1-2010	Repeal	6-1-2010	407-045-0290	1-1-2010	Amend(T)	2-1-2010
350-110-0570	6-1-2010	Repeal	6-1-2010	407-045-0350	1-1-2010	Amend(T)	2-1-2010
350-110-0580	6-1-2010	Repeal	6-1-2010	409-025-0100	3-1-2010	Adopt	4-1-2010
350-110-0590	6-1-2010	Repeal	6-1-2010	409-025-0110	3-1-2010	Adopt	4-1-2010
350-110-0600	6-1-2010	Repeal	6-1-2010	409-025-0120	3-1-2010	Adopt	4-1-2010
350-110-0610	6-1-2010	Repeal	6-1-2010	409-025-0130	3-1-2010	Adopt	4-1-2010
350-110-0620	6-1-2010	Repeal	6-1-2010	409-025-0140	3-1-2010	Adopt	4-1-2010
407-007-0000	1-1-2010	Amend	2-1-2010	409-025-0150	3-1-2010	Adopt	4-1-2010
407-007-0010	1-1-2010	Amend	2-1-2010	409-025-0160	3-1-2010	Adopt	4-1-2010
407-007-0020	1-1-2010	Amend	2-1-2010	409-025-0170	3-1-2010	Adopt	4-1-2010
407-007-0030	1-1-2010	Amend	2-1-2010	409-026-0100	1-1-2010	Adopt	2-1-2010
407-007-0040	1-1-2010	Amend	2-1-2010	409-026-0110	1-1-2010	Adopt	2-1-2010
407-007-0050	1-1-2010	Amend	2-1-2010	409-026-0120	1-1-2010	Adopt	2-1-2010
407-007-0060	1-1-2010	Amend	2-1-2010	409-026-0120	1-1-2010	Adopt	2-1-2010
407-007-0065	1-1-2010	Adopt	2-1-2010	409-026-0140	1-1-2010	Adopt	2-1-2010
407-007-0070	1-1-2010	Amend	2-1-2010	409-030-0065	4-21-2010	Amend(T)	6-1-2010
407-007-0075	1-1-2010	Adopt	2-1-2010	409-040-0100	1-1-2010	Adopt	2-1-2010
407-007-0080	1-1-2010	Amend	2-1-2010	409-040-0105	1-1-2010	Adopt	2-1-2010
407-007-0090	1-1-2010	Amend	2-1-2010	409-040-0110	1-1-2010	Adopt	2-1-2010
407-007-0100	1-1-2010	Amend	2-1-2010	409-040-0115	1-1-2010	Adopt	2-1-2010
407-007-0200	1-1-2010	Amend	2-1-2010	410-120-0030	1-1-2010	Amend	1-1-2010
407-007-0210	1-1-2010	Amend	2-1-2010	410-120-0030(T)	1-1-2010	Repeal	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-120-1200	1-1-2010	Amend	1-1-2010	410-140-0140	1-1-2010	Amend	1-1-2010
410-120-1210	1-1-2010	Amend	1-1-2010	410-140-0160	1-1-2010	Amend	1-1-2010
410-120-1230	1-1-2010	Amend	1-1-2010	410-140-0200	1-1-2010	Amend	1-1-2010
410-120-1295	12-4-2009	Amend(T)	1-1-2010	410-140-0260	1-1-2010	Amend	1-1-2010
410-120-1295	1-1-2010	Amend	1-1-2010	410-141-0000	1-1-2010	Amend	1-1-2010
410-120-1295	3-26-2010	Amend	5-1-2010	410-141-0261	1-1-2010	Amend	1-1-2010
410-120-1295(T)	12-4-2009	Suspend	1-1-2010	410-141-0263	1-1-2010	Amend	1-1-2010
410-120-1340	1-1-2010	Amend	1-1-2010	410-141-0264	1-1-2010	Amend	1-1-2010
410-120-1380	1-1-2010	Amend	1-1-2010	410-141-0405	1-1-2010	Amend	1-1-2010
410-120-1570	1-1-2010	Amend	1-1-2010	410-141-0420	1-1-2010	Amend	1-1-2010
410-120-1600	1-1-2010	Amend	1-1-2010	410-141-0520	1-1-2010	Amend(T)	1-1-2010
410-121-0000	1-1-2010	Amend	1-1-2010	410-141-0520	1-15-2010	Amend(T)	2-1-2010
410-121-0030	1-1-2010	Amend	1-1-2010	410-141-0520	3-17-2010	Amend	4-1-2010
410-121-0032	1-1-2010	Amend	1-1-2010	410-141-0520	4-1-2010	Amend(T)	5-1-2010
410-121-0040	1-1-2010	Amend	1-1-2010	410-141-0520	4-26-2010	Amend	6-1-2010
410-121-0060	1-1-2010	Amend	1-1-2010	410-141-0520(T)	1-1-2010	Suspend	1-1-2010
410-121-0100	1-1-2010	Amend	1-1-2010	410-141-0520(T)	1-15-2010	Suspend	2-1-2010
410-121-0135	1-1-2010	Amend	1-1-2010	410-141-0520(T)	3-17-2010	Repeal	4-1-2010
410-121-0145	2-5-2010	Amend	3-1-2010	410-141-0520(T)	4-26-2010	Repeal	6-1-2010
410-121-0146	4-1-2010	Amend(T)	5-1-2010	410-146-0021	1-1-2010	Amend	1-1-2010
410-121-0420	1-1-2010	Amend	1-1-2010	410-146-0085	1-1-2010	Amend	1-1-2010
410-122-0182	1-1-2010	Amend	1-1-2010	410-146-0240	1-1-2010	Amend	1-1-2010
410-122-0203	1-1-2010	Amend	1-1-2010	410-146-0340	1-1-2010	Repeal	1-1-2010
410-122-0660	1-1-2010	Amend	1-1-2010	410-147-0120	1-1-2010	Amend	1-1-2010
410-122-0662	1-1-2010	Amend	1-1-2010	410-147-0320	1-1-2010	Amend	1-1-2010
410-123-1000	1-1-2010	Amend	1-1-2010	410-147-0365	5-1-2010	Amend(T)	5-1-2010
410-123-1160	1-1-2010	Amend	1-1-2010	410-147-0400	1-1-2010	Amend	1-1-2010
410-123-1220	1-1-2010	Amend	1-1-2010	410-147-0620	1-1-2010	Repeal	1-1-2010
410-123-1260	1-1-2010	Amend	1-1-2010	410-149-0000	1-1-2010	Repeal	1-1-2010
410-130-0595	4-15-2010	Amend(T)	5-1-2010	410-149-0020	1-1-2010	Repeal	1-1-2010
410-136-0245	1-1-2010	Adopt	1-1-2010	410-149-0040	1-1-2010	Repeal	1-1-2010
410-136-0245	4-1-2010	Amend(T)	5-1-2010	410-149-0060	1-1-2010	Repeal	1-1-2010
410-138-0009	1-1-2010	Amend	1-1-2010	410-149-0080	1-1-2010	Repeal	1-1-2010
410-138-0020	1-1-2010	Amend	1-1-2010	410-150-0080	1-1-2010	Amend	1-1-2010
410-138-0300	11-16-2009	Amend(T)	1-1-2010	410-150-0120	1-1-2010	Repeal	1-1-2010
410-138-0300	1-1-2010	Amend	1-1-2010	410-150-0160	1-1-2010	Repeal	1-1-2010
410-138-0300(T)	1-1-2010	Repeal	1-1-2010	410-150-0240	1-1-2010	Repeal	1-1-2010
410-138-0320	1-1-2010	Repeal	1-1-2010	411-001-0100	1-1-2010	Amend	2-1-2010
410-138-0340	11-16-2009	Suspend	1-1-2010	411-001-0110	1-1-2010	Amend	2-1-2010
410-138-0340	1-1-2010	Repeal	1-1-2010	411-001-0115	1-1-2010	Adopt	2-1-2010
410-138-0360	11-16-2009	Amend(T)	1-1-2010	411-001-0118	1-1-2010	Adopt	2-1-2010
410-138-0360	1-1-2010	Amend	1-1-2010	411-001-0120	1-1-2010	Amend	2-1-2010
410-138-0360(T)	1-1-2010	Repeal	1-1-2010	411-020-0002	1-1-2010	Amend(T)	2-1-2010
410-138-0380	11-16-2009	Amend(T)	1-1-2010	411-020-0020	1-1-2010	Amend(T)	2-1-2010
410-138-0380	1-1-2010	Amend	1-1-2010	411-020-0025	1-1-2010	Adopt(T)	2-1-2010
410-138-0380(T)	1-1-2010	Repeal	1-1-2010	411-020-0030	1-1-2010	Amend(T)	2-1-2010
410-138-0390	11-16-2009	Adopt(T)	1-1-2010	411-020-0085	1-1-2010	Adopt(T)	2-1-2010
410-138-0390	1-1-2010	Adopt	1-1-2010	411-020-0100	1-1-2010	Amend(T)	2-1-2010
410-138-0390(T)	1-1-2010	Repeal	1-1-2010	411-020-0120	1-1-2010	Amend(T)	2-1-2010
410-138-0520	1-1-2010	Repeal	1-1-2010	411-031-0040	12-1-2009	Amend(T)	1-1-2010
410-138-0560	1-1-2010	Amend	1-1-2010	411-050-0400	1-1-2010	Amend(T)	2-1-2010
410-138-0620	1-1-2010	Repeal	1-1-2010	411-050-0410	1-1-2010	Amend(T)	2-1-2010
410-138-0680	1-1-2010	Amend	1-1-2010	411-050-0412	1-1-2010	Amend(T)	2-1-2010
410-138-0720	1-1-2010	Repeal	1-1-2010	411-050-0412	3-11-2010	Amend(T)	4-1-2010
410-140-0050	1-1-2010	Amend	1-1-2010	411-050-0412(T)	3-11-2010	Suspend	4-1-2010
410-140-0115	1-1-2010	Repeal	1-1-2010	411-050-0415	1-1-2010	Amend(T)	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-050-0420	1-1-2010	Amend(T)	2-1-2010	411-300-0200	1-1-2010	Amend(T)	2-1-2010
411-050-0440	1-1-2010	Amend(T)	2-1-2010	411-300-0200	3-18-2010	Amend(T)	5-1-2010
411-050-0444	1-1-2010	Amend(T)	2-1-2010	411-300-0200(T)	3-18-2010	Suspend	5-1-2010
411-050-0455	1-1-2010	Amend(T)	2-1-2010	411-300-0220	1-1-2010	Amend(T)	2-1-2010
411-050-0460	1-1-2010	Amend(T)	2-1-2010	411-305-0010	1-1-2010	Amend(T)	2-1-2010
411-050-0480	1-1-2010	Amend(T)	2-1-2010	411-305-0020	1-1-2010	Amend(T)	2-1-2010
411-050-0481	1-1-2010	Amend(T)	2-1-2010	411-305-0023	1-1-2010	Amend(T)	2-1-2010
411-050-0487	1-1-2010	Amend(T)	2-1-2010	411-305-0110	1-1-2010	Amend(T)	2-1-2010
411-054-0005	1-1-2010	Amend(T)	2-1-2010	411-305-0115	1-1-2010	Amend(T)	2-1-2010
411-054-0016	1-1-2010	Amend(T)	2-1-2010	411-305-0115	3-18-2010	Amend(T)	5-1-2010
411-054-0025	1-1-2010	Amend(T)	2-1-2010	411-305-0115(T)	3-18-2010	Suspend	5-1-2010
411-054-0025	3-11-2010	Amend(T)	4-1-2010	411-305-0140	1-1-2010	Amend(T)	2-1-2010
411-054-0025(T)	3-11-2010	Suspend	4-1-2010	411-305-0140	3-18-2010	Amend(T)	5-1-2010
411-054-0065	1-1-2010	Amend(T)	2-1-2010	411-305-0140(T)	3-18-2010	Suspend	5-1-2010
411-054-0105	1-1-2010	Amend(T)	2-1-2010	411-308-0010	12-28-2009	Adopt	2-1-2010
411-054-0120	1-1-2010	Amend(T)	2-1-2010	411-308-0010(T)	12-28-2009	Repeal	2-1-2010
411-054-0133	1-1-2010	Adopt(T)	2-1-2010	411-308-0020	12-28-2009	Adopt	2-1-2010
411-070-0000	12-1-2009	Amend	1-1-2010	411-308-0020	1-1-2010	Amend(T)	2-1-2010
411-070-0005	12-1-2009	Amend	1-1-2010	411-308-0020(T)	12-28-2009	Repeal	2-1-2010
411-070-0005(T)	12-1-2009	Repeal	1-1-2010	411-308-0030	12-28-2009	Adopt	2-1-2010
411-070-0010	12-1-2009	Amend	1-1-2010	411-308-0030	1-1-2010	Amend(T)	2-1-2010
411-070-0025	12-1-2009	Amend	1-1-2010	411-308-0030(T)	12-28-2009	Repeal	2-1-2010
411-070-0027	12-1-2009	Amend	1-1-2010	411-308-0040	12-28-2009	Adopt	2-1-2010
411-070-0029	12-1-2009	Amend	1-1-2010	411-308-0040(T)	12-28-2009	Repeal	2-1-2010
411-070-0033	12-1-2009	Amend	1-1-2010	411-308-0050	12-28-2009	Adopt	2-1-2010
411-070-0035	12-1-2009	Amend	1-1-2010	411-308-0050(T)	12-28-2009	Repeal	2-1-2010
411-070-0040	12-1-2009	Amend	1-1-2010	411-308-0060	12-28-2009	Adopt	2-1-2010
411-070-0043	12-1-2009	Amend	1-1-2010	411-308-0060(T)	12-28-2009	Repeal	2-1-2010
411-070-0080	12-1-2009	Amend	1-1-2010	411-308-0070	12-28-2009	Adopt	2-1-2010
411-070-0110	12-1-2009	Amend	1-1-2010	411-308-0070(T)	12-28-2009	Repeal	2-1-2010
411-070-0125	12-1-2009	Amend	1-1-2010	411-308-0080	12-28-2009	Adopt	2-1-2010
411-070-0130	12-1-2009	Amend	1-1-2010	411-308-0080(T)	12-28-2009	Repeal	2-1-2010
411-070-0300	12-1-2009	Amend	1-1-2010	411-308-0090	12-28-2009	Adopt	2-1-2010
411-070-0350	12-1-2009	Amend	1-1-2010	411-308-0090	1-1-2010	Amend(T)	2-1-2010
411-070-0359	12-1-2009	Amend	1-1-2010	411-308-0090(T)	12-28-2009	Repeal	2-1-2010
411-070-0415	12-1-2009	Amend	1-1-2010	411-308-0100	12-28-2009	Adopt	2-1-2010
411-070-0417	12-1-2009	Amend	1-1-2010	411-308-0100	1-1-2010	Amend(T)	2-1-2010
411-070-0430	12-1-2009	Amend	1-1-2010	411-308-0100(T)	12-28-2009	Repeal	2-1-2010
411-070-0442	12-1-2009	Amend	1-1-2010	411-308-0110	12-28-2009	Adopt	2-1-2010
411-070-0442(T)	12-1-2009	Repeal	1-1-2010	411-308-0110	1-1-2010	Amend(T)	2-1-2010
411-070-0452	12-1-2009	Amend	1-1-2010	411-308-0110	3-18-2010	Amend(T)	5-1-2010
411-070-0470	12-1-2009	Amend	1-1-2010	411-308-0110(T)	12-28-2009	Repeal	2-1-2010
411-085-0005	1-1-2010	Amend(T)	2-1-2010	411-308-0110(T)	3-18-2010	Suspend	5-1-2010
411-085-0020	1-1-2010	Amend	2-1-2010	411-308-0120	12-28-2009	Adopt	2-1-2010
411-085-0020	1-1-2010	Amend(T)	2-1-2010	411-308-0120(T)	12-28-2009	Repeal	2-1-2010
411-089-0030	1-1-2010	Amend(T)	2-1-2010	411-308-0130	12-28-2009	Adopt	2-1-2010
411-089-0075	1-1-2010	Adopt(T)	2-1-2010	411-308-0130	1-1-2010	Amend(T)	2-1-2010
411-089-0140	1-1-2010	Amend(T)	2-1-2010	411-308-0130	3-18-2010	Amend(T)	5-1-2010
411-089-0150	1-1-2010	Suspend	2-1-2010	411-308-0130(T)	12-28-2009	Repeal	2-1-2010
411-300-0110	1-1-2010	Amend(T)	2-1-2010	411-308-0130(T)	3-18-2010	Suspend	5-1-2010
411-300-0155	1-1-2010	Amend(T)	2-1-2010	411-308-0140	12-28-2009	Adopt	2-1-2010
411-300-0155	3-18-2010	Amend(T)	5-1-2010	411-308-0140(T)	12-28-2009	Repeal	2-1-2010
411-300-0155(T)	3-18-2010	Suspend	5-1-2010	411-308-0150	12-28-2009	Adopt	2-1-2010
411-300-0170	1-1-2010	Amend(T)	2-1-2010	411-308-0150(T)	12-28-2009	Repeal	2-1-2010
411-300-0170	3-18-2010	Amend(T)	5-1-2010	411-320-0020	1-1-2010	Amend(T)	2-1-2010
411-300-0170(T)	3-18-2010	Suspend	5-1-2010	411-320-0030	1-1-2010	Amend(T)	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-320-0030	3-18-2010	Amend(T)	5-1-2010	411-346-0150	3-18-2010	Amend(T)	5-1-2010
411-320-0030(T)	3-18-2010	Suspend	5-1-2010	411-346-0150(T)	3-18-2010	Suspend	5-1-2010
411-320-0140	1-1-2010	Amend(T)	2-1-2010	411-346-0180	1-1-2010	Amend(T)	2-1-2010
411-325-0020	1-1-2010	Amend(T)	2-1-2010	411-346-0220	1-1-2010	Amend(T)	2-1-2010
411-325-0100	1-1-2010	Amend(T)	2-1-2010	411-346-0220	3-18-2010	Amend(T)	5-1-2010
411-325-0160	1-1-2010	Amend(T)	2-1-2010	411-346-0220(T)	3-18-2010	Suspend	5-1-2010
411-325-0160	3-18-2010	Amend(T)	5-1-2010	411-350-0020	1-1-2010	Amend(T)	2-1-2010
411-325-0160(T)	3-18-2010	Suspend	5-1-2010	411-350-0050	1-1-2010	Amend(T)	2-1-2010
411-325-0190	1-1-2010	Amend(T)	2-1-2010	411-350-0080	1-1-2010	Amend(T)	2-1-2010
411-328-0560	1-1-2010	Amend(T)	2-1-2010	411-350-0080	3-18-2010	Amend(T)	5-1-2010
411-328-0610	1-1-2010	Amend(T)	2-1-2010	411-350-0080(T)	3-18-2010	Suspend	5-1-2010
411-328-0670	1-1-2010	Amend(T)	2-1-2010	411-350-0110	1-1-2010	Amend(T)	2-1-2010
411-328-0670	3-18-2010	Amend(T)	5-1-2010	411-350-0110	3-18-2010	Amend(T)	5-1-2010
411-328-0670(T)	3-18-2010	Suspend	5-1-2010	411-350-0110(T)	3-18-2010	Suspend	5-1-2010
411-330-0010	1-1-2010	Amend(T)	2-1-2010	411-350-0120	1-1-2010	Amend(T)	2-1-2010
411-330-0020	1-1-2010	Amend(T)	2-1-2010	411-355-0010	1-1-2010	Amend(T)	2-1-2010
411-330-0060	1-1-2010	Amend(T)	2-1-2010	411-355-0040	1-1-2010	Amend(T)	2-1-2010
411-330-0060	3-18-2010	Amend(T)	5-1-2010	411-355-0050	1-1-2010	Amend(T)	2-1-2010
411-330-0060(T)	3-18-2010	Suspend	5-1-2010	411-355-0050	3-18-2010	Amend(T)	5-1-2010
411-330-0070	1-1-2010	Amend(T)	2-1-2010	411-355-0050(T)	3-18-2010	Suspend	5-1-2010
411-330-0070	3-18-2010	Amend(T)	5-1-2010	411-355-0060	1-1-2010	Amend(T)	2-1-2010
411-330-0070(T)	3-18-2010	Suspend	5-1-2010	411-355-0090	1-1-2010	Amend(T)	2-1-2010
411-330-0100	1-1-2010	Amend(T)	2-1-2010	411-355-0090	3-18-2010	Amend(T)	5-1-2010
411-330-0120	1-1-2010	Amend(T)	2-1-2010	411-355-0090(T)	3-18-2010	Suspend	5-1-2010
411-330-0140	1-1-2010	Amend(T)	2-1-2010	411-355-0120	1-1-2010	Amend(T)	2-1-2010
411-330-0160	1-1-2010	Amend(T)	2-1-2010	411-360-0020	1-1-2010	Amend(T)	2-1-2010
411-335-0020	1-1-2010	Amend(T)	2-1-2010	411-360-0040	1-1-2010	Amend(T)	2-1-2010
411-335-0030	1-1-2010	Amend(T)	2-1-2010	411-360-0040	3-18-2010	Amend(T)	5-1-2010
411-335-0030	3-18-2010	Amend(T)	5-1-2010	411-360-0040(T)	3-18-2010	Suspend	5-1-2010
411-335-0030(T)	3-18-2010	Suspend	5-1-2010	411-360-0050	1-1-2010	Amend(T)	2-1-2010
411-335-0100	1-1-2010	Amend(T)	2-1-2010	411-360-0090	1-1-2010	Amend(T)	2-1-2010
411-340-0020	1-1-2010	Amend(T)	2-1-2010	411-360-0090	3-18-2010	Amend(T)	5-1-2010
411-340-0030	1-1-2010	Amend(T)	2-1-2010	411-360-0090(T)	3-18-2010	Suspend	5-1-2010
411-340-0040	1-1-2010	Amend(T)	2-1-2010	411-360-0110	1-1-2010	Amend(T)	2-1-2010
411-340-0050	1-1-2010	Amend(T)	2-1-2010	411-360-0110	3-18-2010	Amend(T)	5-1-2010
411-340-0070	1-1-2010	Amend(T)	2-1-2010	411-360-0110(T)	3-18-2010	Suspend	5-1-2010
411-340-0070	3-18-2010	Amend(T)	5-1-2010	411-360-0210	1-1-2010	Amend(T)	2-1-2010
411-340-0070(T)	3-18-2010	Suspend	5-1-2010	411-360-0270	1-1-2010	Amend(T)	2-1-2010
411-340-0080	1-1-2010	Amend(T)	2-1-2010	411-360-0270	3-18-2010	Amend(T)	5-1-2010
411-340-0130	1-1-2010	Amend(T)	2-1-2010	411-360-0270(T)	3-18-2010	Suspend	5-1-2010
411-340-0140	1-1-2010	Amend(T)	2-1-2010	413-010-0500	12-29-2009	Amend	2-1-2010
411-340-0140	3-18-2010	Amend(T)	5-1-2010	413-010-0505	12-29-2009	Adopt	2-1-2010
411-340-0140(T)	3-18-2010	Suspend	5-1-2010	413-010-0510	12-29-2009	Adopt	2-1-2010
411-340-0160	1-1-2010	Amend(T)	2-1-2010	413-010-0515	12-29-2009	Adopt	2-1-2010
411-340-0160	3-18-2010	Amend(T)	5-1-2010	413-010-0520	12-29-2009	Adopt	2-1-2010
411-340-0160(T)	3-18-2010	Suspend	5-1-2010	413-010-0525	12-29-2009	Adopt	2-1-2010
411-345-0020	1-1-2010	Amend(T)	2-1-2010	413-010-0530	12-29-2009	Adopt	2-1-2010
411-345-0080	1-1-2010	Amend(T)	2-1-2010	413-010-0535	12-29-2009	Adopt	2-1-2010
411-345-0100	1-1-2010	Amend(T)	2-1-2010	413-015-0415	1-1-2010	Amend(T)	2-1-2010
411-345-0210	1-1-2010	Amend(T)	2-1-2010	413-015-0415	4-2-2010	Amend	5-1-2010
411-345-0210	3-18-2010	Amend(T)	5-1-2010	413-015-0415(T)	4-2-2010	Repeal	5-1-2010
411-345-0210(T)	3-18-2010	Suspend	5-1-2010	413-015-0420	2-12-2010	Amend(T)	3-1-2010
411-345-0230	1-1-2010	Amend(T)	2-1-2010	413-015-0420	4-2-2010	Amend	5-1-2010
411-345-0290	1-1-2010	Amend(T)	2-1-2010	413-015-0420(T)	4-2-2010	Repeal	5-1-2010
411-346-0110	1-1-2010	Amend(T)	2-1-2010	413-020-0200	12-29-2009	Amend	2-1-2010
411-346-0150	1-1-2010	Amend(T)	2-1-2010	413-020-0210	12-29-2009	Amend	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-020-0230	12-29-2009	Amend	2-1-2010	413-080-0010	12-29-2009	Repeal	2-1-2010
413-020-0233	12-29-2009	Amend	2-1-2010	413-080-0020	12-29-2009	Repeal	2-1-2010
413-020-0236	12-29-2009	Amend	2-1-2010	413-080-0030	12-29-2009	Repeal	2-1-2010
413-020-0240	12-29-2009	Amend	2-1-2010	413-080-0040	12-29-2009	Amend	2-1-2010
413-020-0245	12-29-2009	Amend	2-1-2010	413-080-0050	12-29-2009	Amend	2-1-2010
413-020-0255	12-29-2009	Amend	2-1-2010	413-080-0052	12-29-2009	Amend	2-1-2010
413-040-0000	12-29-2009	Amend	2-1-2010	413-080-0055	12-29-2009	Amend	2-1-2010
413-040-0005	12-29-2009	Amend	2-1-2010	413-080-0059	12-29-2009	Amend	2-1-2010
413-040-0006	12-29-2009	Amend	2-1-2010	413-080-0063	12-29-2009	Amend	2-1-2010
413-040-0008	12-29-2009	Amend	2-1-2010	413-080-0067	12-29-2009	Amend	2-1-2010
413-040-0009	12-29-2009	Amend	2-1-2010	413-090-0000	12-29-2009	Amend	2-1-2010
413-040-0010	12-29-2009	Amend	2-1-2010	413-090-0005	12-29-2009	Amend	2-1-2010
413-040-0011	12-29-2009	Amend	2-1-2010	413-090-0010	12-29-2009	Amend	2-1-2010
413-040-0013	12-29-2009	Amend	2-1-2010	413-090-0021	12-29-2009	Adopt	2-1-2010
413-040-0016	12-29-2009	Amend	2-1-2010	413-090-0030	12-29-2009	Amend	2-1-2010
413-040-0017	12-29-2009	Amend	2-1-2010	413-090-0040	12-29-2009	Amend	2-1-2010
413-040-0024	12-29-2009	Amend	2-1-2010	413-090-0050	12-29-2009	Amend	2-1-2010
413-040-0032	12-29-2009	Amend	2-1-2010	413-090-0100	12-29-2009	Amend	2-1-2010
413-040-0240	3-15-2010	Amend(T)	4-1-2010	413-090-0110	12-29-2009	Amend	2-1-2010
413-070-0600	12-29-2009	Amend	2-1-2010	413-090-0120	12-29-2009	Amend	2-1-2010
413-070-0620	12-29-2009	Amend	2-1-2010	413-090-0130	12-29-2009	Amend	2-1-2010
413-070-0625	12-29-2009	Amend	2-1-2010	413-090-0133	12-29-2009	Adopt	2-1-2010
413-070-0630	12-29-2009	Amend	2-1-2010	413-090-0135	12-29-2009	Adopt	2-1-2010
413-070-0640	12-29-2009	Amend	2-1-2010	413-090-0136	12-29-2009	Adopt	2-1-2010
413-070-0645	12-29-2009	Amend	2-1-2010	413-090-0140	12-29-2009	Amend	2-1-2010
413-070-0900	12-16-2009	Amend(T)	2-1-2010	413-090-0150	12-29-2009	Amend	2-1-2010
413-070-0905	12-16-2009	Amend(T)	2-1-2010	413-090-0160	12-29-2009	Repeal	2-1-2010
413-070-0905	2-1-2010	Amend(T)	3-1-2010	413-090-0170	12-29-2009	Repeal	2-1-2010
413-070-0905(T)	2-1-2010	Suspend	3-1-2010	413-090-0180	12-29-2009	Repeal	2-1-2010
413-070-0909	12-16-2009	Amend(T)	2-1-2010	413-090-0190	12-29-2009	Repeal	2-1-2010
413-070-0915	12-16-2009	Amend(T)	2-1-2010	413-090-0200	12-29-2009	Repeal	2-1-2010
413-070-0917	12-16-2009	Amend(T)	2-1-2010	413-090-0210	12-29-2009	Amend	2-1-2010
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
415-051-0015	3-4-2010	Repeal	4-1-2010	416-470-0090	2-19-2010	Repeal	3-1-2010
415-051-0020	3-4-2010	Repeal	4-1-2010	416-470-0100	2-19-2010	Repeal	3-1-2010
415-051-0025	3-4-2010	Repeal	4-1-2010	416-490-0000	2-19-2010	Amend	3-1-2010
415-051-0030	3-4-2010	Repeal	4-1-2010	416-490-0010	2-19-2010	Amend	3-1-2010
415-051-0035	3-4-2010	Repeal	4-1-2010	416-490-0020	2-19-2010	Amend	3-1-2010
415-051-0037	3-4-2010	Repeal	4-1-2010	416-490-0030	2-19-2010	Amend	3-1-2010
415-051-0040	3-4-2010	Repeal	4-1-2010	416-490-0031	2-19-2010	Adopt	3-1-2010
415-051-0045	3-4-2010	Repeal	4-1-2010	416-490-0032	2-19-2010	Adopt	3-1-2010
415-051-0050	3-4-2010	Repeal	4-1-2010	416-490-0033	2-19-2010	Adopt	3-1-2010
415-051-0055	3-4-2010	Repeal	4-1-2010	416-490-0034	2-19-2010	Adopt	3-1-2010
415-051-0057	3-4-2010	Repeal	4-1-2010	416-490-0035	2-19-2010	Adopt	3-1-2010
415-051-0060	3-4-2010	Repeal	4-1-2010	416-490-0040	2-19-2010	Repeal	3-1-2010
415-051-0065	3-4-2010	Repeal	4-1-2010	416-490-0050	2-19-2010	Amend	3-1-2010
415-051-0067	3-4-2010	Repeal	4-1-2010	416-530-0090	12-16-2009	Amend	1-1-2010
415-051-0069	3-4-2010	Repeal	4-1-2010	436-001-0003	1-1-2010	Amend	1-1-2010
415-051-0072	3-4-2010	Repeal	4-1-2010	436-001-0019	1-1-2010	Amend	1-1-2010
415-051-0075	3-4-2010	Repeal	4-1-2010	436-001-0265	1-1-2010	Am. & Ren.	1-1-2010
415-051-0077	3-4-2010	Repeal	4-1-2010	436-001-0265	1-1-2010	Am. & Ren.	1-1-2010
415-051-0080	5-6-2010	Repeal	6-1-2010	436-001-0420	1-1-2010	Adopt	1-1-2010
415-051-0090	3-4-2010	Repeal	4-1-2010	436-001-0430	1-1-2010	Adopt	1-1-2010
415-051-0100	3-4-2010	Repeal	4-1-2010	436-001-0440	1-1-2010	Adopt	1-1-2010
415-051-0105	3-4-2010	Repeal	4-1-2010	436-009-0010	1-1-2010	Amend	1-1-2010
415-051-0110	3-4-2010	Repeal	4-1-2010	436-009-0070	1-1-2010	Amend	1-1-2010
415-051-0130	3-4-2010	Repeal	4-1-2010	436-010-0008	1-1-2010	Amend	1-1-2010
415-051-0140	3-4-2010	Repeal	4-1-2010	436-010-0240	1-1-2010	Amend	1-1-2010
415-051-0155	3-4-2010	Repeal	4-1-2010	436-010-0265	1-1-2010	Amend	1-1-2010
415-051-0165	3-4-2010	Repeal	4-1-2010	436-010-0280	1-1-2010	Amend	1-1-2010
415-052-0100	12-3-2009	Adopt	1-1-2010	436-030-0002	1-1-2010	Amend	1-1-2010
415-052-0105	12-3-2009	Adopt	1-1-2010	436-030-0003	1-1-2010	Amend	1-1-2010
415-052-0110	12-3-2009	Adopt	1-1-2010	436-030-0005	1-1-2010	Amend	1-1-2010
415-057-0000	5-6-2010	Adopt	6-1-2010	436-030-0007	1-1-2010	Amend	1-1-2010
415-057-0010	5-6-2010	Adopt	6-1-2010	436-030-0009	1-1-2010	Repeal	1-1-2010
415-057-0020	5-6-2010	Adopt	6-1-2010	436-030-0015	1-1-2010	Amend	1-1-2010
415-057-0030	5-6-2010	Adopt	6-1-2010	436-030-0017	1-1-2010	Amend	1-1-2010
415-057-0040	5-6-2010	Adopt	6-1-2010	436-030-0020	1-1-2010	Amend	1-1-2010
415-057-0050	5-6-2010	Adopt	6-1-2010	436-030-0034	1-1-2010	Amend	1-1-2010
415-057-0060	5-6-2010	Adopt	6-1-2010	436-030-0065	1-1-2010	Amend	1-1-2010
415-057-0070	5-6-2010	Adopt	6-1-2010	436-030-0115	1-1-2010	Amend	1-1-2010
415-057-0080	5-6-2010	Adopt	6-1-2010	436-030-0135	1-1-2010	Amend	1-1-2010
415-057-0090	5-6-2010	Adopt	6-1-2010	436-030-0145	1-1-2010	Amend	1-1-2010
415-057-0100	5-6-2010	Adopt	6-1-2010	436-030-0155	1-1-2010	Amend	1-1-2010
415-057-0110	5-6-2010	Adopt	6-1-2010	436-030-0165	1-1-2010	Amend	1-1-2010
415-057-0120	5-6-2010	Adopt	6-1-2010	436-030-0185	1-1-2010	Amend	1-1-2010
415-057-0130	5-6-2010	Adopt	6-1-2010	436-030-0580	1-1-2010	Amend	1-1-2010
415-057-0140	5-6-2010	Adopt	6-1-2010	436-035-0002	6-1-2010	Amend	6-1-2010
415-057-0150	5-6-2010	Adopt	6-1-2010	436-035-0003	6-1-2010	Amend	6-1-2010
415-060-0030	1-1-2010	Amend	1-1-2010	436-035-0005	6-1-2010	Amend	6-1-2010
416-470-0000	2-19-2010	Amend	3-1-2010	436-035-0007	6-1-2010	Amend	6-1-2010
416-470-0010	2-19-2010	Amend	3-1-2010	436-035-0011	6-1-2010	Amend	6-1-2010
416-470-0020	2-19-2010	Amend	3-1-2010	436-035-0012	6-1-2010	Amend	6-1-2010
416-470-0030	2-19-2010	Amend	3-1-2010	436-035-0013	6-1-2010	Amend	6-1-2010
416-470-0040	2-19-2010	Amend	3-1-2010	436-035-0014	6-1-2010	Amend	6-1-2010
416-470-0050	2-19-2010	Amend	3-1-2010	436-035-0015	6-1-2010	Amend	6-1-2010
416-470-0060	2-19-2010	Repeal	3-1-2010	436-035-0019	6-1-2010	Amend	6-1-2010
416-470-0070	2-19-2010	Repeal	3-1-2010	436-035-0050	6-1-2010	Amend	6-1-2010
416-470-0080	2-19-2010	Repeal	3-1-2010	436-035-0060	6-1-2010	Amend	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-035-0110	6-1-2010	Amend	6-1-2010	436-110-0350	1-1-2010	Amend	1-1-2010
436-035-0190	6-1-2010	Amend	6-1-2010	436-110-0351	4-15-2010	Amend(T)	5-1-2010
436-035-0230	6-1-2010	Amend	6-1-2010	436-110-0900	1-1-2010	Amend	1-1-2010
436-035-0340	6-1-2010	Amend	6-1-2010	436-120-0004	1-1-2010	Amend	1-1-2010
436-035-0370	6-1-2010	Amend	6-1-2010	436-120-0005	1-1-2010	Amend	1-1-2010
436-035-0375	6-1-2010	Amend	6-1-2010	436-120-0007	1-1-2010	Amend	1-1-2010
436-035-0390	6-1-2010	Amend	6-1-2010	436-120-0008	1-1-2010	Amend	1-1-2010
436-035-0400	6-1-2010	Amend	6-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-035-0410	6-1-2010	Amend	6-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-035-0420	6-1-2010	Amend	6-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-035-0450	6-1-2010	Amend	6-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-060-0003	1-1-2010	Amend	1-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-060-0008	1-1-2010	Amend	1-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-060-0009	1-1-2010	Amend	1-1-2010	436-120-0340	1-1-2010	Amend	1-1-2010
436-060-0010	1-1-2010	Amend	1-1-2010	436-120-0350	1-1-2010	Am. & Ren.	1-1-2010
436-060-0012	1-1-2010	Adopt	1-1-2010	436-120-0350	1-1-2010	Am. & Ren.	1-1-2010
436-060-0015	1-1-2010	Amend	1-1-2010	436-120-0360	1-1-2010	Am. & Ren.	1-1-2010
436-060-0017	1-1-2010	Amend	1-1-2010	436-120-0410	1-1-2010	Amend	1-1-2010
436-060-0018	1-1-2010	Amend	1-1-2010	436-120-0440	1-1-2010	Amend	1-1-2010
436-060-0020	1-1-2010	Amend	1-1-2010	436-120-0500	1-1-2010	Amend	1-1-2010
436-060-0025	1-1-2010	Amend	1-1-2010	436-120-0510	1-1-2010	Amend	1-1-2010
436-060-0035	1-1-2010	Amend	1-1-2010	436-120-0720	1-1-2010	Amend	1-1-2010
436-060-0095	1-1-2010	Amend	1-1-2010	436-120-0800	1-1-2010	Amend	1-1-2010
436-060-0105	1-1-2010	Amend	1-1-2010	436-120-0810	1-1-2010	Amend	1-1-2010
436-060-0135	1-1-2010	Amend	1-1-2010	436-120-0820	1-1-2010	Amend	1-1-2010
436-060-0137	1-1-2010	Amend	1-1-2010	436-120-0830	1-1-2010	Amend	1-1-2010
436-060-0140	1-1-2010	Amend	1-1-2010	436-120-0840	1-1-2010	Amend	1-1-2010
436-060-0147	1-1-2010	Amend	1-1-2010	436-120-0900	1-1-2010	Amend	1-1-2010
436-060-0150	1-1-2010	Amend	1-1-2010	436-120-0915	1-1-2010	Amend	1-1-2010
436-060-0153	1-1-2010	Amend	1-1-2010	436-150-0005	1-1-2010	Amend	1-1-2010
436-060-0155	1-1-2010	Amend	1-1-2010	436-150-0010	1-1-2010	Amend	1-1-2010
436-060-0180	1-1-2010	Amend	1-1-2010	436-150-0030	1-1-2010	Amend	1-1-2010
436-060-0195	1-1-2010	Amend	1-1-2010	436-160-0310	1-1-2010	Amend	1-1-2010
436-060-0200	1-1-2010	Amend	1-1-2010	436-160-0340	1-1-2010	Amend	1-1-2010
436-060-0400	1-1-2010	Adopt	1-1-2010	437-002-0005	2-19-2010	Amend	4-1-2010
436-060-0500	1-1-2010	Amend	1-1-2010	437-002-0005	2-25-2010	Amend	4-1-2010
436-060-0510	1-1-2010	Amend	1-1-2010	437-002-0080	2-25-2010	Amend	4-1-2010
436-075-0110	1-1-2010	Repeal	1-1-2010	437-002-0100	2-19-2010	Amend	4-1-2010
436-105-0003	1-1-2010	Amend	1-1-2010	437-002-0120	2-25-2010	Amend	4-1-2010
436-105-0005	1-1-2010	Amend	1-1-2010	437-002-0280	2-25-2010	Amend	4-1-2010
436-105-0500	1-1-2010	Amend	1-1-2010	437-002-2102	2-19-2010	Adopt	4-1-2010
436-105-0520	1-1-2010	Amend	1-1-2010	437-004-1035	2-25-2010	Amend	4-1-2010
436-105-0540	1-1-2010	Amend	1-1-2010	437-004-1050	2-25-2010	Amend	4-1-2010
436-105-0550	1-1-2010	Amend	1-1-2010	437-004-1060	2-25-2010	Amend	4-1-2010
436-110-0005	1-1-2010	Amend	1-1-2010	437-004-2310	2-25-2010	Amend	4-1-2010
436-110-0240	4-15-2010	Amend(T)	5-1-2010	437-005-0001	2-25-2010	Amend	4-1-2010
436-110-0290	4-15-2010	Amend(T)	5-1-2010	437-005-0002	2-25-2010	Amend	4-1-2010
436-110-0310	1-1-2010	Amend	1-1-2010	437-005-0003	2-25-2010	Amend	4-1-2010
436-110-0325	1-1-2010	Amend	1-1-2010	437-007-0305	2-25-2010	Amend	4-1-2010
436-110-0330	1-1-2010	Amend	1-1-2010	440-005-0015	5-1-2010	Amend	5-1-2010
436-110-0335	1-1-2010	Amend	1-1-2010	440-005-0020	5-1-2010	Amend	5-1-2010
436-110-0336	1-1-2010	Amend	1-1-2010	440-005-0025	5-1-2010	Amend	5-1-2010
436-110-0336	4-15-2010	Amend(T)	5-1-2010	440-005-0030	5-1-2010	Amend	5-1-2010
436-110-0337	1-1-2010	Amend	1-1-2010	440-015-0001	2-1-2010	Repeal	3-1-2010
436-110-0345	1-1-2010	Amend	1-1-2010	440-015-0010	2-1-2010	Repeal	3-1-2010
436-110-0347	1-1-2010	Amend	1-1-2010	440-015-0020	2-1-2010	Repeal	3-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
440-015-0030	2-1-2010	Repeal	3-1-2010	441-865-0025	1-4-2010	Amend	2-1-2010
440-015-0040	2-1-2010	Repeal	3-1-2010	441-865-0025	3-22-2010	Amend	5-1-2010
440-015-0050	2-1-2010	Repeal	3-1-2010	441-865-0030	1-4-2010	Amend	2-1-2010
440-015-0060	2-1-2010	Repeal	3-1-2010	441-865-0040	1-4-2010	Amend	2-1-2010
440-015-0070	2-1-2010	Repeal	3-1-2010	441-865-0050	1-4-2010	Amend	2-1-2010
440-015-0080	2-1-2010	Repeal	3-1-2010	441-865-0060	3-22-2010	Amend	5-1-2010
440-015-0090	2-1-2010	Repeal	3-1-2010	441-865-0080	1-4-2010	Amend	2-1-2010
440-015-0100	2-1-2010	Adopt	3-1-2010	441-865-0090	1-4-2010	Amend	2-1-2010
440-015-0105	2-1-2010	Adopt	3-1-2010	441-870-0030	1-4-2010	Amend	2-1-2010
440-015-0110	2-1-2010	Adopt	3-1-2010	441-870-0040	1-4-2010	Amend	2-1-2010
440-015-0115	2-1-2010	Adopt	3-1-2010	441-870-0050	1-4-2010	Amend	2-1-2010
441-002-0005	5-1-2010	Repeal	6-1-2010	441-870-0070	1-4-2010	Amend	2-1-2010
441-002-0010	5-1-2010	Repeal	6-1-2010	441-870-0080	1-4-2010	Amend	2-1-2010
441-002-0020	5-1-2010	Repeal	6-1-2010	441-870-0080	3-22-2010	Amend	5-1-2010
441-002-0030	5-1-2010	Repeal	6-1-2010	441-870-0081	3-22-2010	Adopt	5-1-2010
441-002-0040	5-1-2010	Repeal	6-1-2010	441-875-0010	1-4-2010	Repeal	2-1-2010
441-500-0020	3-16-2010	Amend	5-1-2010	441-875-0020	1-4-2010	Amend	2-1-2010
441-505-3046	12-7-2009	Amend	1-1-2010	441-875-0030	1-4-2010	Amend	2-1-2010
441-505-3046(T)	12-7-2009	Repeal	1-1-2010	441-875-0040	1-4-2010	Amend	2-1-2010
441-710-0540	12-7-2009	Amend	1-1-2010	441-880-0010	1-4-2010	Amend	2-1-2010
441-710-0540(T)	12-7-2009	Repeal	1-1-2010	441-880-0020	1-4-2010	Am. & Ren.	2-1-2010
441-730-0026	3-22-2010	Adopt	5-1-2010	441-880-0021	1-4-2010	Adopt	2-1-2010
441-730-0027	3-22-2010	Adopt	5-1-2010	441-880-0022	1-4-2010	Adopt	2-1-2010
441-730-0070	3-22-2010	Amend	5-1-2010	441-880-0030	1-4-2010	Amend	2-1-2010
441-730-0125	3-22-2010	Adopt	5-1-2010	441-880-0040	1-4-2010	Amend	2-1-2010
441-730-0246	12-7-2009	Amend	1-1-2010	441-880-0050	1-4-2010	Am. & Ren.	2-1-2010
441-730-0246(T)	12-7-2009	Repeal	1-1-2010	441-880-0200	1-4-2010	Adopt	2-1-2010
441-730-0320	3-22-2010	Amend	5-1-2010	441-880-0205	1-4-2010	Adopt	2-1-2010
441-740-0000	5-6-2010	Amend	6-1-2010	441-880-0210	1-4-2010	Adopt	2-1-2010
441-740-0010	5-6-2010	Amend	6-1-2010	441-880-0300	1-4-2010	Adopt	2-1-2010
441-740-0015	5-6-2010	Amend	6-1-2010	441-880-0310	1-4-2010	Adopt	2-1-2010
441-740-0050	5-6-2010	Repeal	6-1-2010	441-885-0010	1-4-2010	Amend	2-1-2010
441-850-0005	1-4-2010	Amend	2-1-2010	441-910-0000	1-1-2010	Amend	2-1-2010
441-850-0035	1-4-2010	Amend	2-1-2010	441-910-0005	1-1-2010	Adopt	2-1-2010
441-850-0042	12-7-2009	Amend	1-1-2010	441-910-0010	1-1-2010	Amend	2-1-2010
441-850-0042(T)	12-7-2009	Repeal	1-1-2010	441-910-0020	1-1-2010	Repeal	2-1-2010
441-850-0050	1-4-2010	Adopt	2-1-2010	441-910-0030	1-1-2010	Amend	2-1-2010
441-860-0010	1-4-2010	Repeal	2-1-2010	441-910-0040	1-1-2010	Repeal	2-1-2010
441-860-0020	1-1-2010	Amend	1-1-2010	441-910-0050	1-1-2010	Amend	2-1-2010
441-860-0020	1-4-2010	Amend	2-1-2010	441-910-0055	1-1-2010	Amend	2-1-2010
441-860-0025	1-4-2010	Amend	2-1-2010	441-910-0080	1-1-2010	Amend	2-1-2010
441-860-0030	1-1-2010	Amend	1-1-2010	441-910-0090	1-1-2010	Repeal	2-1-2010
441-860-0030	1-4-2010	Amend	2-1-2010	441-910-0091	1-1-2010	Adopt	2-1-2010
441-860-0040	1-4-2010	Amend	2-1-2010	441-910-0092	1-1-2010	Amend	2-1-2010
441-860-0050	1-1-2010	Amend	1-1-2010	441-910-0092(T)	1-1-2010	Repeal	2-1-2010
441-860-0050	1-4-2010	Amend	2-1-2010	441-910-0093	1-1-2010	Repeal	2-1-2010
441-860-0060	1-4-2010	Amend	2-1-2010	441-910-0094	1-1-2010	Adopt	2-1-2010
441-860-0070	1-4-2010	Amend	2-1-2010	441-910-0095	1-1-2010	Repeal	2-1-2010
441-860-0080	1-4-2010	Amend	2-1-2010	441-910-0099	1-1-2010	Adopt	2-1-2010
441-860-0085	3-22-2010	Adopt	5-1-2010	441-910-0110	1-1-2010	Repeal	2-1-2010
441-860-0090	3-22-2010	Amend	5-1-2010	441-910-0120	1-1-2010	Repeal	2-1-2010
441-860-0101	1-1-2010	Adopt	1-1-2010	441-910-0135	1-1-2010	Adopt	2-1-2010
441-860-0130	1-4-2010	Amend	2-1-2010	441-910-0145	1-1-2010	Adopt	2-1-2010
441-860-0400	1-1-2010	Adopt	1-1-2010	441-910-0150	1-1-2010	Adopt	2-1-2010
441-865-0010	1-4-2010	Amend	2-1-2010	441-910-0151	1-1-2010	Adopt	2-1-2010
441-865-0020	1-4-2010	Amend	2-1-2010	441-910-0200	1-1-2010	Adopt	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
441-910-9000(T)	1-6-2010	Suspend	2-1-2010	461-115-0090	1-1-2010	Amend	2-1-2010
441-910-9001(T)	1-6-2010	Suspend	2-1-2010	461-115-0230	1-1-2010	Amend(T)	2-1-2010
442-005-0010	1-7-2010	Amend(T)	2-1-2010	461-115-0230	4-1-2010	Amend	5-1-2010
442-005-0050	1-7-2010	Amend(T)	2-1-2010	461-115-0230	4-1-2010	Amend(T)	5-1-2010
442-005-0060	1-7-2010	Amend(T)	2-1-2010	461-115-0230(T)	4-1-2010	Repeal	5-1-2010
442-005-0100	1-7-2010	Amend(T)	2-1-2010	461-115-0430	1-1-2010	Amend(T)	2-1-2010
442-010-0010	3-23-2010	Adopt(T)	5-1-2010	461-115-0430	4-1-2010	Amend	5-1-2010
442-010-0020	3-23-2010	Adopt(T)	5-1-2010	461-115-0430	4-1-2010	Amend(T)	5-1-2010
442-010-0030	3-23-2010	Adopt(T)	5-1-2010	461-115-0430(T)	4-1-2010	Repeal	5-1-2010
442-010-0040	3-23-2010	Adopt(T)	5-1-2010	461-115-0651	4-1-2010	Amend	5-1-2010
442-010-0050	3-23-2010	Adopt(T)	5-1-2010	461-115-0690	4-1-2010	Amend	5-1-2010
442-010-0060	3-23-2010	Adopt(T)	5-1-2010	461-115-0705	1-1-2010	Amend	2-1-2010
442-010-0070	3-23-2010	Adopt(T)	5-1-2010	461-115-0705	1-1-2010	Amend(T)	2-1-2010
442-010-0080	3-23-2010	Adopt(T)	5-1-2010	461-115-0705(T)	1-1-2010	Repeal	2-1-2010
442-010-0090	3-23-2010	Adopt(T)	5-1-2010	461-120-0010	1-1-2010	Amend(T)	2-1-2010
442-010-0100	3-23-2010	Adopt(T)	5-1-2010	461-120-0125	1-1-2010	Amend	2-1-2010
442-010-0110	3-23-2010	Adopt(T)	5-1-2010	461-120-0125	1-1-2010	Amend(T)	2-1-2010
442-010-0120	3-23-2010	Adopt(T)	5-1-2010	461-120-0125(T)	1-1-2010	Repeal	2-1-2010
442-010-0130	3-23-2010	Adopt(T)	5-1-2010	461-120-0210	1-1-2010	Amend	2-1-2010
442-010-0140	3-23-2010	Adopt(T)	5-1-2010	461-120-0210	1-1-2010	Amend(T)	2-1-2010
442-010-0150	3-23-2010	Adopt(T)	5-1-2010	461-120-0210(T)	1-1-2010	Repeal	2-1-2010
442-010-0160	3-23-2010	Adopt(T)	5-1-2010	461-120-0310	1-1-2010	Amend	2-1-2010
442-010-0170	3-23-2010	Adopt(T)	5-1-2010	461-120-0310(T)	1-1-2010	Repeal	2-1-2010
442-010-0180	3-23-2010	Adopt(T)	5-1-2010	461-120-0315	1-1-2010	Amend	2-1-2010
442-010-0190	3-23-2010	Adopt(T)	5-1-2010	461-120-0315(T)	1-1-2010	Repeal	2-1-2010
443-002-0070	2-9-2010	Amend	3-1-2010	461-120-0345	1-1-2010	Amend	2-1-2010
443-002-0090	2-9-2010	Amend	3-1-2010	461-120-0345(T)	1-1-2010	Repeal	2-1-2010
459-017-0060	12-1-2009	Amend	1-1-2010	461-120-0510	1-1-2010	Amend	2-1-2010
459-035-0000	4-5-2010	Amend(T)	5-1-2010	461-120-0510(T)	1-1-2010	Repeal	2-1-2010
459-035-0001	4-5-2010	Amend(T)	5-1-2010	461-125-0170	1-1-2010	Amend	2-1-2010
459-035-0020	4-5-2010	Amend(T)	5-1-2010	461-125-0170(T)	1-1-2010	Repeal	2-1-2010
459-035-0030	4-5-2010	Amend(T)	5-1-2010	461-125-0310	1-1-2010	Amend	2-1-2010
459-035-0040	4-5-2010	Amend(T)	5-1-2010	461-135-0095	1-1-2010	Amend	2-1-2010
461-001-0015	4-1-2010	Amend	5-1-2010	461-135-0095(T)	1-1-2010	Repeal	2-1-2010
461-025-0310	1-1-2010	Amend	2-1-2010	461-135-0096	1-1-2010	Amend	2-1-2010
461-101-0010	1-1-2010	Amend	2-1-2010	461-135-0096(T)	1-1-2010	Repeal	2-1-2010
461-101-0010	1-1-2010	Amend(T)	2-1-2010	461-135-01195	4-1-2010	Amend	5-1-2010
461-101-0010(T)	1-1-2010	Repeal	2-1-2010	461-135-0150	5-1-2010	Amend(T)	6-1-2010
461-105-0006	1-1-2010	Adopt	2-1-2010	461-135-0498	4-1-2010	Adopt	5-1-2010
461-105-0006	4-1-2010	Amend	5-1-2010	461-135-0570	2-5-2010	Amend(T)	3-1-2010
461-105-0006(T)	1-1-2010	Repeal	2-1-2010	461-135-0570	4-1-2010	Amend	5-1-2010
461-110-0210	1-1-2010	Amend	2-1-2010	461-135-0570	4-1-2010	Amend(T)	5-1-2010
461-110-0210	1-1-2010	Amend(T)	2-1-2010	461-135-0570(T)	4-1-2010	Repeal	5-1-2010
461-110-0210(T)	1-1-2010	Repeal	2-1-2010	461-135-0575	4-1-2010	Amend	5-1-2010
461-110-0370	1-1-2010	Amend	2-1-2010	461-135-0730	4-1-2010	Amend	5-1-2010
461-110-0400	1-1-2010	Amend(T)	2-1-2010	461-135-0832	4-1-2010	Amend	5-1-2010
461-110-0430	1-1-2010	Amend	2-1-2010	461-135-0835	1-1-2010	Amend	2-1-2010
461-110-0530	1-1-2010	Amend(T)	2-1-2010	461-135-0835	4-1-2010	Amend	5-1-2010
461-110-0630	1-1-2010	Amend(T)	2-1-2010	461-135-0990	1-1-2010	Amend	2-1-2010
461-115-0030	1-1-2010	Amend	2-1-2010	461-135-0990(T)	1-1-2010	Repeal	2-1-2010
461-115-0030	1-1-2010	Amend(T)	2-1-2010	461-135-1100	12-1-2009	Amend(T)	1-1-2010
461-115-0030(T)	1-1-2010	Repeal	2-1-2010	461-135-1100	1-1-2010	Amend	2-1-2010
461-115-0050	1-1-2010	Amend	2-1-2010	461-135-1100	1-1-2010	Amend(T)	2-1-2010
461-115-0050	1-1-2010	Amend(T)	2-1-2010	461-135-1100	4-21-2010	Amend(T)	6-1-2010
461-115-0050(T)	1-1-2010	Repeal	2-1-2010	461-135-1100(T)	12-1-2009	Suspend	1-1-2010
461-115-0071	1-1-2010	Amend	2-1-2010	461-135-1100(T)	1-1-2010	Repeal	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-135-1100(T)	4-21-2010	Suspend	6-1-2010	461-155-0670	1-1-2010	Amend	2-1-2010
461-135-1101	1-1-2010	Adopt(T)	2-1-2010	461-155-0680	1-1-2010	Amend	2-1-2010
461-135-1102	4-21-2010	Amend(T)	6-1-2010	461-155-0688	1-1-2010	Adopt	2-1-2010
461-135-1125	1-1-2010	Amend	2-1-2010	461-155-0693	1-1-2010	Adopt	2-1-2010
461-135-1125	4-21-2010	Amend(T)	6-1-2010	461-155-0700	4-1-2010	Amend	5-1-2010
461-135-1125(T)	1-1-2010	Repeal	2-1-2010	461-160-0015	1-1-2010	Amend	2-1-2010
461-135-1149	1-1-2010	Adopt	2-1-2010	461-160-0015	1-1-2010	Amend(T)	2-1-2010
461-135-1149	1-1-2010	Amend(T)	2-1-2010	461-160-0015(T)	1-1-2010	Repeal	2-1-2010
461-135-1149(T)	1-1-2010	Repeal	2-1-2010	461-160-0580	1-1-2010	Amend	2-1-2010
461-135-1175	4-1-2010	Amend(T)	5-1-2010	461-160-0610	1-1-2010	Amend	2-1-2010
461-135-1180	1-1-2010	Repeal	2-1-2010	461-160-0700	1-1-2010	Amend	2-1-2010
461-135-1185	1-1-2010	Amend	2-1-2010	461-160-0700(T)	1-1-2010	Repeal	2-1-2010
461-135-1195	11-16-2009	Amend(T)	1-1-2010	461-165-0010	1-1-2010	Amend	2-1-2010
461-135-1195(T)	4-1-2010	Repeal	5-1-2010	461-165-0030	1-1-2010	Amend(T)	2-1-2010
461-135-1225	1-1-2010	Amend	2-1-2010	461-165-0100	4-1-2010	Amend	5-1-2010
461-135-1230	1-1-2010	Amend	2-1-2010	461-165-0150	4-1-2010	Repeal	5-1-2010
461-145-0022	4-1-2010	Amend	5-1-2010	461-165-0200	1-1-2010	Amend	2-1-2010
461-145-0130	1-1-2010	Amend	2-1-2010	461-165-0200	4-1-2010	Amend	5-1-2010
461-145-0130	1-1-2010	Amend(T)	2-1-2010	461-165-0210	1-1-2010	Amend	2-1-2010
461-145-0130	4-1-2010	Amend	5-1-2010	461-165-0210	4-1-2010	Amend	5-1-2010
461-145-0130(T)	1-1-2010	Repeal	2-1-2010	461-165-0230	1-1-2010	Amend	2-1-2010
461-145-0130(T)	4-1-2010	Repeal	5-1-2010	461-170-0010	1-1-2010	Amend(T)	2-1-2010
461-145-0140	4-22-2010	Amend(T)	6-1-2010	461-170-0010	4-1-2010	Amend	5-1-2010
461-145-0143	1-1-2010	Amend	2-1-2010	461-170-0010(T)	4-1-2010	Repeal	5-1-2010
461-145-0143	1-1-2010	Amend(T)	2-1-2010	461-170-0011	1-1-2010	Amend(T)	2-1-2010
461-145-0143(T)	1-1-2010	Repeal	2-1-2010	461-170-0011	4-1-2010	Amend	5-1-2010
461-145-0150	4-1-2010	Amend	5-1-2010	461-170-0011	4-1-2010	Amend(T)	5-1-2010
461-145-0184	4-1-2010	Adopt	5-1-2010	461-170-0011(T)	4-1-2010	Repeal	5-1-2010
461-145-0220	1-1-2010	Amend	2-1-2010	461-170-0100	4-1-2010	Amend	5-1-2010
461-145-0260	1-1-2010	Amend	2-1-2010	461-170-0101	4-1-2010	Amend	5-1-2010
461-145-0320	4-1-2010	Amend	5-1-2010	461-170-0120	4-1-2010	Amend	5-1-2010
461-145-0405	1-1-2010	Amend	2-1-2010	461-175-0200	2-23-2010	Amend(T)	4-1-2010
461-145-0550	11-24-2009	Amend(T)	1-1-2010	461-175-0220	4-1-2010	Amend	5-1-2010
461-145-0550	4-1-2010	Amend	5-1-2010	461-175-0270	1-1-2010	Amend	2-1-2010
461-145-0550(T)	4-1-2010	Repeal	5-1-2010	461-175-0270	4-1-2010	Amend	5-1-2010
461-145-0810	1-1-2010	Amend	2-1-2010	461-180-0050	4-1-2010	Amend	5-1-2010
461-145-0930	1-1-2010	Amend	2-1-2010	461-180-0085	1-1-2010	Amend	2-1-2010
461-150-0055	1-1-2010	Amend	2-1-2010	461-180-0085(T)	1-1-2010	Repeal	2-1-2010
461-150-0055(T)	1-1-2010	Repeal	2-1-2010	461-180-0090	1-1-2010	Amend	2-1-2010
461-150-0060	4-1-2010	Amend	5-1-2010	461-180-0090	1-1-2010	Amend(T)	2-1-2010
461-150-0090	12-1-2009	Amend(T)	1-1-2010	461-180-0090	1-26-2010	Amend(T)	3-1-2010
461-150-0090	4-1-2010	Amend	5-1-2010	461-180-0090(T)	1-1-2010	Repeal	2-1-2010
461-150-0090(T)	4-1-2010	Repeal	5-1-2010	461-180-0090(T)	1-26-2010	Suspend	3-1-2010
461-155-0175	1-1-2010	Repeal	2-1-2010	461-190-0199	1-1-2010	Amend	2-1-2010
461-155-0180	3-31-2010	Amend	5-1-2010	461-193-0000	4-1-2010	Amend	5-1-2010
461-155-0225	1-1-2010	Amend	2-1-2010	461-193-0031	1-1-2010	Amend	2-1-2010
461-155-0225(T)	1-1-2010	Repeal	2-1-2010	461-193-0042	4-1-2010	Amend	5-1-2010
461-155-0250	1-1-2010	Amend	2-1-2010	461-193-0121	1-1-2010	Repeal	2-1-2010
461-155-0270	1-1-2010	Amend(T)	2-1-2010	461-193-0240	1-1-2010	Amend	2-1-2010
461-155-0360	1-1-2010	Amend	2-1-2010	461-193-0920	1-1-2010	Repeal	2-1-2010
461-155-0360(T)	1-1-2010	Repeal	2-1-2010	461-193-0980	1-1-2010	Repeal	2-1-2010
461-155-0530	1-1-2010	Amend	2-1-2010	461-193-1360	1-1-2010	Repeal	2-1-2010
461-155-0580	1-1-2010	Amend	2-1-2010	461-193-1370	1-1-2010	Repeal	2-1-2010
461-155-0630	1-1-2010	Amend	2-1-2010	461-193-1380	1-1-2010	Amend	2-1-2010
461-155-0640	1-1-2010	Amend	2-1-2010	461-195-0501	1-1-2010	Amend	2-1-2010
461-155-0660	1-1-2010	Amend	2-1-2010	461-195-0511	1-1-2010	Repeal	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-195-0521	1-1-2010	Amend	2-1-2010	573-041-0050	1-11-2010	Repeal	2-1-2010
461-195-0531	1-1-2010	Repeal	2-1-2010	573-041-0050	4-22-2010	Repeal	6-1-2010
461-195-0541	1-1-2010	Amend	2-1-2010	573-041-0055	1-11-2010	Repeal	2-1-2010
461-195-0551	1-1-2010	Amend	2-1-2010	573-041-0055	4-22-2010	Repeal	6-1-2010
461-195-0561	1-1-2010	Amend	2-1-2010	573-041-0060	1-11-2010	Repeal	2-1-2010
471-007-0200	1-31-2010	Adopt	3-1-2010	573-041-0060	4-22-2010	Repeal	6-1-2010
471-007-0200(T)	1-31-2010	Repeal	3-1-2010	573-041-0065	1-11-2010	Repeal	2-1-2010
471-007-0210	1-31-2010	Adopt	3-1-2010	573-041-0065	4-22-2010	Repeal	6-1-2010
471-007-0210(T)	1-31-2010	Repeal	3-1-2010	573-041-0085	1-11-2010	Repeal	2-1-2010
471-007-0220	1-31-2010	Adopt	3-1-2010	573-041-0085	4-22-2010	Repeal	6-1-2010
471-007-0220(T)	1-31-2010	Repeal	3-1-2010	573-041-0090	1-11-2010	Repeal	2-1-2010
471-007-0230	1-31-2010	Adopt	3-1-2010	573-041-0090	4-22-2010	Repeal	6-1-2010
471-007-0230(T)	1-31-2010	Repeal	3-1-2010	573-041-0095	1-11-2010	Repeal	2-1-2010
471-007-0240	1-31-2010	Adopt	3-1-2010	573-041-0095	4-22-2010	Repeal	6-1-2010
471-007-0240(T)	1-31-2010	Repeal	3-1-2010	573-041-0096	1-11-2010	Repeal	2-1-2010
471-007-0250	1-31-2010	Adopt	3-1-2010	573-041-0096	4-22-2010	Repeal	6-1-2010
471-007-0250(T)	1-31-2010	Repeal	3-1-2010	573-041-0100	1-11-2010	Repeal	2-1-2010
471-007-0260	1-31-2010	Adopt	3-1-2010	573-041-0100	4-22-2010	Repeal	6-1-2010
471-007-0260(T)	1-31-2010	Repeal	3-1-2010	574-050-0005	1-27-2010	Amend	3-1-2010
471-007-0270	1-31-2010	Adopt	3-1-2010	575-031-0025	11-24-2009	Amend(T)	1-1-2010
471-007-0270(T)	1-31-2010	Repeal	3-1-2010	577-060-0020	7-1-2010	Amend(T)	5-1-2010
471-007-0280	1-31-2010	Adopt	3-1-2010	579-020-0006	12-15-2009	Amend	1-1-2010
471-007-0280(T)	1-31-2010	Repeal	3-1-2010	579-020-0006	5-13-2010	Amend	6-1-2010
471-007-0285	1-31-2010	Adopt	3-1-2010	580-040-0035	1-19-2010	Amend	3-1-2010
471-007-0285(T)	1-31-2010	Repeal	3-1-2010	580-040-0040	2-11-2010	Amend	3-1-2010
471-007-0290	1-31-2010	Adopt	3-1-2010	580-040-0040(T)	2-11-2010	Repeal	3-1-2010
471-007-0290(T)	1-31-2010	Repeal	3-1-2010	581-001-0053	12-10-2009	Amend	1-1-2010
471-007-0300	1-31-2010	Adopt	3-1-2010	581-011-0087	2-8-2010	Amend	3-1-2010
471-007-0300(T)	1-31-2010	Repeal	3-1-2010	581-015-2000	12-10-2009	Amend	1-1-2010
471-007-0310	1-31-2010	Adopt	3-1-2010	581-015-2090	12-10-2009	Amend	1-1-2010
471-007-0310(T)	1-31-2010	Repeal	3-1-2010	581-015-2270	12-10-2009	Amend	1-1-2010
471-030-0220	4-14-2010	Adopt	5-1-2010	581-015-2275	12-10-2009	Amend	1-1-2010
471-030-0225	3-3-2010	Adopt(T)	4-1-2010	581-015-2440	12-10-2009	Amend	1-1-2010
571-060-0005	7-1-2010	Amend	6-1-2010	581-015-2570	12-10-2009	Amend	1-1-2010
573-041-0005	1-11-2010	Repeal	2-1-2010	581-015-2571	12-10-2009	Adopt	1-1-2010
573-041-0005	4-22-2010	Repeal	6-1-2010	581-015-2572	12-10-2009	Adopt	1-1-2010
573-041-0010	1-11-2010	Repeal	2-1-2010	581-015-2573	12-10-2009	Adopt	1-1-2010
573-041-0010	4-22-2010	Repeal	6-1-2010	581-015-2574	12-10-2009	Adopt	1-1-2010
573-041-0020	1-11-2010	Repeal	2-1-2010	581-015-2735	12-10-2009	Amend	1-1-2010
573-041-0020	4-22-2010	Repeal	6-1-2010	581-016-0520	12-10-2009	Amend	1-1-2010
573-041-0025	1-11-2010	Repeal	2-1-2010	581-016-0526	12-10-2009	Amend	1-1-2010
573-041-0025	4-22-2010	Repeal	6-1-2010	581-016-0536	12-10-2009	Amend	1-1-2010
573-041-0027	1-11-2010	Repeal	2-1-2010	581-016-0537	12-10-2009	Amend	1-1-2010
573-041-0027	4-22-2010	Repeal	6-1-2010	581-016-0538	12-10-2009	Amend	1-1-2010
573-041-0030	1-11-2010	Repeal	2-1-2010	581-016-0541	12-10-2009	Amend	1-1-2010
573-041-0030	4-22-2010	Repeal	6-1-2010	581-016-0560	12-10-2009	Amend	1-1-2010
573-041-0035	1-11-2010	Repeal	2-1-2010	581-016-0890	12-10-2009	Repeal	1-1-2010
573-041-0035	4-22-2010	Repeal	6-1-2010	581-016-0900	12-10-2009	Repeal	1-1-2010
573-041-0036	1-11-2010	Repeal	2-1-2010	581-016-0910	12-10-2009	Repeal	1-1-2010
573-041-0036	4-22-2010	Repeal	6-1-2010	581-016-0920	12-10-2009	Repeal	1-1-2010
573-041-0037	1-11-2010	Repeal	2-1-2010	581-016-0930	12-10-2009	Repeal	1-1-2010
573-041-0037	4-22-2010	Repeal	6-1-2010	581-016-0940	12-10-2009	Repeal	1-1-2010
573-041-0040	1-11-2010	Repeal	2-1-2010	581-016-0950	12-10-2009	Repeal	1-1-2010
573-041-0040	4-22-2010	Repeal	6-1-2010	581-016-0960	12-10-2009	Repeal	1-1-2010
573-041-0045	1-11-2010	Repeal	2-1-2010	581-016-0970	12-10-2009	Repeal	1-1-2010
573-041-0045	4-22-2010	Repeal	6-1-2010	581-016-0980	12-10-2009	Repeal	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
581-016-0990	12-10-2009	Repeal	1-1-2010	584-052-0015	12-15-2009	Amend	1-1-2010
581-016-1000	12-10-2009	Repeal	1-1-2010	584-052-0030	4-2-2010	Amend	5-1-2010
581-016-1010	12-10-2009	Repeal	1-1-2010	584-060-0012	12-15-2009	Amend	1-1-2010
581-016-1020	12-10-2009	Repeal	1-1-2010	584-060-0013	12-15-2009	Amend	1-1-2010
581-016-1030	12-10-2009	Repeal	1-1-2010	584-060-0014	1-28-2010	Amend	3-1-2010
581-016-1040	12-10-2009	Repeal	1-1-2010	584-060-0071	12-15-2009	Amend	1-1-2010
581-016-1050	12-10-2009	Repeal	1-1-2010	584-060-0071	12-18-2009	Amend	2-1-2010
581-020-0301	12-10-2009	Amend(T)	1-1-2010	584-060-0162	1-1-2010	Amend	1-1-2010
581-020-0333	12-10-2009	Adopt(T)	1-1-2010	584-060-0171	12-15-2009	Amend	1-1-2010
581-020-0335	12-10-2009	Adopt(T)	1-1-2010	584-060-0181	12-15-2009	Amend	1-1-2010
581-020-0337	12-10-2009	Adopt(T)	1-1-2010	584-060-0220	12-15-2009	Adopt	1-1-2010
581-020-0359	12-10-2009	Amend(T)	1-1-2010	584-065-0030	12-15-2009	Repeal	1-1-2010
581-020-0362	12-10-2009	Adopt(T)	1-1-2010	584-065-0035	12-15-2009	Adopt	1-1-2010
581-021-0037	12-10-2009	Amend	1-1-2010	584-065-0040	12-15-2009	Repeal	1-1-2010
581-021-0037	3-18-2010	Amend	5-1-2010	584-070-0012	12-15-2009	Amend	1-1-2010
581-021-0110	12-10-2009	Amend	1-1-2010	584-070-0111	12-15-2009	Amend	1-1-2010
581-021-0500	12-10-2009	Amend	1-1-2010	584-070-0111	4-2-2010	Amend	5-1-2010
581-021-0500	12-10-2009	Amend	1-1-2010	584-070-0112	12-15-2009	Amend	1-1-2010
581-022-0610	12-10-2009	Amend	1-1-2010	584-070-0310	12-15-2009	Amend	1-1-2010
581-022-0615	12-10-2009	Amend	1-1-2010	584-080-0022	12-15-2009	Amend	1-1-2010
581-022-0615(T)	12-10-2009	Repeal	1-1-2010	584-080-0151	12-15-2009	Amend	1-1-2010
581-022-0620	3-18-2010	Adopt	5-1-2010	584-080-0152	12-15-2009	Amend	1-1-2010
581-022-1130	12-10-2009	Amend	1-1-2010	584-080-0153	12-15-2009	Amend	1-1-2010
581-022-1133	12-10-2009	Adopt	1-1-2010	584-080-0153	4-2-2010	Amend	5-1-2010
581-022-1134	12-10-2009	Amend	1-1-2010	584-080-0161	12-15-2009	Amend	1-1-2010
581-022-1135	12-10-2009	Amend	1-1-2010	584-090-0050	4-2-2010	Repeal	5-1-2010
581-022-1215	12-10-2009	Adopt	1-1-2010	589-007-0700	12-14-2009	Adopt	1-1-2010
581-022-1440	12-10-2009	Amend	1-1-2010	603-010-0056	1-7-2010	Adopt	2-1-2010
581-023-0006	12-10-2009	Amend	1-1-2010	603-011-0610	2-26-2010	Amend	4-1-2010
581-023-0018	12-10-2009	Amend	1-1-2010	603-011-0615	2-26-2010	Amend	4-1-2010
581-023-0040	4-26-2010	Amend	6-1-2010	603-011-0620	2-26-2010	Amend	4-1-2010
581-045-0001	2-8-2010	Amend	3-1-2010	603-011-0700	2-10-2010	Amend	3-1-2010
581-045-0003	2-8-2010	Adopt	3-1-2010	603-011-0701	2-10-2010	Adopt	3-1-2010
581-045-0006	2-8-2010	Amend	3-1-2010	603-011-0705	2-10-2010	Amend	3-1-2010
581-045-0062	2-8-2010	Amend	3-1-2010	603-011-0706	2-10-2010	Adopt	3-1-2010
581-045-0500	2-8-2010	Amend	3-1-2010	603-011-0725	2-10-2010	Amend	3-1-2010
581-045-0522	12-10-2009	Amend	1-1-2010	603-027-0410	1-1-2010	Amend	2-1-2010
581-045-0586	12-10-2009	Amend	1-1-2010	603-027-0410(T)	1-1-2010	Repeal	2-1-2010
584-010-0020	12-15-2009	Amend	1-1-2010	603-027-0420	1-1-2010	Amend	2-1-2010
584-017-0200	12-15-2009	Amend	1-1-2010	603-027-0420(T)	1-1-2010	Repeal	2-1-2010
584-017-0201	12-15-2009	Amend	1-1-2010	603-027-0430	1-1-2010	Amend	2-1-2010
584-021-0165	12-15-2009	Amend	1-1-2010	603-027-0430(T)	1-1-2010	Repeal	2-1-2010
584-036-0055	12-15-2009	Amend	1-1-2010	603-027-0440	1-1-2010	Amend	2-1-2010
584-036-0081	12-15-2009	Amend	1-1-2010	603-027-0440(T)	1-1-2010	Repeal	2-1-2010
584-038-0300	12-15-2009	Amend	1-1-2010	603-027-0490	1-1-2010	Amend	2-1-2010
584-042-0002	3-5-2010	Suspend	4-1-2010	603-027-0490(T)	1-1-2010	Repeal	2-1-2010
584-042-0006	3-5-2010	Suspend	4-1-2010	603-052-0051	1-28-2010	Amend	3-1-2010
584-042-0009	3-5-2010	Suspend	4-1-2010	603-052-0127	1-28-2010	Amend	3-1-2010
584-042-0021	3-5-2010	Adopt(T)	4-1-2010	603-052-0860	1-21-2010	Amend	3-1-2010
584-042-0031	3-5-2010	Adopt(T)	4-1-2010	603-052-0880	1-21-2010	Amend	3-1-2010
584-042-0044	3-5-2010	Adopt(T)	4-1-2010	603-052-1200	2-4-2010	Amend	3-1-2010
584-050-0006	12-15-2009	Amend	1-1-2010	603-052-1236	2-4-2010	Adopt	3-1-2010
584-050-0015	4-2-2010	Amend	5-1-2010	603-054-0024	1-28-2010	Amend	3-1-2010
584-050-0030	12-15-2009	Amend	1-1-2010	603-056-0315	4-21-2010	Amend	6-1-2010
584-050-0035	12-15-2009	Amend	1-1-2010	603-057-0160	12-7-2009	Amend	1-1-2010
584-050-0100	4-2-2010	Amend	5-1-2010	603-076-0101	1-15-2010	Adopt	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
603-076-0106	1-15-2010	Adopt	2-1-2010	635-016-0080	1-1-2010	Amend	1-1-2010
635-001-0035	1-1-2010	Amend	2-1-2010	635-016-0090	11-19-2009	Amend(T)	1-1-2010
635-004-0005	3-15-2010	Amend	4-1-2010	635-016-0090	1-1-2010	Amend	1-1-2010
635-004-0005	4-1-2010	Amend	5-1-2010	635-016-0090(T)	11-19-2009	Suspend	1-1-2010
635-004-0009	3-15-2010	Amend	4-1-2010	635-017-0080	1-1-2010	Amend	1-1-2010
635-004-0009	4-1-2010	Amend	5-1-2010	635-017-0090	1-1-2010	Amend	1-1-2010
635-004-0016	1-1-2010	Amend(T)	2-1-2010	635-017-0090	5-14-2010	Amend	6-1-2010
635-004-0016	3-15-2010	Amend	4-1-2010	635-017-0090	5-22-2010	Amend(T)	6-1-2010
635-004-0016	4-1-2010	Amend	5-1-2010	635-017-0095	1-1-2010	Amend	1-1-2010
635-004-0016(T)	4-1-2010	Repeal	5-1-2010	635-017-0095	4-1-2010	Amend	5-1-2010
635-004-0019	3-3-2010	Amend(T)	4-1-2010	635-018-0080	1-1-2010	Amend	1-1-2010
635-004-0019	5-12-2010	Amend(T)	6-1-2010	635-018-0090	1-1-2010	Amend	1-1-2010
635-004-0019(T)	5-12-2010	Suspend	6-1-2010	635-018-0090	4-1-2010	Amend(T)	3-1-2010
635-004-0020	1-1-2010	Amend	2-1-2010	635-018-0090	4-15-2010	Amend(T)	4-1-2010
635-004-0027	1-1-2010	Amend(T)	2-1-2010	635-018-0090(T)	4-15-2010	Suspend	4-1-2010
635-004-0033	1-1-2010	Amend	2-1-2010	635-019-0080	1-1-2010	Amend	1-1-2010
635-004-0036	1-1-2010	Amend	2-1-2010	635-019-0090	1-1-2010	Amend	1-1-2010
635-004-0066	1-1-2010	Adopt	2-1-2010	635-019-0090	5-22-2010	Amend(T)	6-1-2010
635-004-0068	1-1-2010	Adopt	2-1-2010	635-021-0080	1-1-2010	Amend	1-1-2010
635-004-0070	1-1-2010	Amend	2-1-2010	635-021-0090	1-1-2010	Amend	1-1-2010
635-004-0080	1-1-2010	Amend	2-1-2010	635-021-0090	5-1-2010	Amend(T)	6-1-2010
635-005-0005	1-1-2010	Amend	2-1-2010	635-021-0090	5-22-2010	Amend(T)	6-1-2010
635-006-0001	1-1-2010	Amend	1-1-2010	635-021-0090(T)	5-22-2010	Suspend	6-1-2010
635-006-0020	1-1-2010	Amend	1-1-2010	635-023-0080	1-1-2010	Amend	1-1-2010
635-006-0212	4-27-2010	Amend(T)	6-1-2010	635-023-0090	1-1-2010	Amend	1-1-2010
635-006-0215	4-1-2010	Amend(T)	5-1-2010	635-023-0090	1-1-2010	Amend(T)	2-1-2010
635-006-0215	4-27-2010	Amend(T)	6-1-2010	635-023-0090	3-11-2010	Amend(T)	4-1-2010
635-006-0215(T)	4-27-2010	Suspend	6-1-2010	635-023-0090(T)	3-11-2010	Suspend	4-1-2010
635-006-0225	4-27-2010	Amend(T)	6-1-2010	635-023-0095	1-1-2010	Amend	1-1-2010
635-006-0232	1-13-2010	Amend	2-1-2010	635-023-0095	2-21-2010	Amend(T)	4-1-2010
635-006-0850	1-1-2010	Amend	2-1-2010	635-023-0095	3-1-2010	Amend(T)	4-1-2010
635-006-0890	1-1-2010	Amend	2-1-2010	635-023-0095	4-1-2010	Amend	5-1-2010
635-006-0910	1-1-2010	Amend	1-1-2010	635-023-0095	4-29-2010	Amend(T)	6-1-2010
635-006-1025	1-1-2010	Amend	1-1-2010	635-023-0095	5-6-2010	Amend(T)	6-1-2010
635-006-1075	1-1-2010	Amend	1-1-2010	635-023-0095(T)	3-1-2010	Suspend	4-1-2010
635-006-1085	1-1-2010	Amend	1-1-2010	635-023-0095(T)	4-1-2010	Repeal	5-1-2010
635-007-0605	1-1-2010	Amend	1-1-2010	635-023-0095(T)	5-6-2010	Suspend	6-1-2010
635-007-0910	1-1-2010	Amend	1-1-2010	635-023-0125	1-1-2010	Amend	1-1-2010
635-008-0145	1-1-2010	Amend	1-1-2010	635-023-0125	3-1-2010	Amend(T)	4-1-2010
635-011-0100	1-1-2010	Amend	1-1-2010	635-023-0125	3-2-2010	Amend(T)	4-1-2010
635-011-0170	3-15-2010	Adopt	4-1-2010	635-023-0125	4-24-2010	Amend(T)	6-1-2010
635-012-0020	6-30-2011	Adopt	2-1-2010	635-023-0125	4-29-2010	Amend(T)	6-1-2010
635-012-0020	6-30-2011	Adopt	3-1-2010	635-023-0125	5-8-2010	Amend(T)	6-1-2010
635-012-0030	6-30-2011	Adopt	2-1-2010	635-023-0125(T)	3-2-2010	Suspend	4-1-2010
635-012-0030	6-30-2011	Adopt	3-1-2010	635-023-0125(T)	4-24-2010	Suspend	6-1-2010
635-012-0040	6-30-2011	Adopt	2-1-2010	635-023-0125(T)	4-29-2010	Suspend	6-1-2010
635-012-0050	6-30-2011	Adopt	2-1-2010	635-023-0125(T)	5-8-2010	Suspend	6-1-2010
635-012-0050	6-30-2011	Adopt	3-1-2010	635-023-0128	1-1-2010	Amend	1-1-2010
635-012-0060	6-30-2011	Adopt	2-1-2010	635-023-0130	1-1-2010	Amend	1-1-2010
635-012-0060	6-30-2011	Adopt	3-1-2010	635-023-0134	1-1-2010	Amend	1-1-2010
635-013-0003	1-1-2010	Amend	1-1-2010	635-023-0134	4-24-2010	Amend(T)	5-1-2010
635-013-0004	1-1-2010	Amend	1-1-2010	635-039-0080	1-1-2010	Amend	1-1-2010
635-013-0009	3-15-2010	Amend(T)	4-1-2010	635-039-0080	3-15-2010	Amend	4-1-2010
635-014-0080	1-1-2010	Amend	1-1-2010	635-039-0080	4-1-2010	Amend	5-1-2010
635-014-0090	1-1-2010	Amend	1-1-2010	635-039-0085	3-15-2010	Amend	4-1-2010
635-014-0090	4-21-2010	Amend(T)	6-1-2010	635-039-0085	4-1-2010	Amend	5-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-039-0090	1-1-2010	Amend	1-1-2010	635-042-0180	2-22-2010	Amend(T)	4-1-2010
635-041-0005	4-15-2010	Amend(T)	5-1-2010	635-042-0180	4-1-2010	Amend(T)	5-1-2010
635-041-0015	4-15-2010	Amend(T)	5-1-2010	635-042-0180	4-21-2010	Amend(T)	6-1-2010
635-041-0020	4-15-2010	Amend(T)	5-1-2010	635-042-0180	5-4-2010	Amend(T)	6-1-2010
635-041-0025	4-15-2010	Amend(T)	5-1-2010	635-042-0180	5-11-2010	Amend(T)	6-1-2010
635-041-0065	2-3-2010	Amend(T)	3-1-2010	635-042-0180(T)	4-1-2010	Suspend	5-1-2010
635-041-0065	2-11-2010	Amend(T)	3-1-2010	635-042-0180(T)	4-21-2010	Suspend	6-1-2010
635-041-0065	2-26-2010	Amend(T)	4-1-2010	635-042-0180(T)	5-4-2010	Suspend	6-1-2010
635-041-0065	3-3-2010	Amend(T)	4-1-2010	635-042-0180(T)	5-11-2010	Suspend	6-1-2010
635-041-0065(T)	2-11-2010	Suspend	3-1-2010	635-043-0105	1-12-2010	Amend	2-1-2010
635-041-0065(T)	2-26-2010	Suspend	4-1-2010	635-044-0051	1-1-2010	Adopt(T)	2-1-2010
635-041-0065(T)	3-3-2010	Suspend	4-1-2010	635-048-0080	12-15-2009	Amend	1-1-2010
635-041-0076	4-27-2010	Amend(T)	6-1-2010	635-055-0000	12-15-2009	Amend	1-1-2010
635-041-0076	4-29-2010	Amend(T)	6-1-2010	635-055-0035	12-15-2009	Amend	1-1-2010
635-041-0076	5-11-2010	Amend(T)	6-1-2010	635-055-0037	12-15-2009	Amend	1-1-2010
635-041-0076(T)	4-29-2010	Suspend	6-1-2010	635-055-0070	12-15-2009	Amend	1-1-2010
635-041-0076(T)	5-11-2010	Suspend	6-1-2010	635-058-0000	1-12-2010	Adopt	2-1-2010
635-042-0022	3-30-2010	Amend(T)	5-1-2010	635-058-0010	1-12-2010	Adopt	2-1-2010
635-042-0022	4-7-2010	Amend(T)	5-1-2010	635-058-0020	1-12-2010	Adopt	2-1-2010
635-042-0022(T)	4-7-2010	Suspend	5-1-2010	635-059-0000	1-12-2010	Adopt	2-1-2010
635-042-0110	4-1-2010	Amend	5-1-2010	635-059-0010	1-12-2010	Adopt	2-1-2010
635-042-0130	1-1-2010	Amend(T)	2-1-2010	635-059-0050	1-12-2010	Adopt	2-1-2010
635-042-0130	2-8-2010	Amend(T)	3-1-2010	635-060-0030	5-12-2010	Amend(T)	6-1-2010
635-042-0130	3-11-2010	Amend(T)	4-1-2010	635-065-0015	3-3-2010	Amend(T)	4-1-2010
635-042-0130(T)	2-8-2010	Suspend	3-1-2010	635-065-0015	5-12-2010	Amend(T)	6-1-2010
635-042-0130(T)	3-11-2010	Suspend	4-1-2010	635-065-0015(T)	5-12-2010	Suspend	6-1-2010
635-042-0135	1-1-2010	Amend(T)	2-1-2010	635-065-0765	1-25-2010	Amend(T)	3-1-2010
635-042-0145	2-22-2010	Amend(T)	4-1-2010	635-065-0765	2-26-2010	Amend(T)	4-1-2010
635-042-0145	2-26-2010	Amend(T)	4-1-2010	635-065-0765	3-30-2010	Amend(T)	5-1-2010
635-042-0145	3-14-2010	Amend(T)	4-1-2010	635-068-0000	3-1-2010	Amend	4-1-2010
635-042-0145	3-24-2010	Amend(T)	5-1-2010	635-069-0000	2-1-2010	Amend	2-1-2010
635-042-0145	4-1-2010	Amend(T)	5-1-2010	635-070-0000	4-1-2010	Amend	4-1-2010
635-042-0145	4-21-2010	Amend(T)	6-1-2010	635-070-0000	4-1-2010	Amend	4-1-2010
635-042-0145	5-4-2010	Amend(T)	6-1-2010	635-071-0000	4-1-2010	Amend	4-1-2010
635-042-0145	5-11-2010	Amend(T)	6-1-2010	635-071-0000	4-1-2010	Amend	4-1-2010
635-042-0145(T)	2-26-2010	Suspend	4-1-2010	635-073-0000	2-1-2010	Amend	2-1-2010
635-042-0145(T)	3-14-2010	Suspend	4-1-2010	635-073-0065	2-1-2010	Amend	2-1-2010
635-042-0145(T)	3-24-2010	Suspend	5-1-2010	635-073-0070	2-1-2010	Amend	2-1-2010
635-042-0145(T)	4-1-2010	Suspend	5-1-2010	635-090-0030	1-1-2010	Amend	1-1-2010
635-042-0145(T)	4-21-2010	Suspend	6-1-2010	635-090-0050	1-1-2010	Amend	1-1-2010
635-042-0145(T)	5-4-2010	Suspend	6-1-2010	635-500-0703	1-1-2010	Amend	2-1-2010
635-042-0145(T)	5-11-2010	Suspend	6-1-2010	635-500-6550	2-8-2010	Adopt	3-1-2010
635-042-0160	2-21-2010	Amend(T)	4-1-2010	635-600-0000	1-1-2010	Amend	1-1-2010
635-042-0160	4-21-2010	Amend(T)	6-1-2010	635-600-0005	1-1-2010	Amend	1-1-2010
635-042-0160	5-4-2010	Amend(T)	6-1-2010	635-600-0010	1-1-2010	Amend	1-1-2010
635-042-0160	5-11-2010	Amend(T)	6-1-2010	635-600-0030	1-1-2010	Amend	1-1-2010
635-042-0160(T)	4-21-2010	Suspend	6-1-2010	635-600-0040	1-1-2010	Amend	1-1-2010
635-042-0160(T)	5-4-2010	Suspend	6-1-2010	645-010-0015	2-23-2010	Amend(T)	4-1-2010
635-042-0160(T)	5-11-2010	Suspend	6-1-2010	647-010-0010	7-1-2010	Amend	6-1-2010
635-042-0170	4-19-2010	Amend(T)	4-1-2010	660-027-0070	4-30-2010	Amend	6-1-2010
635-042-0170	4-21-2010	Amend(T)	6-1-2010	660-028-0010	1-28-2010	Adopt	3-1-2010
635-042-0170	5-4-2010	Amend(T)	6-1-2010	660-028-0020	1-28-2010	Adopt	3-1-2010
635-042-0170	5-11-2010	Amend(T)	6-1-2010	660-028-0030	1-28-2010	Adopt	3-1-2010
635-042-0170(T)	4-21-2010	Suspend	6-1-2010	660-033-0120	12-7-2009	Amend	1-1-2010
635-042-0170(T)	5-4-2010	Suspend	6-1-2010	660-033-0130	12-7-2009	Amend	1-1-2010
635-042-0170(T)	5-11-2010	Suspend	6-1-2010	660-036-0005	11-25-2009	Adopt	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
660-041-0000	2-9-2010	Amend	3-1-2010	731-070-0170	12-22-2009	Amend	2-1-2010
660-041-0000	5-7-2010	Amend(T)	6-1-2010	731-070-0180	12-22-2009	Amend	2-1-2010
660-041-0010	5-7-2010	Amend(T)	6-1-2010	731-070-0190	12-22-2009	Amend	2-1-2010
660-041-0020	2-9-2010	Amend	3-1-2010	731-070-0200	12-22-2009	Amend	2-1-2010
660-041-0080	2-9-2010	Amend	3-1-2010	731-070-0210	12-22-2009	Amend	2-1-2010
660-041-0080	5-7-2010	Amend(T)	6-1-2010	731-070-0220	12-22-2009	Amend	2-1-2010
660-041-0090	5-7-2010	Amend(T)	6-1-2010	731-070-0240	12-22-2009	Amend	2-1-2010
660-041-0105	5-7-2010	Adopt(T)	6-1-2010	731-070-0245	12-22-2009	Adopt	2-1-2010
660-041-0110	5-7-2010	Amend(T)	6-1-2010	731-070-0250	12-22-2009	Amend	2-1-2010
660-041-0120	5-7-2010	Amend(T)	6-1-2010	731-070-0260	12-22-2009	Amend	2-1-2010
660-041-0170	5-7-2010	Amend(T)	6-1-2010	731-070-0270	12-22-2009	Repeal	2-1-2010
660-043-0100	5-13-2010	Adopt	6-1-2010	731-070-0280	12-22-2009	Amend	2-1-2010
661-010-0015	1-1-2010	Amend	2-1-2010	731-070-0295	12-22-2009	Amend	2-1-2010
661-010-0038	1-1-2010	Amend	2-1-2010	731-070-0300	12-22-2009	Amend	2-1-2010
661-010-0050	1-1-2010	Amend	2-1-2010	731-070-0320	12-22-2009	Amend	2-1-2010
690-020-0021	1-1-2010	Am. & Ren.	1-1-2010	731-070-0350	12-22-2009	Amend	2-1-2010
690-020-0022	1-1-2010	Amend	1-1-2010	731-070-0360	12-22-2009	Amend	2-1-2010
690-020-0025	1-1-2010	Amend	1-1-2010	731-146-0010	1-1-2010	Amend(T)	2-1-2010
690-020-0029	1-1-2010	Amend	1-1-2010	731-147-0010	1-1-2010	Amend(T)	2-1-2010
690-020-0035	1-1-2010	Amend	1-1-2010	731-148-0010	1-1-2010	Amend(T)	2-1-2010
690-020-0039	1-1-2010	Am. & Ren.	1-1-2010	731-149-0010	1-1-2010	Amend(T)	2-1-2010
690-020-0100	1-1-2010	Adopt	1-1-2010	732-005-0000	1-29-2010	Amend	3-1-2010
690-020-0200	1-1-2010	Adopt	1-1-2010	732-005-0000(T)	1-29-2010	Repeal	3-1-2010
690-180-0005	11-23-2009	Suspend	1-1-2010	732-005-0010	1-29-2010	Amend	3-1-2010
690-180-0010	11-23-2009	Suspend	1-1-2010	732-005-0010(T)	1-29-2010	Repeal	3-1-2010
690-180-0100	11-23-2009	Suspend	1-1-2010	732-005-0016	1-29-2010	Amend	3-1-2010
690-180-0200	11-23-2009	Suspend	1-1-2010	732-005-0016(T)	1-29-2010	Repeal	3-1-2010
690-190-0005	11-23-2009	Adopt	1-1-2010	732-005-0021	1-29-2010	Amend	3-1-2010
690-190-0010	11-23-2009	Adopt	1-1-2010	732-005-0021(T)	1-29-2010	Repeal	3-1-2010
690-190-0100	11-23-2009	Adopt	1-1-2010	732-005-0027	1-29-2010	Amend	3-1-2010
690-190-0200	11-23-2009	Adopt	1-1-2010	732-005-0027(T)	1-29-2010	Repeal	3-1-2010
690-340-0030	12-15-2009	Amend	1-1-2010	732-005-0031	1-29-2010	Amend	3-1-2010
690-382-0400	12-15-2009	Amend	1-1-2010	732-005-0031(T)	1-29-2010	Repeal	3-1-2010
731-005-0410	1-1-2010	Amend(T)	2-1-2010	732-005-0036	1-29-2010	Amend	3-1-2010
731-005-0470	1-1-2010	Amend(T)	2-1-2010	732-005-0036(T)	1-29-2010	Repeal	3-1-2010
731-005-0670	1-1-2010	Amend(T)	2-1-2010	732-005-0046	1-29-2010	Amend	3-1-2010
731-007-0210	1-1-2010	Amend(T)	2-1-2010	732-005-0046(T)	1-29-2010	Repeal	3-1-2010
731-007-0260	1-1-2010	Amend(T)	2-1-2010	732-005-0051	1-29-2010	Amend	3-1-2010
731-007-0290	1-1-2010	Amend(T)	2-1-2010	732-005-0051(T)	1-29-2010	Repeal	3-1-2010
731-035-0020	11-17-2009	Amend	1-1-2010	732-005-0056	1-29-2010	Amend	3-1-2010
731-035-0050	11-17-2009	Amend	1-1-2010	732-005-0056(T)	1-29-2010	Repeal	3-1-2010
731-035-0060	11-17-2009	Amend	1-1-2010	732-005-0061	1-29-2010	Amend	3-1-2010
731-035-0070	11-17-2009	Amend	1-1-2010	732-005-0061(T)	1-29-2010	Repeal	3-1-2010
731-070-0010	12-22-2009	Amend	2-1-2010	732-005-0066	1-29-2010	Amend	3-1-2010
731-070-0020	12-22-2009	Amend	2-1-2010	732-005-0066(T)	1-29-2010	Repeal	3-1-2010
731-070-0030	12-22-2009	Amend	2-1-2010	732-005-0076	1-29-2010	Amend	3-1-2010
731-070-0050	12-22-2009	Amend	2-1-2010	732-005-0076(T)	1-29-2010	Repeal	3-1-2010
731-070-0055	12-22-2009	Amend	2-1-2010	732-005-0081	1-29-2010	Amend	3-1-2010
731-070-0060	12-22-2009	Amend	2-1-2010	732-005-0081(T)	1-29-2010	Repeal	3-1-2010
731-070-0070	12-22-2009	Am. & Ren.	2-1-2010	732-030-0005	1-29-2010	Adopt	3-1-2010
731-070-0080	12-22-2009	Amend	2-1-2010	732-030-0005(T)	1-29-2010	Repeal	3-1-2010
731-070-0110	12-22-2009	Amend	2-1-2010	732-030-0010	1-29-2010	Adopt	3-1-2010
731-070-0120	12-22-2009	Amend	2-1-2010	732-030-0010(T)	1-29-2010	Repeal	3-1-2010
731-070-0130	12-22-2009	Amend	2-1-2010	732-030-0015	1-29-2010	Adopt	3-1-2010
731-070-0140	12-22-2009	Amend	2-1-2010	732-030-0015(T)	1-29-2010	Repeal	3-1-2010
731-070-0160	12-22-2009	Amend	2-1-2010	732-030-0020	1-29-2010	Adopt	3-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
732-030-0020(T)	1-29-2010	Repeal	3-1-2010	735-062-0020	1-1-2010	Amend	2-1-2010
732-030-0025	1-29-2010	Adopt	3-1-2010	735-062-0035	1-1-2010	Amend	2-1-2010
732-030-0025(T)	1-29-2010	Repeal	3-1-2010	735-062-0060	3-17-2010	Amend	5-1-2010
732-030-0030	1-29-2010	Adopt	3-1-2010	735-062-0070	1-28-2010	Amend	3-1-2010
732-030-0030(T)	1-29-2010	Repeal	3-1-2010	735-062-0090	1-1-2010	Amend	2-1-2010
732-030-0035	1-29-2010	Adopt	3-1-2010	735-062-0125	1-1-2010	Amend	2-1-2010
732-030-0035(T)	1-29-2010	Repeal	3-1-2010	735-062-0190	1-1-2010	Amend	2-1-2010
733-030-0500	3-15-2010	Adopt	4-1-2010	735-062-0290	1-28-2010	Adopt	3-1-2010
733-030-0510	3-15-2010	Adopt	4-1-2010	735-063-0000	3-17-2010	Amend	5-1-2010
733-030-0520	3-15-2010	Adopt	4-1-2010	735-063-0050	3-17-2010	Amend	5-1-2010
734-020-0148	1-28-2010	Adopt(T)	3-1-2010	735-063-0060	3-17-2010	Amend	5-1-2010
734-030-0005	4-28-2010	Amend(T)	6-1-2010	735-063-0070	3-17-2010	Amend	5-1-2010
734-030-0010	4-28-2010	Amend(T)	6-1-2010	735-063-0075	3-17-2010	Amend	5-1-2010
734-030-0015	4-28-2010	Amend(T)	6-1-2010	735-064-0100	1-1-2010	Amend	2-1-2010
734-030-0020	4-28-2010	Amend(T)	6-1-2010	735-064-0220	1-1-2010	Amend	2-1-2010
734-065-0005	11-17-2009	Repeal	1-1-2010	735-070-0000	1-1-2010	Amend	2-1-2010
734-065-0010	11-17-2009	Amend	1-1-2010	735-070-0000	4-28-2010	Amend	6-1-2010
734-065-0015	11-17-2009	Amend	1-1-2010	735-070-0043	1-1-2010	Repeal	2-1-2010
734-065-0020	11-17-2009	Amend	1-1-2010	735-070-0170	1-1-2010	Amend	2-1-2010
734-065-0025	11-17-2009	Amend	1-1-2010	735-072-0035	1-1-2010	Amend	2-1-2010
734-065-0030	11-17-2009	Repeal	1-1-2010	735-080-0020	1-1-2010	Amend	2-1-2010
734-065-0035	11-17-2009	Amend	1-1-2010	735-080-0040	1-1-2010	Amend	2-1-2010
734-065-0040	11-17-2009	Amend	1-1-2010	735-080-0060	1-1-2010	Amend	2-1-2010
734-065-0045	11-17-2009	Amend	1-1-2010	735-090-0120	1-1-2010	Amend	2-1-2010
734-065-0050	11-17-2009	Amend	1-1-2010	735-090-0125	1-1-2010	Adopt	2-1-2010
734-074-0008	3-17-2010	Amend	5-1-2010	735-150-0005	2-25-2010	Amend	4-1-2010
734-074-0020	3-17-2010	Amend	5-1-2010	735-150-0005(T)	2-25-2010	Repeal	4-1-2010
735-020-0080	1-1-2010	Amend	2-1-2010	735-150-0010	1-1-2010	Amend	2-1-2010
735-024-0015	2-25-2010	Amend	4-1-2010	735-150-0020	1-1-2010	Amend	2-1-2010
735-024-0015(T)	2-25-2010	Repeal	4-1-2010	735-150-0042	1-1-2010	Adopt	2-1-2010
735-024-0025	2-25-2010	Amend	4-1-2010	735-150-0047	1-1-2010	Adopt	2-1-2010
735-024-0025(T)	2-25-2010	Repeal	4-1-2010	735-150-0110	1-1-2010	Amend	2-1-2010
735-024-0075	1-1-2010	Amend(T)	2-1-2010	735-158-0000	1-1-2010	Amend(T)	2-1-2010
735-024-0080	1-1-2010	Suspend	2-1-2010	735-158-0005	1-1-2010	Amend(T)	2-1-2010
735-024-0130	1-1-2010	Amend(T)	2-1-2010	735-158-0010	1-1-2010	Amend(T)	2-1-2010
735-032-0010	2-25-2010	Amend	4-1-2010	736-004-0005	12-8-2009	Amend	1-1-2010
735-032-0010(T)	2-25-2010	Repeal	4-1-2010	736-004-0010	12-8-2009	Amend	1-1-2010
735-040-0097	1-28-2010	Amend	3-1-2010	736-004-0015	12-8-2009	Amend	1-1-2010
735-040-0097(T)	1-28-2010	Repeal	3-1-2010	736-004-0020	12-8-2009	Amend	1-1-2010
735-040-0098	1-28-2010	Adopt	3-1-2010	736-004-0025	12-8-2009	Amend	1-1-2010
735-040-0098(T)	1-28-2010	Repeal	3-1-2010	736-004-0030	12-8-2009	Amend	1-1-2010
735-046-0010	1-28-2010	Amend	3-1-2010	736-004-0035	12-8-2009	Adopt	1-1-2010
735-046-0010(T)	1-28-2010	Repeal	3-1-2010	736-004-0060	12-8-2009	Amend	1-1-2010
735-046-0050	1-28-2010	Amend	3-1-2010	736-004-0062	12-8-2009	Amend	1-1-2010
735-046-0050(T)	1-28-2010	Repeal	3-1-2010	736-004-0065	12-8-2009	Amend	1-1-2010
735-050-0050	1-1-2010	Amend	2-1-2010	736-004-0080	12-8-2009	Repeal	1-1-2010
735-050-0060	1-1-2010	Amend	2-1-2010	736-004-0085	12-8-2009	Amend	1-1-2010
735-050-0062	1-1-2010	Amend	2-1-2010	736-004-0090	12-8-2009	Amend	1-1-2010
735-050-0064	1-1-2010	Amend	2-1-2010	736-004-0095	12-8-2009	Amend	1-1-2010
735-050-0070	1-1-2010	Amend	2-1-2010	736-004-0110	12-8-2009	Amend	1-1-2010
735-050-0080	1-1-2010	Amend	2-1-2010	736-004-0115	12-8-2009	Amend	1-1-2010
735-050-0120	1-1-2010	Amend	2-1-2010	736-004-0120	12-8-2009	Adopt	1-1-2010
735-062-0003	1-1-2010	Repeal	2-1-2010	736-004-0125	12-8-2009	Adopt	1-1-2010
735-062-0007	1-1-2010	Amend	2-1-2010	736-009-0005	12-8-2009	Repeal	1-1-2010
735-062-0010	1-1-2010	Amend	2-1-2010	736-009-0006	12-8-2009	Adopt	1-1-2010
735-062-0015	1-1-2010	Amend	2-1-2010	736-009-0010	12-8-2009	Repeal	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
736-009-0015	12-8-2009	Repeal	1-1-2010	736-146-0090	12-4-2009	Amend	1-1-2010
736-009-0020	12-8-2009	Amend	1-1-2010	736-146-0100	12-4-2009	Amend	1-1-2010
736-009-0021	12-8-2009	Adopt	1-1-2010	736-146-0110	12-4-2009	Amend	1-1-2010
736-009-0022	12-8-2009	Adopt	1-1-2010	736-146-0120	12-4-2009	Amend	1-1-2010
736-009-0025	12-8-2009	Amend	1-1-2010	736-146-0130	12-4-2009	Amend	1-1-2010
736-009-0030	12-8-2009	Amend	1-1-2010	736-146-0140	12-4-2009	Amend	1-1-2010
736-010-0055	2-3-2010	Amend(T)	3-1-2010	736-147-0010	12-4-2009	Amend	1-1-2010
736-015-0006	3-24-2010	Amend	5-1-2010	736-147-0020	12-4-2009	Repeal	1-1-2010
736-015-0010	4-15-2010	Amend(T)	5-1-2010	736-147-0030	12-4-2009	Amend	1-1-2010
736-015-0015	3-24-2010	Amend	5-1-2010	736-147-0040	12-4-2009	Adopt	1-1-2010
736-015-0020	1-5-2010	Amend	2-1-2010	736-147-0050	12-4-2009	Amend	1-1-2010
736-015-0020	4-15-2010	Amend(T)	5-1-2010	736-147-0060	12-4-2009	Amend	1-1-2010
736-015-0026	4-15-2010	Amend(T)	5-1-2010	736-147-0070	12-4-2009	Adopt	1-1-2010
736-015-0030	1-5-2010	Amend	2-1-2010	736-148-0010	12-4-2009	Amend	1-1-2010
736-015-0030	3-24-2010	Amend	5-1-2010	736-148-0020	12-4-2009	Amend	1-1-2010
736-015-0030	4-15-2010	Amend(T)	5-1-2010	736-149-0010	12-4-2009	Amend	1-1-2010
736-015-0035	1-5-2010	Amend	2-1-2010	737-010-0000	2-25-2010	Adopt	4-1-2010
736-015-0040	1-5-2010	Amend	2-1-2010	737-010-0000(T)	2-25-2010	Repeal	4-1-2010
736-029-0010	6-30-2011	Adopt	3-1-2010	737-010-0010	2-25-2010	Adopt	4-1-2010
736-029-0030	6-30-2011	Adopt	3-1-2010	737-010-0010(T)	2-25-2010	Repeal	4-1-2010
736-029-0040	6-30-2011	Adopt	3-1-2010	737-010-0020	2-25-2010	Adopt	4-1-2010
736-029-0050	6-30-2011	Adopt	3-1-2010	737-010-0020(T)	2-25-2010	Repeal	4-1-2010
736-050-0001	2-3-2010	Amend	3-1-2010	737-015-0020	2-25-2010	Amend(T)	4-1-2010
736-050-0002	2-3-2010	Repeal	3-1-2010	737-015-0030	2-25-2010	Amend(T)	4-1-2010
736-050-0005	2-3-2010	Repeal	3-1-2010	737-015-0090	2-25-2010	Amend(T)	4-1-2010
736-050-0100	2-3-2010	Amend	3-1-2010	737-015-0100	2-25-2010	Amend(T)	4-1-2010
736-050-0105	2-3-2010	Amend	3-1-2010	737-015-0110	2-25-2010	Amend(T)	4-1-2010
736-050-0110	2-3-2010	Repeal	3-1-2010	738-010-0025	1-7-2010	Amend(T)	2-1-2010
736-050-0112	2-3-2010	Adopt	3-1-2010	738-010-0035	1-7-2010	Amend(T)	2-1-2010
736-050-0112(T)	2-3-2010	Repeal	3-1-2010	738-015-0005	1-7-2010	Amend(T)	2-1-2010
736-050-0115	2-3-2010	Repeal	3-1-2010	740-055-0020	12-22-2009	Amend	2-1-2010
736-050-0120	2-3-2010	Amend	3-1-2010	740-100-0010	4-1-2010	Amend	5-1-2010
736-050-0120(T)	2-3-2010	Repeal	3-1-2010	740-100-0060	4-1-2010	Amend	5-1-2010
736-050-0125	2-3-2010	Amend	3-1-2010	740-100-0065	4-1-2010	Amend	5-1-2010
736-050-0125(T)	2-3-2010	Repeal	3-1-2010	740-100-0070	4-1-2010	Amend	5-1-2010
736-050-0130	2-3-2010	Repeal	3-1-2010	740-100-0080	4-1-2010	Amend	5-1-2010
736-050-0130(T)	2-3-2010	Repeal	3-1-2010	740-100-0085	4-1-2010	Amend	5-1-2010
736-050-0135	2-3-2010	Amend	3-1-2010	740-100-0090	4-1-2010	Amend	5-1-2010
736-050-0135(T)	2-3-2010	Repeal	3-1-2010	740-110-0010	4-1-2010	Amend	5-1-2010
736-050-0140	2-3-2010	Amend	3-1-2010	740-200-0040	1-1-2010	Amend	2-1-2010
736-050-0140(T)	2-3-2010	Repeal	3-1-2010	740-200-0045	1-1-2010	Amend	2-1-2010
736-050-0150	2-3-2010	Repeal	3-1-2010	800-001-0020	2-1-2010	Amend	3-1-2010
736-050-0150(T)	2-3-2010	Repeal	3-1-2010	800-010-0015	2-1-2010	Amend	3-1-2010
736-140-0005	12-8-2009	Adopt	1-1-2010	800-010-0017	2-1-2010	Amend	3-1-2010
736-140-0015	12-8-2009	Adopt	1-1-2010	800-010-0025	2-1-2010	Amend	3-1-2010
736-146-0010	12-4-2009	Amend	1-1-2010	800-010-0030	2-1-2010	Amend	3-1-2010
736-146-0012	12-4-2009	Amend	1-1-2010	800-010-0040	2-1-2010	Amend	3-1-2010
736-146-0015	12-4-2009	Amend	1-1-2010	800-010-0041	2-1-2010	Amend	3-1-2010
736-146-0020	12-4-2009	Amend	1-1-2010	800-010-0050	2-1-2010	Amend	3-1-2010
736-146-0025	12-4-2009	Repeal	1-1-2010	800-015-0005	2-1-2010	Amend	3-1-2010
736-146-0030	12-4-2009	Repeal	1-1-2010	800-015-0010	2-1-2010	Amend	3-1-2010
736-146-0040	12-4-2009	Repeal	1-1-2010	800-015-0020	2-1-2010	Amend	3-1-2010
736-146-0050	12-4-2009	Amend	1-1-2010	800-020-0015	2-1-2010	Amend	3-1-2010
736-146-0060	12-4-2009	Amend	1-1-2010	800-020-0025	2-1-2010	Amend	3-1-2010
736-146-0070	12-4-2009	Amend	1-1-2010	800-020-0065	2-1-2010	Amend	3-1-2010
736-146-0080	12-4-2009	Amend	1-1-2010	800-025-0020	2-1-2010	Amend	3-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
800-025-0023	2-1-2010	Amend	3-1-2010	808-003-0060	1-1-2010	Amend	2-1-2010
800-025-0025	2-1-2010	Amend	3-1-2010	808-003-0075	1-1-2010	Amend	2-1-2010
800-025-0027	2-1-2010	Amend	3-1-2010	808-003-0080	1-1-2010	Amend	2-1-2010
800-025-0029	2-1-2010	Amend	3-1-2010	808-003-0085	1-1-2010	Amend	2-1-2010
800-025-0030	2-1-2010	Amend	3-1-2010	808-003-0100	1-1-2010	Amend	2-1-2010
800-025-0040	2-1-2010	Amend	3-1-2010	808-003-0105	1-1-2010	Repeal	2-1-2010
800-025-0050	2-1-2010	Amend	3-1-2010	808-003-0125	1-1-2010	Amend	2-1-2010
800-030-0035	2-1-2010	Amend	3-1-2010	808-003-0210	1-1-2010	Amend	2-1-2010
800-030-0050	2-1-2010	Amend	3-1-2010	808-003-0610	12-1-2009	Amend(T)	1-1-2010
801-001-0035	1-1-2010	Amend	1-1-2010	808-005-0020	1-27-2010	Amend	3-1-2010
801-005-0010	1-1-2010	Amend	1-1-2010	808-040-0020	1-27-2010	Amend	3-1-2010
801-010-0010	1-1-2010	Amend	1-1-2010	808-040-0060	1-27-2010	Amend	3-1-2010
801-010-0060	1-1-2010	Amend	1-1-2010	809-055-0000	12-11-2009	Amend	1-1-2010
801-010-0075	1-1-2010	Amend	1-1-2010	811-010-0071	12-22-2009	Amend	2-1-2010
801-010-0080	1-1-2010	Amend	1-1-2010	811-010-0120	4-15-2010	Amend	5-1-2010
801-010-0100	1-1-2010	Amend	1-1-2010	811-035-0005	12-22-2009	Amend	2-1-2010
801-010-0120	1-1-2010	Amend	1-1-2010	811-035-0015	12-22-2009	Amend	2-1-2010
801-010-0345	1-1-2010	Amend	1-1-2010	812-001-0200	1-1-2010	Amend	1-1-2010
801-020-0690	1-1-2010	Amend	1-1-2010	812-001-0200	2-1-2010	Amend	3-1-2010
801-030-0020	1-1-2010	Amend	1-1-2010	812-003-0120	1-1-2010	Amend	1-1-2010
801-040-0010	1-1-2010	Amend	1-1-2010	812-003-0140	1-1-2010	Amend	1-1-2010
801-050-0005	1-1-2010	Amend	1-1-2010	812-003-0140	7-1-2010	Amend	6-1-2010
801-050-0010	1-1-2010	Amend	1-1-2010	812-004-0320	1-1-2010	Amend	1-1-2010
801-050-0020	1-1-2010	Amend	1-1-2010	812-004-0340	4-28-2010	Amend	6-1-2010
801-050-0030	1-1-2010	Amend	1-1-2010	812-005-0800	2-1-2010	Amend	3-1-2010
801-050-0035	1-1-2010	Amend	1-1-2010	812-005-0800	4-28-2010	Amend	6-1-2010
801-050-0040	1-1-2010	Amend	1-1-2010	812-007-0000	2-1-2010	Amend	3-1-2010
801-050-0065	1-1-2010	Amend	1-1-2010	812-007-0010	2-1-2010	Repeal	3-1-2010
801-050-0070	1-1-2010	Amend	1-1-2010	812-007-0020	2-1-2010	Amend	3-1-2010
801-050-0080	1-1-2010	Amend	1-1-2010	812-007-0020	3-11-2010	Amend(T)	4-1-2010
804-003-0000	2-17-2010	Amend	4-1-2010	812-007-0025	2-1-2010	Adopt	3-1-2010
804-020-0003	12-11-2009	Amend	1-1-2010	812-007-0030	2-1-2010	Repeal	3-1-2010
804-022-0000	2-17-2010	Amend	4-1-2010	812-007-0040	2-1-2010	Repeal	3-1-2010
804-022-0025	12-11-2009	Adopt	1-1-2010	812-007-0050	2-1-2010	Repeal	3-1-2010
804-025-0020	2-17-2010	Amend	4-1-2010	812-007-0060	2-1-2010	Repeal	3-1-2010
804-030-0000	12-11-2009	Amend	1-1-2010	812-007-0070	2-1-2010	Repeal	3-1-2010
804-030-0003	2-17-2010	Adopt	4-1-2010	812-007-0080	2-1-2010	Repeal	3-1-2010
804-035-0010	2-17-2010	Amend	4-1-2010	812-007-0090	2-1-2010	Repeal	3-1-2010
804-035-0020	2-17-2010	Amend	4-1-2010	812-007-0100	2-1-2010	Adopt	3-1-2010
804-035-0030	2-17-2010	Amend	4-1-2010	812-007-0110	2-1-2010	Adopt	3-1-2010
804-040-0000	12-11-2009	Amend	1-1-2010	812-007-0120	2-1-2010	Adopt	3-1-2010
804-040-0000	2-17-2010	Amend	4-1-2010	812-007-0130	2-1-2010	Adopt	3-1-2010
806-010-0060	4-6-2010	Amend	5-1-2010	812-007-0140	2-1-2010	Adopt	3-1-2010
806-010-0145	4-6-2010	Amend	5-1-2010	812-007-0150	2-1-2010	Adopt	3-1-2010
808-002-0200	1-1-2010	Amend	2-1-2010	812-007-0160	2-1-2010	Adopt	3-1-2010
808-002-0220	1-1-2010	Amend	2-1-2010	812-007-0200	2-1-2010	Adopt	3-1-2010
808-002-0500	1-1-2010	Amend	2-1-2010	812-007-0205	2-1-2010	Adopt	3-1-2010
808-002-0620	1-1-2010	Amend	2-1-2010	812-007-0210	2-1-2010	Adopt	3-1-2010
808-002-0775	1-1-2010	Adopt	2-1-2010	812-007-0220	2-1-2010	Adopt	3-1-2010
808-002-0808	1-1-2010	Adopt	2-1-2010	812-007-0230	2-1-2010	Adopt	3-1-2010
808-002-0882	1-1-2010	Adopt	2-1-2010	812-007-0240	2-1-2010	Adopt	3-1-2010
808-002-0884	1-1-2010	Adopt	2-1-2010	812-007-0250	2-1-2010	Adopt	3-1-2010
808-002-0895	1-1-2010	Adopt	2-1-2010	812-007-0260	2-1-2010	Adopt	3-1-2010
808-003-0020	1-1-2010	Amend	2-1-2010	812-007-0300	2-1-2010	Adopt	3-1-2010
808-003-0040	1-1-2010	Amend	2-1-2010	812-007-0310	2-1-2010	Adopt	3-1-2010
808-003-0055	1-1-2010	Amend	2-1-2010	812-007-0310	4-28-2010	Amend	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
812-007-0320	2-1-2010	Adopt	3-1-2010	813-027-0090	2-25-2010	Adopt(T)	4-1-2010
812-007-0330	2-1-2010	Adopt	3-1-2010	813-028-0001	2-25-2010	Adopt(T)	4-1-2010
812-007-0330	4-28-2010	Amend	6-1-2010	813-028-0010	2-25-2010	Adopt(T)	4-1-2010
812-007-0340	4-28-2010	Adopt	6-1-2010	813-028-0020	2-25-2010	Adopt(T)	4-1-2010
812-007-0350	2-1-2010	Adopt	3-1-2010	813-028-0030	2-25-2010	Adopt(T)	4-1-2010
812-007-0350	4-28-2010	Amend	6-1-2010	813-028-0040	2-25-2010	Adopt(T)	4-1-2010
812-007-0360	2-1-2010	Adopt	3-1-2010	813-028-0050	2-25-2010	Adopt(T)	4-1-2010
812-007-0370	2-1-2010	Adopt	3-1-2010	813-028-0060	2-25-2010	Adopt(T)	4-1-2010
812-007-0372	2-1-2010	Adopt	3-1-2010	813-028-0070	2-25-2010	Adopt(T)	4-1-2010
812-007-0374	2-1-2010	Adopt	3-1-2010	813-028-0080	2-25-2010	Adopt(T)	4-1-2010
812-008-0070	1-1-2010	Amend	1-1-2010	813-028-0090	2-25-2010	Adopt(T)	4-1-2010
812-008-0090	1-1-2010	Amend	2-1-2010	813-041-0000	12-15-2009	Amend(T)	1-1-2010
812-008-0110	1-1-2010	Amend	1-1-2010	813-041-0005	12-15-2009	Amend(T)	1-1-2010
812-008-0202	1-1-2010	Amend	1-1-2010	813-041-0010	12-15-2009	Amend(T)	1-1-2010
812-009-0340	2-3-2010	Amend(T)	3-1-2010	813-041-0015	12-15-2009	Amend(T)	1-1-2010
812-009-0340	4-28-2010	Amend	6-1-2010	813-041-0020	12-15-2009	Amend(T)	1-1-2010
812-012-0110	1-1-2010	Amend	2-1-2010	813-041-0025	12-15-2009	Amend(T)	1-1-2010
812-012-0110	4-28-2010	Amend	6-1-2010	813-041-0027	12-15-2009	Adopt(T)	1-1-2010
812-020-0062	1-1-2010	Amend	1-1-2010	813-041-0030	12-15-2009	Amend(T)	1-1-2010
812-020-0070	2-1-2010	Amend	3-1-2010	813-041-0035	12-15-2009	Adopt(T)	1-1-2010
812-020-0082	2-1-2010	Repeal	3-1-2010	813-044-0000	12-22-2009	Amend	2-1-2010
812-021-0025	1-1-2010	Amend	2-1-2010	813-044-0010	12-22-2009	Amend	2-1-2010
812-030-0000	2-1-2010	Adopt	3-1-2010	813-044-0020	12-22-2009	Amend	2-1-2010
812-030-0010	2-1-2010	Adopt	3-1-2010	813-044-0030	12-22-2009	Amend	2-1-2010
812-030-0100	2-1-2010	Adopt	3-1-2010	813-044-0040	12-22-2009	Amend	2-1-2010
812-030-0110	2-1-2010	Adopt	3-1-2010	813-044-0050	12-22-2009	Amend	2-1-2010
812-030-0200	2-1-2010	Adopt	3-1-2010	813-044-0060	12-22-2009	Adopt	2-1-2010
812-030-0210	2-1-2010	Adopt	3-1-2010	813-055-0001	12-22-2009	Adopt	2-1-2010
812-030-0220	2-1-2010	Adopt	3-1-2010	813-055-0010	12-22-2009	Adopt	2-1-2010
812-030-0230	2-1-2010	Adopt	3-1-2010	813-055-0020	12-22-2009	Adopt	2-1-2010
812-030-0240	2-1-2010	Adopt	3-1-2010	813-055-0030	12-22-2009	Adopt	2-1-2010
812-030-0250	2-1-2010	Adopt	3-1-2010	813-055-0040	12-22-2009	Adopt	2-1-2010
812-030-0300	2-1-2010	Adopt	3-1-2010	813-055-0050	12-22-2009	Adopt	2-1-2010
813-007-0005	1-7-2010	Adopt	2-1-2010	813-055-0060	12-22-2009	Adopt	2-1-2010
813-007-0010	1-7-2010	Adopt	2-1-2010	813-055-0070	12-22-2009	Adopt	2-1-2010
813-007-0015	1-7-2010	Adopt	2-1-2010	813-055-0080	12-22-2009	Adopt	2-1-2010
813-007-0020	1-7-2010	Adopt	2-1-2010	813-055-0090	12-22-2009	Adopt	2-1-2010
813-007-0025	1-7-2010	Adopt	2-1-2010	813-055-0100	12-22-2009	Adopt	2-1-2010
813-007-0030	1-7-2010	Adopt	2-1-2010	813-055-0110	12-22-2009	Adopt	2-1-2010
813-007-0035	1-7-2010	Adopt	2-1-2010	813-140-0096	1-7-2010	Amend	2-1-2010
813-007-0040	1-7-2010	Adopt	2-1-2010	813-300-0010	1-7-2010	Amend	2-1-2010
813-007-0045	1-7-2010	Adopt	2-1-2010	813-300-0100	1-7-2010	Amend	2-1-2010
813-007-0050	1-7-2010	Adopt	2-1-2010	817-040-0003	12-26-2009	Amend(T)	2-1-2010
813-007-0055	1-7-2010	Adopt	2-1-2010	817-040-0003	4-1-2010	Amend	5-1-2010
813-007-0060	1-7-2010	Adopt	2-1-2010	817-040-0003(T)	4-1-2010	Repeal	5-1-2010
813-007-0065	1-7-2010	Adopt	2-1-2010	820-001-0000	5-12-2010	Amend	6-1-2010
813-007-0070	1-7-2010	Adopt	2-1-2010	820-010-0212	5-12-2010	Amend	6-1-2010
813-027-0001	2-25-2010	Adopt(T)	4-1-2010	820-010-0213	5-12-2010	Amend	6-1-2010
813-027-0010	2-25-2010	Adopt(T)	4-1-2010	820-010-0214	5-12-2010	Amend	6-1-2010
813-027-0020	2-25-2010	Adopt(T)	4-1-2010	820-010-0215	5-12-2010	Amend	6-1-2010
813-027-0030	2-25-2010	Adopt(T)	4-1-2010	820-010-0305	5-12-2010	Amend	6-1-2010
813-027-0040	2-25-2010	Adopt(T)	4-1-2010	820-010-0440	5-12-2010	Amend	6-1-2010
813-027-0050	2-25-2010	Adopt(T)	4-1-2010	820-010-0450	5-12-2010	Amend	6-1-2010
813-027-0060	2-25-2010	Adopt(T)	4-1-2010	820-010-0470	5-12-2010	Amend	6-1-2010
813-027-0070	2-25-2010	Adopt(T)	4-1-2010	820-010-0530	5-12-2010	Adopt	6-1-2010
813-027-0080	2-25-2010	Adopt(T)	4-1-2010	820-010-0610	5-12-2010	Amend	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
820-010-0625	5-12-2010	Amend	6-1-2010	833-020-0201(T)	5-3-2010	Repeal	6-1-2010
820-010-0635	5-12-2010	Amend	6-1-2010	833-020-0301	5-3-2010	Adopt	6-1-2010
830-011-0000	4-1-2010	Amend(T)	5-1-2010	833-025-0001	1-5-2010	Repeal	2-1-2010
830-011-0050	4-1-2010	Amend(T)	5-1-2010	833-025-0005	1-5-2010	Repeal	2-1-2010
830-020-0000	4-1-2010	Amend(T)	5-1-2010	833-025-0006	1-5-2010	Repeal	2-1-2010
830-020-0020	4-1-2010	Amend(T)	5-1-2010	833-025-0050	1-5-2010	Repeal	2-1-2010
830-020-0040	4-1-2010	Amend(T)	5-1-2010	833-025-0060	1-5-2010	Repeal	2-1-2010
830-030-0090	4-1-2010	Amend(T)	5-1-2010	833-030-0001	1-5-2010	Repeal	2-1-2010
830-040-0000	4-1-2010	Amend(T)	5-1-2010	833-030-0005	1-5-2010	Repeal	2-1-2010
830-040-0050	4-1-2010	Amend(T)	5-1-2010	833-030-0010	1-5-2010	Repeal	2-1-2010
830-060-0010	4-1-2010	Adopt(T)	5-1-2010	833-030-0011	1-5-2010	Adopt	2-1-2010
830-060-0020	4-1-2010	Adopt(T)	5-1-2010	833-030-0015	1-5-2010	Repeal	2-1-2010
833-001-0000	1-5-2010	Amend	2-1-2010	833-030-0020	1-5-2010	Repeal	2-1-2010
833-001-0005	1-5-2010	Amend	2-1-2010	833-030-0021	1-5-2010	Adopt	2-1-2010
833-001-0010	1-5-2010	Amend	2-1-2010	833-030-0021	5-3-2010	Amend	6-1-2010
833-001-0015	1-5-2010	Amend	2-1-2010	833-030-0031	1-5-2010	Adopt	2-1-2010
833-001-0020	1-5-2010	Amend	2-1-2010	833-030-0031	5-3-2010	Amend	6-1-2010
833-010-0001	1-5-2010	Amend	2-1-2010	833-030-0041	1-5-2010	Adopt	2-1-2010
833-010-0001	5-3-2010	Amend	6-1-2010	833-030-0051	1-5-2010	Adopt	2-1-2010
833-020-0001	1-5-2010	Repeal	2-1-2010	833-040-0001	1-5-2010	Repeal	2-1-2010
833-020-0010	1-5-2010	Repeal	2-1-2010	833-040-0010	1-5-2010	Repeal	2-1-2010
833-020-0011	1-5-2010	Adopt	2-1-2010	833-040-0011	1-5-2010	Adopt	2-1-2010
833-020-0015	1-5-2010	Repeal	2-1-2010	833-040-0020	1-5-2010	Repeal	2-1-2010
833-020-0020	1-5-2010	Repeal	2-1-2010	833-040-0021	1-5-2010	Adopt	2-1-2010
833-020-0021	1-5-2010	Adopt	2-1-2010	833-040-0021	5-3-2010	Amend	6-1-2010
833-020-0022	1-5-2010	Repeal	2-1-2010	833-040-0031	1-5-2010	Adopt	2-1-2010
833-020-0030	1-5-2010	Repeal	2-1-2010	833-040-0031	5-3-2010	Amend	6-1-2010
833-020-0031	1-5-2010	Adopt	2-1-2010	833-040-0041	1-5-2010	Adopt	2-1-2010
833-020-0031	5-3-2010	Amend	6-1-2010	833-040-0041	5-3-2010	Amend	6-1-2010
833-020-0040	1-5-2010	Repeal	2-1-2010	833-040-0051	1-5-2010	Adopt	2-1-2010
833-020-0041	1-5-2010	Adopt	2-1-2010	833-050-0001	1-5-2010	Repeal	2-1-2010
833-020-0041	5-3-2010	Amend	6-1-2010	833-050-0010	1-5-2010	Repeal	2-1-2010
833-020-0050	1-5-2010	Repeal	2-1-2010	833-050-0011	1-5-2010	Adopt	2-1-2010
833-020-0051	1-5-2010	Adopt	2-1-2010	833-050-0011	5-3-2010	Amend	6-1-2010
833-020-0051	5-3-2010	Amend	6-1-2010	833-050-0020	1-5-2010	Repeal	2-1-2010
833-020-0060	1-5-2010	Repeal	2-1-2010	833-050-0021	1-5-2010	Adopt	2-1-2010
833-020-0061	1-5-2010	Adopt	2-1-2010	833-050-0021	5-3-2010	Amend	6-1-2010
833-020-0061	5-3-2010	Amend	6-1-2010	833-050-0025	1-5-2010	Repeal	2-1-2010
833-020-0071	1-5-2010	Adopt	2-1-2010	833-050-0030	1-5-2010	Repeal	2-1-2010
833-020-0080	1-5-2010	Repeal	2-1-2010	833-050-0031	1-5-2010	Adopt	2-1-2010
833-020-0081	1-5-2010	Adopt	2-1-2010	833-050-0040	1-5-2010	Repeal	2-1-2010
833-020-0090	1-5-2010	Repeal	2-1-2010	833-050-0041	1-5-2010	Adopt	2-1-2010
833-020-0091	1-5-2010	Adopt	2-1-2010	833-050-0051	1-5-2010	Adopt	2-1-2010
833-020-0100	1-5-2010	Repeal	2-1-2010	833-050-0051	5-3-2010	Amend	6-1-2010
833-020-0101	1-5-2010	Adopt	2-1-2010	833-050-0061	1-5-2010	Adopt	2-1-2010
833-020-0111	1-5-2010	Repeal	2-1-2010	833-050-0071	1-5-2010	Adopt	2-1-2010
833-020-0112	1-5-2010	Adopt	2-1-2010	833-050-0081	1-5-2010	Adopt	2-1-2010
833-020-0120	1-5-2010	Repeal	2-1-2010	833-050-0081	5-3-2010	Amend	6-1-2010
833-020-0140	1-5-2010	Repeal	2-1-2010	833-050-0091	1-5-2010	Adopt	2-1-2010
833-020-0150	1-5-2010	Repeal	2-1-2010	833-050-0111	1-5-2010	Adopt	2-1-2010
833-020-0155	1-5-2010	Repeal	2-1-2010	833-050-0121	1-5-2010	Adopt	2-1-2010
833-020-0160	1-5-2010	Repeal	2-1-2010	833-050-0131	1-5-2010	Adopt	2-1-2010
833-020-0164	1-5-2010	Repeal	2-1-2010	833-050-0141	1-5-2010	Adopt	2-1-2010
833-020-0165	1-5-2010	Repeal	2-1-2010	833-050-0151	1-5-2010	Adopt	2-1-2010
833-020-0201	1-11-2010	Adopt(T)	2-1-2010	833-050-0161	1-5-2010	Adopt	2-1-2010
833-020-0201	5-3-2010	Adopt	6-1-2010	833-060-0011	1-5-2010	Repeal	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
833-060-0012	1-5-2010	Adopt	2-1-2010	836-010-0011	4-1-2010	Amend	5-1-2010
833-060-0012	5-3-2010	Amend	6-1-2010	836-010-0012	4-1-2010	Adopt	5-1-2010
833-060-0021	1-5-2010	Repeal	2-1-2010	836-011-0000	12-9-2009	Amend	1-1-2010
833-060-0022	1-5-2010	Adopt	2-1-2010	836-012-0300	2-5-2010	Amend	3-1-2010
833-060-0022	5-3-2010	Amend	6-1-2010	836-012-0310	2-5-2010	Amend	3-1-2010
833-060-0031	1-5-2010	Repeal	2-1-2010	836-012-0332	2-5-2010	Adopt	3-1-2010
833-060-0032	1-5-2010	Adopt	2-1-2010	836-014-0200	1-5-2010	Amend	2-1-2010
833-060-0032	5-3-2010	Amend	6-1-2010	836-014-0205	1-5-2010	Adopt	2-1-2010
833-060-0041	1-5-2010	Repeal	2-1-2010	836-014-0210	1-5-2010	Amend	2-1-2010
833-060-0042	1-5-2010	Adopt	2-1-2010	836-014-0220	1-5-2010	Amend	2-1-2010
833-060-0051	1-5-2010	Repeal	2-1-2010	836-014-0226	1-5-2010	Adopt	2-1-2010
833-060-0052	1-5-2010	Adopt	2-1-2010	836-014-0240	1-5-2010	Amend	2-1-2010
833-060-0061	1-5-2010	Repeal	2-1-2010	836-014-0250	1-5-2010	Amend	2-1-2010
833-060-0071	1-5-2010	Repeal	2-1-2010	836-014-0260	1-5-2010	Amend	2-1-2010
833-070-0011	1-5-2010	Adopt	2-1-2010	836-014-0263	1-5-2010	Adopt	2-1-2010
833-070-0011	1-11-2010	Amend(T)	2-1-2010	836-014-0265	1-5-2010	Amend	2-1-2010
833-070-0011	5-3-2010	Amend	6-1-2010	836-014-0270	1-5-2010	Amend	2-1-2010
833-070-0011(T)	5-3-2010	Repeal	6-1-2010	836-014-0280	1-5-2010	Amend	2-1-2010
833-070-0021	1-5-2010	Adopt	2-1-2010	836-014-0285	1-5-2010	Adopt	2-1-2010
833-070-0031	1-5-2010	Adopt	2-1-2010	836-014-0290	1-5-2010	Amend	2-1-2010
833-080-0011	1-5-2010	Adopt	2-1-2010	836-014-0300	1-5-2010	Amend	2-1-2010
833-080-0021	1-5-2010	Adopt	2-1-2010	836-014-0310	1-5-2010	Amend	2-1-2010
833-080-0031	1-5-2010	Adopt	2-1-2010	836-014-0320	1-5-2010	Amend	2-1-2010
833-080-0041	1-5-2010	Adopt	2-1-2010	836-014-0325	1-5-2010	Adopt	2-1-2010
833-080-0051	1-5-2010	Adopt	2-1-2010	836-042-0080	7-1-2010	Amend	6-1-2010
833-080-0061	1-5-2010	Adopt	2-1-2010	836-042-0100	7-1-2010	Adopt	6-1-2010
833-090-0010	1-5-2010	Adopt	2-1-2010	836-042-0105	7-1-2010	Adopt	6-1-2010
833-090-0020	1-5-2010	Adopt	2-1-2010	836-042-0110	7-1-2010	Adopt	6-1-2010
833-090-0030	1-5-2010	Adopt	2-1-2010	836-042-0115	7-1-2010	Adopt	6-1-2010
833-090-0040	1-5-2010	Adopt	2-1-2010	836-052-1000	12-18-2009	Amend	2-1-2010
833-100-0011	1-5-2010	Adopt	2-1-2010	836-053-0000	2-16-2010	Adopt	4-1-2010
833-100-0021	1-5-2010	Adopt	2-1-2010	836-053-0081	4-22-2010	Amend(T)	6-1-2010
833-100-0031	1-5-2010	Adopt	2-1-2010	836-053-0465	2-16-2010	Amend	4-1-2010
833-100-0041	1-5-2010	Adopt	2-1-2010	836-053-0471	2-16-2010	Adopt	4-1-2010
833-100-0051	1-5-2010	Adopt	2-1-2010	836-053-0475	2-16-2010	Adopt	4-1-2010
833-100-0061	1-5-2010	Adopt	2-1-2010	836-053-0780	2-16-2010	Amend	4-1-2010
833-100-0071	1-5-2010	Adopt	2-1-2010	836-053-0855	12-23-2009	Amend(T)	2-1-2010
833-110-0011	1-5-2010	Adopt	2-1-2010	836-053-0855	1-8-2010	Amend(T)	2-1-2010
833-110-0011	5-3-2010	Amend	6-1-2010	836-053-0855	3-10-2010	Amend(T)	4-1-2010
833-110-0021	1-5-2010	Adopt	2-1-2010	836-053-0855	4-26-2010	Amend(T)	6-1-2010
833-120-0011	1-5-2010	Adopt	2-1-2010	836-053-0855(T)	1-8-2010	Suspend	2-1-2010
833-120-0021	1-5-2010	Adopt	2-1-2010	836-053-0855(T)	3-10-2010	Suspend	4-1-2010
833-120-0031	1-5-2010	Adopt	2-1-2010	836-053-0855(T)	4-26-2010	Suspend	6-1-2010
833-120-0041	1-5-2010	Adopt	2-1-2010	836-053-0860	12-23-2009	Amend(T)	2-1-2010
836-009-0007	2-1-2010	Amend	2-1-2010	836-053-0860	1-8-2010	Amend(T)	2-1-2010
836-009-0020	3-25-2010	Adopt	5-1-2010	836-053-0860	3-10-2010	Amend(T)	4-1-2010
836-009-0020(T)	3-25-2010	Repeal	5-1-2010	836-053-0860	4-26-2010	Amend(T)	6-1-2010
836-009-0025	3-25-2010	Adopt	5-1-2010	836-053-0860(T)	1-8-2010	Suspend	2-1-2010
836-009-0025(T)	3-25-2010	Repeal	5-1-2010	836-053-0860(T)	3-10-2010	Suspend	4-1-2010
836-009-0030	3-25-2010	Adopt	5-1-2010	836-053-0860(T)	4-26-2010	Suspend	6-1-2010
836-009-0030(T)	3-25-2010	Repeal	5-1-2010	836-053-0865	12-23-2009	Amend(T)	2-1-2010
836-009-0035	3-25-2010	Adopt	5-1-2010	836-053-0865	1-8-2010	Amend(T)	2-1-2010
836-009-0035(T)	3-25-2010	Repeal	5-1-2010	836-053-0865	3-10-2010	Amend(T)	4-1-2010
836-009-0040	3-25-2010	Adopt	5-1-2010	836-053-0865	4-26-2010	Amend(T)	6-1-2010
836-009-0040(T)	3-25-2010	Repeal	5-1-2010	836-053-0865(T)	1-8-2010	Suspend	2-1-2010
836-010-0000	4-1-2010	Amend	5-1-2010	836-053-0865(T)	3-10-2010	Suspend	4-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
836-053-0865(T)	4-26-2010	Suspend	6-1-2010	837-085-0280	2-1-2010	Amend	3-1-2010
836-053-0910	2-16-2010	Amend	4-1-2010	837-085-0290	2-1-2010	Amend	3-1-2010
836-054-0210	7-1-2010	Amend	6-1-2010	837-085-0300	2-1-2010	Amend	3-1-2010
836-071-0101	2-1-2010	Amend	2-1-2010	837-085-0305	2-1-2010	Amend	3-1-2010
836-071-0113	2-1-2010	Adopt	2-1-2010	837-085-0310	2-1-2010	Amend	3-1-2010
836-071-0127	2-1-2010	Amend	2-1-2010	837-085-0340	2-1-2010	Amend	3-1-2010
836-071-0130	2-1-2010	Amend	2-1-2010	837-085-0350	2-1-2010	Amend	3-1-2010
836-071-0185	2-1-2010	Amend	2-1-2010	837-085-0380	2-1-2010	Amend	3-1-2010
836-080-0240	1-1-2010	Amend	2-1-2010	837-090-1145	11-18-2009	Amend	1-1-2010
837-040-0010	4-1-2010	Amend	1-1-2010	839-001-0495	1-1-2010	Amend	1-1-2010
837-040-0010	7-1-2010	Amend(T)	3-1-2010	839-001-0496	1-1-2010	Amend	1-1-2010
837-040-0020	7-1-2010	Amend(T)	3-1-2010	839-001-0515	1-1-2010	Amend	1-1-2010
837-040-0140	4-1-2010	Amend	1-1-2010	839-001-0520	1-1-2010	Amend	1-1-2010
837-040-0140	7-1-2010	Amend(T)	3-1-2010	839-001-0700	1-1-2010	Amend	1-1-2010
837-040-02020	4-1-2010	Amend	1-1-2010	839-001-0750	1-1-2010	Repeal	1-1-2010
837-046-0000	11-21-2009	Adopt	1-1-2010	839-002-0030	2-12-2010	Amend(T)	3-1-2010
837-046-0020	11-21-2009	Adopt	1-1-2010	839-002-0030	5-5-2010	Amend	6-1-2010
837-046-0040	11-21-2009	Adopt	1-1-2010	839-002-0030(T)	5-5-2010	Repeal	6-1-2010
837-046-0060	11-21-2009	Adopt	1-1-2010	839-002-0040	2-12-2010	Amend(T)	3-1-2010
837-046-0080	11-21-2009	Adopt	1-1-2010	839-002-0040	5-5-2010	Amend	6-1-2010
837-046-0100	11-21-2009	Adopt	1-1-2010	839-002-0040(T)	5-5-2010	Repeal	6-1-2010
837-046-0120	11-21-2009	Adopt	1-1-2010	839-002-0045	2-12-2010	Amend(T)	3-1-2010
837-046-0140	11-21-2009	Adopt	1-1-2010	839-002-0045	5-5-2010	Amend	6-1-2010
837-046-0160	11-21-2009	Adopt	1-1-2010	839-002-0045(T)	5-5-2010	Repeal	6-1-2010
837-046-0180	11-21-2009	Adopt	1-1-2010	839-002-0050	2-12-2010	Amend(T)	3-1-2010
837-047-0100	7-1-2010	Adopt(T)	5-1-2010	839-002-0050	5-5-2010	Amend	6-1-2010
837-047-0110	7-1-2010	Adopt(T)	5-1-2010	839-002-0050(T)	5-5-2010	Repeal	6-1-2010
837-047-0120	7-1-2010	Adopt(T)	5-1-2010	839-003-0005	2-24-2010	Amend	4-1-2010
837-047-0130	7-1-2010	Adopt(T)	5-1-2010	839-003-0025	2-24-2010	Amend	4-1-2010
837-047-0140	7-1-2010	Adopt(T)	5-1-2010	839-003-0040	2-24-2010	Amend	4-1-2010
837-047-0150	7-1-2010	Adopt(T)	5-1-2010	839-003-0200	2-24-2010	Amend	4-1-2010
837-047-0160	7-1-2010	Adopt(T)	5-1-2010	839-005-0000	2-24-2010	Amend	4-1-2010
837-047-0170	7-1-2010	Adopt(T)	5-1-2010	839-005-0003	2-24-2010	Amend	4-1-2010
837-085-0020	2-1-2010	Amend	3-1-2010	839-005-0005	2-24-2010	Amend	4-1-2010
837-085-0030	2-1-2010	Amend	3-1-2010	839-005-0010	2-24-2010	Amend	4-1-2010
837-085-0040	2-1-2010	Amend	3-1-2010	839-005-0016	2-24-2010	Renumber	4-1-2010
837-085-0050	2-1-2010	Amend	3-1-2010	839-005-0021	2-24-2010	Amend	4-1-2010
837-085-0060	2-1-2010	Amend	3-1-2010	839-005-0035	2-24-2010	Renumber	4-1-2010
837-085-0070	2-1-2010	Amend	3-1-2010	839-005-0045	2-24-2010	Renumber	4-1-2010
837-085-0080	2-1-2010	Amend	3-1-2010	839-005-0050	2-24-2010	Renumber	4-1-2010
837-085-0090	2-1-2010	Amend	3-1-2010	839-005-0138	2-24-2010	Adopt	4-1-2010
837-085-0100	2-1-2010	Amend	3-1-2010	839-005-0140	2-24-2010	Adopt	4-1-2010
837-085-0110	2-1-2010	Amend	3-1-2010	839-005-0160	2-24-2010	Adopt	4-1-2010
837-085-0120	2-1-2010	Amend	3-1-2010	839-005-0170	2-24-2010	Adopt	4-1-2010
837-085-0140	2-1-2010	Amend	3-1-2010	839-005-0195	2-24-2010	Amend	4-1-2010
837-085-0150	2-1-2010	Amend	3-1-2010	839-005-0200	2-24-2010	Amend	4-1-2010
837-085-0170	2-1-2010	Amend	3-1-2010	839-005-0205	2-24-2010	Amend	4-1-2010
837-085-0180	2-1-2010	Amend	3-1-2010	839-005-0206	2-24-2010	Adopt	4-1-2010
837-085-0190	2-1-2010	Amend	3-1-2010	839-005-0215	2-24-2010	Amend	4-1-2010
837-085-0200	2-1-2010	Amend	3-1-2010	839-005-0220	2-24-2010	Amend	4-1-2010
837-085-0210	2-1-2010	Amend	3-1-2010	839-006-0200	2-24-2010	Amend	4-1-2010
837-085-0220	2-1-2010	Amend	3-1-2010	839-006-0202	2-24-2010	Adopt	4-1-2010
837-085-0230	2-1-2010	Amend	3-1-2010	839-006-0205	2-24-2010	Amend	4-1-2010
837-085-0250	2-1-2010	Amend	3-1-2010	839-006-0206	2-24-2010	Amend	4-1-2010
837-085-0260	2-1-2010	Amend	3-1-2010	839-006-0212	2-24-2010	Amend	4-1-2010
837-085-0270	2-1-2010	Amend	3-1-2010	839-006-0240	2-24-2010	Amend	4-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
839-006-0242	2-24-2010	Amend	4-1-2010	839-010-0100	2-24-2010	Amend	4-1-2010
839-006-0244	2-24-2010	Amend	4-1-2010	839-010-0140	2-24-2010	Amend	4-1-2010
839-006-0250	2-24-2010	Amend	4-1-2010	839-021-0070	1-1-2010	Amend	1-1-2010
839-006-0255	2-24-2010	Amend	4-1-2010	839-021-0280	1-1-2010	Amend	1-1-2010
839-006-0265	2-24-2010	Amend	4-1-2010	839-021-0290	1-1-2010	Amend	1-1-2010
839-006-0270	2-24-2010	Amend	4-1-2010	839-025-0010	1-1-2010	Amend	1-1-2010
839-006-0275	2-24-2010	Amend	4-1-2010	839-025-0013	1-1-2010	Amend	1-1-2010
839-006-0280	2-24-2010	Amend	4-1-2010	839-025-0013(T)	1-1-2010	Repeal	1-1-2010
839-006-0290	2-24-2010	Amend	4-1-2010	839-025-0015	1-1-2010	Amend	1-1-2010
839-006-0295	2-24-2010	Amend	4-1-2010	839-025-0020	1-1-2010	Amend	1-1-2010
839-006-0300	2-24-2010	Amend	4-1-2010	839-025-0020(T)	1-1-2010	Repeal	1-1-2010
839-006-0305	2-24-2010	Amend	4-1-2010	839-025-0030	1-1-2010	Amend	1-1-2010
839-006-0307	2-24-2010	Adopt	4-1-2010	839-025-0030(T)	1-1-2010	Repeal	1-1-2010
839-006-0330	2-24-2010	Amend	4-1-2010	839-025-0035	1-1-2010	Amend	1-1-2010
839-006-0332	2-24-2010	Adopt	4-1-2010	839-025-0035(T)	1-1-2010	Repeal	1-1-2010
839-006-0335	2-24-2010	Amend	4-1-2010	839-025-0085	1-1-2010	Amend	1-1-2010
839-006-0435	2-24-2010	Amend	4-1-2010	839-025-0085(T)	1-1-2010	Repeal	1-1-2010
839-006-0440	2-24-2010	Amend	4-1-2010	839-025-0200	1-1-2010	Amend	1-1-2010
839-006-0445	2-24-2010	Amend	4-1-2010	839-025-0200(T)	1-1-2010	Repeal	1-1-2010
839-006-0450	2-24-2010	Amend	4-1-2010	839-025-0210	1-1-2010	Amend	1-1-2010
839-006-0455	2-24-2010	Amend	4-1-2010	839-025-0210(T)	1-1-2010	Repeal	1-1-2010
839-006-0460	2-24-2010	Amend	4-1-2010	839-025-0530	1-1-2010	Amend	1-1-2010
839-006-0465	2-24-2010	Amend	4-1-2010	839-025-0530(T)	1-1-2010	Repeal	1-1-2010
839-006-0470	2-24-2010	Amend	4-1-2010	839-025-0700	11-23-2009	Amend	1-1-2010
839-006-0480	2-24-2010	Adopt	4-1-2010	839-025-0700	1-1-2010	Amend	2-1-2010
839-009-0210	2-24-2010	Amend	4-1-2010	839-025-0700	1-12-2010	Amend	2-1-2010
839-009-0220	2-24-2010	Amend	4-1-2010	839-025-0700	1-13-2010	Amend	2-1-2010
839-009-0240	2-24-2010	Amend	4-1-2010	839-025-0700	1-19-2010	Amend	3-1-2010
839-009-0245	2-24-2010	Amend	4-1-2010	839-025-0700	1-27-2010	Amend	3-1-2010
839-009-0250	2-24-2010	Amend	4-1-2010	839-025-0700	4-1-2010	Amend	5-1-2010
839-009-0260	2-24-2010	Amend	4-1-2010	839-050-0080	3-3-2010	Amend	4-1-2010
839-009-0265	2-24-2010	Adopt	4-1-2010	839-050-0130	3-3-2010	Amend	4-1-2010
839-009-0270	2-24-2010	Amend	4-1-2010	839-050-0140	3-3-2010	Amend	4-1-2010
839-009-0280	2-24-2010	Amend	4-1-2010	839-050-0150	3-3-2010	Amend	4-1-2010
839-009-0290	2-24-2010	Amend	4-1-2010	839-050-0240	3-3-2010	Amend	4-1-2010
839-009-0300	2-24-2010	Amend	4-1-2010	839-050-0370	3-3-2010	Amend	4-1-2010
839-009-0325	2-24-2010	Amend	4-1-2010	839-051-0010	3-3-2010	Amend	4-1-2010
839-009-0335	2-24-2010	Amend	4-1-2010	845-005-0413	3-1-2010	Adopt	4-1-2010
839-009-0340	2-24-2010	Amend	4-1-2010	845-005-0414	3-1-2010	Adopt	4-1-2010
839-009-0345	2-24-2010	Amend	4-1-2010	845-006-0340	5-1-2010	Amend	6-1-2010
839-009-0350	2-24-2010	Amend	4-1-2010	845-007-0020	5-1-2010	Amend	6-1-2010
839-009-0355	2-24-2010	Amend	4-1-2010	845-015-0130	5-1-2010	Amend	6-1-2010
839-009-0360	2-24-2010	Amend	4-1-2010	845-020-0020	3-1-2010	Amend	4-1-2010
839-009-0362	2-24-2010	Amend	4-1-2010	845-020-0025	3-1-2010	Amend	4-1-2010
839-009-0363	2-24-2010	Amend	4-1-2010	845-020-0030	3-1-2010	Amend	4-1-2010
839-009-0365	2-24-2010	Amend	4-1-2010	847-005-0005	1-26-2010	Amend	3-1-2010
839-009-0370	2-24-2010	Adopt	4-1-2010	847-005-0005(T)	1-26-2010	Repeal	3-1-2010
839-009-0380	2-24-2010	Adopt	4-1-2010	847-008-0023	1-26-2010	Amend	3-1-2010
839-009-0390	2-24-2010	Adopt	4-1-2010	847-010-0073	1-26-2010	Amend	3-1-2010
839-009-0400	2-24-2010	Adopt	4-1-2010	847-020-0100	4-26-2010	Amend	6-1-2010
839-009-0410	2-24-2010	Adopt	4-1-2010	847-020-0130	4-26-2010	Amend	6-1-2010
839-009-0420	2-24-2010	Adopt	4-1-2010	847-020-0150	4-26-2010	Amend	6-1-2010
839-009-0430	2-24-2010	Adopt	4-1-2010	847-020-0160	4-26-2010	Amend	6-1-2010
839-009-0440	2-24-2010	Adopt	4-1-2010	847-020-0183	4-26-2010	Amend	6-1-2010
839-009-0450	2-24-2010	Adopt	4-1-2010	847-023-0010	4-26-2010	Amend	6-1-2010
839-009-0460	2-24-2010	Adopt	4-1-2010	847-023-0015	4-26-2010	Amend	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
847-026-0000	1-26-2010	Adopt	3-1-2010	851-056-0016	1-1-2010	Amend	2-1-2010
847-026-0000(T)	1-26-2010	Repeal	3-1-2010	851-056-0020	1-1-2010	Amend	2-1-2010
847-026-0005	1-26-2010	Adopt	3-1-2010	851-056-0024	1-1-2010	Amend	2-1-2010
847-026-0005(T)	1-26-2010	Repeal	3-1-2010	851-061-0090	12-17-2009	Amend	2-1-2010
847-026-0010	1-26-2010	Adopt	3-1-2010	851-063-0030	12-17-2009	Amend	2-1-2010
847-026-0010(T)	1-26-2010	Repeal	3-1-2010	851-063-0035	12-17-2009	Amend	2-1-2010
847-026-0015	1-26-2010	Adopt	3-1-2010	851-063-0090	12-17-2009	Amend	2-1-2010
847-026-0015(T)	1-26-2010	Repeal	3-1-2010	851-063-0090	4-19-2010	Amend(T)	6-1-2010
847-026-0020	1-26-2010	Adopt	3-1-2010	852-005-0015	12-11-2009	Adopt	1-1-2010
847-026-0020(T)	1-26-2010	Repeal	3-1-2010	852-010-0080	12-11-2009	Amend	1-1-2010
847-035-0030	1-26-2010	Amend	3-1-2010	852-020-0035	12-11-2009	Amend	1-1-2010
847-035-0030	4-26-2010	Amend(T)	6-1-2010	852-020-0060	12-11-2009	Amend	1-1-2010
847-035-0030(T)	1-26-2010	Repeal	3-1-2010	852-050-0006	12-11-2009	Amend	1-1-2010
847-050-0020	4-26-2010	Amend(T)	6-1-2010	855-007-0010	12-24-2009	Amend	2-1-2010
847-050-0046	4-26-2010	Adopt	6-1-2010	855-007-0020	12-24-2009	Amend	2-1-2010
848-001-0005	3-1-2010	Amend	4-1-2010	855-007-0030	12-24-2009	Amend	2-1-2010
848-001-0010	3-1-2010	Amend	4-1-2010	855-007-0040	12-24-2009	Amend	2-1-2010
848-005-0020	3-1-2010	Amend	4-1-2010	855-007-0050	12-24-2009	Amend	2-1-2010
848-005-0030	3-1-2010	Amend	4-1-2010	855-007-0060	12-24-2009	Amend	2-1-2010
848-010-0015	3-1-2010	Amend	4-1-2010	855-007-0080	12-24-2009	Amend	2-1-2010
848-010-0022	3-1-2010	Amend	4-1-2010	855-007-0090	12-24-2009	Amend	2-1-2010
848-010-0026	3-1-2010	Amend	4-1-2010	855-007-0100	12-24-2009	Amend	2-1-2010
848-035-0020	3-1-2010	Amend	4-1-2010	855-007-0110	12-24-2009	Amend	2-1-2010
848-040-0100	3-1-2010	Amend	4-1-2010	855-007-0120	12-24-2009	Amend	2-1-2010
848-040-0147	3-1-2010	Amend	4-1-2010	855-019-0120	4-30-2010	Amend	6-1-2010
848-045-0020	3-1-2010	Amend	4-1-2010	855-019-0130	4-30-2010	Amend	6-1-2010
848-050-0100	3-1-2010	Repeal	4-1-2010	855-019-0150	4-30-2010	Amend	6-1-2010
848-050-0110	3-1-2010	Repeal	4-1-2010	855-031-0005	4-30-2010	Amend	6-1-2010
848-050-0120	3-1-2010	Repeal	4-1-2010	855-031-0010	4-30-2010	Amend	6-1-2010
850-005-0190	5-3-2010	Adopt	6-1-2010	855-031-0015	4-30-2010	Repeal	6-1-2010
850-060-0220	2-16-2010	Amend	4-1-2010	855-031-0020	4-30-2010	Amend	6-1-2010
850-060-0220	5-3-2010	Amend	6-1-2010	855-031-0030	4-30-2010	Amend	6-1-2010
850-060-0225	1-1-2010	Amend	1-1-2010	855-031-0033	4-30-2010	Repeal	6-1-2010
850-060-0226	1-1-2010	Amend	1-1-2010	855-031-0040	4-30-2010	Repeal	6-1-2010
851-002-0010	1-1-2010	Amend	2-1-2010	855-031-0045	4-30-2010	Amend	6-1-2010
851-002-0020	1-1-2010	Amend	2-1-2010	855-031-0050	4-30-2010	Amend	6-1-2010
851-002-0035	1-1-2010	Amend	2-1-2010	855-031-0055	4-30-2010	Amend	6-1-2010
851-002-0040	1-1-2010	Amend	2-1-2010	855-041-0120	4-30-2010	Repeal	6-1-2010
851-010-0024	1-21-2010	Adopt(T)	3-1-2010	855-041-0125	4-30-2010	Repeal	6-1-2010
851-010-0024	4-21-2010	Adopt	6-1-2010	855-041-0130	4-30-2010	Repeal	6-1-2010
851-010-0024(T)	4-21-2010	Repeal	6-1-2010	855-041-0132	4-30-2010	Repeal	6-1-2010
851-045-0070	4-19-2010	Adopt(T)	6-1-2010	855-041-4000	2-8-2010	Adopt	3-1-2010
851-050-0000	1-1-2010	Amend	2-1-2010	855-041-4005	2-8-2010	Adopt	3-1-2010
851-050-0001	1-1-2010	Amend	2-1-2010	855-041-6050	4-30-2010	Adopt	6-1-2010
851-050-0002	7-1-2010	Amend	2-1-2010	855-041-6100	4-30-2010	Adopt	6-1-2010
851-050-0004	1-1-2010	Amend	2-1-2010	855-041-6150	4-30-2010	Adopt	6-1-2010
851-050-0005	1-1-2010	Amend	2-1-2010	855-041-6200	4-30-2010	Adopt	6-1-2010
851-050-0006	7-1-2010	Amend	2-1-2010	855-041-6220	4-30-2010	Adopt	6-1-2010
851-050-0008	1-1-2010	Adopt	2-1-2010	855-041-6240	4-30-2010	Adopt	6-1-2010
851-050-0010	1-1-2010	Amend	2-1-2010	855-041-6250	4-30-2010	Adopt	6-1-2010
851-050-0138	1-1-2010	Amend	2-1-2010	855-041-6260	4-30-2010	Adopt	6-1-2010
851-050-0138	4-19-2010	Amend(T)	6-1-2010	855-041-6270	4-30-2010	Adopt	6-1-2010
851-050-0142	1-1-2010	Adopt	2-1-2010	855-041-6300	4-30-2010	Adopt	6-1-2010
851-056-0000	1-1-2010	Amend	2-1-2010	855-041-6305	4-30-2010	Adopt	6-1-2010
851-056-0006	1-1-2010	Amend	2-1-2010	855-041-6310	4-30-2010	Adopt	6-1-2010
851-056-0010	1-1-2010	Amend	2-1-2010	855-041-6400	4-30-2010	Adopt	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
855-041-6410	4-30-2010	Adopt	6-1-2010	858-010-0030	1-8-2010	Amend	2-1-2010
855-041-6420	4-30-2010	Adopt	6-1-2010	858-010-0034	1-8-2010	Adopt	2-1-2010
855-041-6500	4-30-2010	Adopt	6-1-2010	858-010-0036	1-8-2010	Amend	2-1-2010
855-041-6510	4-30-2010	Adopt	6-1-2010	858-010-0037	1-8-2010	Adopt	2-1-2010
855-041-6520	4-30-2010	Adopt	6-1-2010	858-010-0038	1-8-2010	Adopt	2-1-2010
855-041-6530	4-30-2010	Adopt	6-1-2010	858-010-0039	1-8-2010	Adopt	2-1-2010
855-041-6540	4-30-2010	Adopt	6-1-2010	858-010-0041	1-8-2010	Amend	2-1-2010
855-041-6550	4-30-2010	Adopt	6-1-2010	858-010-0050	1-8-2010	Amend	2-1-2010
855-041-6560	4-30-2010	Adopt	6-1-2010	858-010-0055	1-8-2010	Amend	2-1-2010
855-041-6570	4-30-2010	Adopt	6-1-2010	858-010-0060	1-8-2010	Amend	2-1-2010
855-041-6600	4-30-2010	Adopt	6-1-2010	858-010-0065	1-8-2010	Amend	2-1-2010
855-041-6610	4-30-2010	Adopt	6-1-2010	858-020-0015	1-8-2010	Amend	2-1-2010
855-041-6620	4-30-2010	Adopt	6-1-2010	858-020-0025	1-8-2010	Amend	2-1-2010
855-043-0001	2-8-2010	Am. & Ren.	3-1-2010	858-020-0035	1-8-2010	Amend	2-1-2010
855-043-0003	2-8-2010	Adopt	3-1-2010	858-020-0045	1-8-2010	Amend	2-1-2010
855-043-0110	2-8-2010	Amend	3-1-2010	858-020-0055	1-8-2010	Amend	2-1-2010
855-043-0120	2-8-2010	Am. & Ren.	3-1-2010	858-020-0065	1-8-2010	Amend	2-1-2010
855-043-0130	2-8-2010	Amend	3-1-2010	858-020-0085	1-8-2010	Amend	2-1-2010
855-043-0130	5-4-2010	Amend(T)	6-1-2010	858-030-0005	1-8-2010	Amend	2-1-2010
855-043-0210	2-8-2010	Amend	3-1-2010	858-040-0015	1-8-2010	Amend	2-1-2010
855-043-0300	2-8-2010	Amend	3-1-2010	858-040-0020	1-8-2010	Adopt	2-1-2010
855-043-0310	2-8-2010	Amend	3-1-2010	858-040-0025	1-8-2010	Amend	2-1-2010
855-062-0003	12-24-2009	Adopt	2-1-2010	858-040-0026	1-8-2010	Adopt	2-1-2010
855-062-0003(T)	12-24-2009	Repeal	2-1-2010	858-040-0035	1-8-2010	Amend	2-1-2010
855-062-0005	12-24-2009	Adopt	2-1-2010	858-040-0036	1-8-2010	Amend	2-1-2010
855-062-0005(T)	12-24-2009	Repeal	2-1-2010	858-040-0055	1-8-2010	Amend	2-1-2010
855-062-0020	12-24-2009	Adopt	2-1-2010	858-040-0065	1-8-2010	Amend	2-1-2010
855-062-0020(T)	12-24-2009	Repeal	2-1-2010	858-040-0075	1-8-2010	Repeal	2-1-2010
855-062-0030	12-24-2009	Adopt	2-1-2010	858-040-0085	1-8-2010	Repeal	2-1-2010
855-062-0030(T)	12-24-2009	Repeal	2-1-2010	858-040-0095	1-8-2010	Repeal	2-1-2010
855-062-0040	12-24-2009	Adopt	2-1-2010	858-050-0100	1-8-2010	Repeal	2-1-2010
855-062-0040(T)	12-24-2009	Repeal	2-1-2010	858-050-0105	1-8-2010	Repeal	2-1-2010
855-062-0050	12-24-2009	Adopt	2-1-2010	858-050-0110	1-8-2010	Repeal	2-1-2010
855-062-0050(T)	12-24-2009	Repeal	2-1-2010	858-050-0120	1-8-2010	Repeal	2-1-2010
855-065-0001	12-24-2009	Amend	2-1-2010	858-050-0125	1-8-2010	Repeal	2-1-2010
855-065-0005	12-24-2009	Amend	2-1-2010	858-050-0140	1-8-2010	Repeal	2-1-2010
855-065-0006	12-24-2009	Amend	2-1-2010	858-050-0145	1-8-2010	Repeal	2-1-2010
855-110-0003	12-24-2009	Adopt	2-1-2010	858-050-0150	1-8-2010	Repeal	2-1-2010
855-110-0003(T)	12-24-2009	Repeal	2-1-2010	860-036-0010	11-24-2009	Amend	1-1-2010
855-110-0005	12-24-2009	Amend	2-1-2010	860-036-0030	11-24-2009	Amend	1-1-2010
855-110-0005	5-4-2010	Amend(T)	6-1-2010	863-014-0000	1-1-2010	Amend	1-1-2010
855-110-0007	12-24-2009	Amend	2-1-2010	863-014-0003	1-1-2010	Amend	1-1-2010
855-110-0010	12-24-2009	Amend	2-1-2010	863-014-0005	1-1-2010	Amend	1-1-2010
855-110-0015	3-1-2010	Amend	3-1-2010	863-014-0010	1-1-2010	Amend	1-1-2010
856-010-0015	4-27-2010	Amend	6-1-2010	863-014-0015	1-1-2010	Amend	1-1-2010
856-010-0027	4-27-2010	Adopt	6-1-2010	863-014-0030	1-1-2010	Amend	1-1-2010
858-010-0001	1-8-2010	Amend	2-1-2010	863-014-0038	1-1-2010	Repeal	1-1-2010
858-010-0005	1-8-2010	Amend	2-1-2010	863-014-0042	1-1-2010	Amend	1-1-2010
858-010-0007	1-8-2010	Amend	2-1-2010	863-014-0055	1-1-2010	Amend	1-1-2010
858-010-0010	1-8-2010	Amend	2-1-2010	863-014-0063	1-1-2010	Amend	1-1-2010
858-010-0015	1-8-2010	Amend	2-1-2010	863-014-0065	1-1-2010	Amend	1-1-2010
858-010-0016	1-8-2010	Adopt	2-1-2010	863-014-0085	1-1-2010	Amend	1-1-2010
858-010-0017	1-8-2010	Adopt	2-1-2010	863-014-0090	1-1-2010	Adopt	1-1-2010
858-010-0018	1-8-2010	Adopt	2-1-2010	863-014-0095	1-1-2010	Amend	1-1-2010
858-010-0020	1-8-2010	Amend	2-1-2010	863-014-0100	1-1-2010	Amend	1-1-2010
858-010-0025	1-8-2010	Amend	2-1-2010	863-014-0160	1-1-2010	Amend	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
863-015-0000	1-1-2010	Amend	1-1-2010	918-098-1210	4-1-2010	Amend	4-1-2010
863-015-0003	1-1-2010	Amend	1-1-2010	918-098-1210	7-1-2010	Amend	6-1-2010
863-015-0150	1-1-2010	Amend	1-1-2010	918-098-1215	4-1-2010	Amend	4-1-2010
863-015-0186	1-1-2010	Amend	1-1-2010	918-098-1215	7-1-2010	Amend	6-1-2010
863-015-0188	1-1-2010	Amend	1-1-2010	918-098-1300	4-1-2010	Amend	4-1-2010
863-015-0210	1-1-2010	Amend	1-1-2010	918-098-1300	7-1-2010	Amend	6-1-2010
863-015-0250	1-1-2010	Amend	1-1-2010	918-098-1305	4-1-2010	Amend	4-1-2010
863-015-0255	1-1-2010	Amend	1-1-2010	918-098-1305	7-1-2010	Amend	6-1-2010
863-015-0260	1-1-2010	Amend	1-1-2010	918-098-1310	7-1-2010	Amend	6-1-2010
863-015-0275	1-1-2010	Amend	1-1-2010	918-098-1315	4-1-2010	Amend	4-1-2010
863-024-0000	1-1-2010	Amend	1-1-2010	918-098-1315	7-1-2010	Amend	6-1-2010
863-024-0003	1-1-2010	Amend	1-1-2010	918-098-1320	4-1-2010	Amend	4-1-2010
863-024-0015	1-1-2010	Amend	1-1-2010	918-098-1320	7-1-2010	Amend	6-1-2010
863-024-0030	1-1-2010	Amend	1-1-2010	918-098-1325	4-1-2010	Amend	4-1-2010
863-024-0075	1-1-2010	Amend	1-1-2010	918-098-1325	7-1-2010	Amend	6-1-2010
863-024-0085	1-1-2010	Amend	1-1-2010	918-098-1330	4-1-2010	Amend	4-1-2010
863-024-0100	1-1-2010	Amend	1-1-2010	918-098-1330	7-1-2010	Amend	6-1-2010
863-049-0000	1-1-2010	Adopt	1-1-2010	918-098-1450	7-1-2010	Amend	6-1-2010
863-049-0005	1-1-2010	Adopt	1-1-2010	918-225-0240	1-1-2010	Amend	2-1-2010
863-049-0010	1-1-2010	Adopt	1-1-2010	918-225-0600	1-1-2010	Amend	2-1-2010
863-049-0015	1-1-2010	Adopt	1-1-2010	918-225-0605	1-1-2010	Repeal	2-1-2010
863-049-0020	1-1-2010	Adopt	1-1-2010	918-225-0610	1-1-2010	Repeal	2-1-2010
863-049-0030	1-1-2010	Adopt	1-1-2010	918-225-0620	1-1-2010	Amend	2-1-2010
863-049-0035	1-1-2010	Adopt	1-1-2010	918-225-0630	1-1-2010	Amend	2-1-2010
863-049-0040	1-1-2010	Adopt	1-1-2010	918-251-0090	7-1-2010	Amend	6-1-2010
863-049-0045	1-1-2010	Adopt	1-1-2010	918-305-0030	4-1-2010	Amend	4-1-2010
863-049-0055	1-1-2010	Adopt	1-1-2010	918-305-0030	7-1-2010	Amend	6-1-2010
863-050-0035	1-1-2010	Am. & Ren.	1-1-2010	918-400-0270	1-1-2010	Amend	2-1-2010
863-050-0150	1-1-2010	Amend	1-1-2010	918-400-0280	1-1-2010	Amend	2-1-2010
863-050-0240	1-1-2010	Am. & Ren.	1-1-2010	918-400-0340	1-1-2010	Amend	2-1-2010
875-010-0045	5-6-2010	Amend	6-1-2010	918-400-0380	1-1-2010	Amend	2-1-2010
875-015-0030	5-6-2010	Amend	6-1-2010	918-400-0390	1-1-2010	Amend	2-1-2010
875-030-0010	5-6-2010	Amend	6-1-2010	918-400-0395	1-1-2010	Amend	2-1-2010
877-010-0000	1-15-2010	Amend	2-1-2010	918-400-0445	1-1-2010	Amend	2-1-2010
877-010-0045	1-15-2010	Amend	2-1-2010	918-400-0525	1-1-2010	Amend	2-1-2010
877-020-0009	1-15-2010	Amend	2-1-2010	918-400-0630	1-1-2010	Amend	2-1-2010
877-020-0030	1-15-2010	Amend	2-1-2010	918-400-0660	1-1-2010	Amend	2-1-2010
877-020-0057	1-15-2010	Adopt	2-1-2010	918-400-0662	1-1-2010	Adopt	2-1-2010
877-025-0016	1-15-2010	Amend	2-1-2010	918-400-0740	1-1-2010	Amend	2-1-2010
877-025-0021	1-15-2010	Amend	2-1-2010	918-400-0800	1-1-2010	Amend	2-1-2010
877-030-0040	1-15-2010	Amend	2-1-2010	918-440-0000	7-1-2010	Amend	6-1-2010
877-040-0003	1-15-2010	Amend	2-1-2010	918-440-0010	7-1-2010	Amend	6-1-2010
877-040-0016	1-15-2010	Adopt	2-1-2010	918-440-0015	7-1-2010	Amend	6-1-2010
918-001-0200	5-1-2010	Repeal	6-1-2010	918-440-0030	7-1-2010	Amend	6-1-2010
918-001-0210	1-1-2010	Amend	2-1-2010	918-440-0040	7-1-2010	Am. & Ren.	6-1-2010
918-005-0010	1-1-2010	Amend	2-1-2010	918-440-0050	7-1-2010	Amend	6-1-2010
918-020-0090	4-1-2010	Amend	4-1-2010	918-440-0500	7-1-2010	Amend	6-1-2010
918-040-0000	1-1-2010	Amend	2-1-2010	918-440-0510	7-1-2010	Amend	6-1-2010
918-098-1000	7-1-2010	Amend	6-1-2010	918-460-0000	7-1-2010	Amend	6-1-2010
918-098-1010	7-1-2010	Amend	6-1-2010	918-460-0010	7-1-2010	Amend	6-1-2010
918-098-1012	4-1-2010	Amend	4-1-2010	918-460-0015	7-1-2010	Amend	6-1-2010
918-098-1015	4-1-2010	Amend	4-1-2010	918-460-0016	7-1-2010	Repeal	6-1-2010
918-098-1015	7-1-2010	Amend	6-1-2010	918-460-0050	7-1-2010	Amend	6-1-2010
918-098-1020	7-1-2010	Amend	6-1-2010	918-460-0500	7-1-2010	Adopt	6-1-2010
918-098-1025	7-1-2010	Amend	6-1-2010	918-460-0510	7-1-2010	Adopt	6-1-2010
918-098-1028	7-1-2010	Adopt	6-1-2010	918-480-0010	7-1-2010	Amend	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-500-0000	4-1-2010	Amend	4-1-2010	918-515-0110	4-1-2010	Amend	4-1-2010
918-500-0005	4-1-2010	Amend	4-1-2010	918-515-0150	4-1-2010	Amend	4-1-2010
918-500-0010	4-1-2010	Amend	4-1-2010	918-515-0300	4-1-2010	Amend	4-1-2010
918-500-0020	4-1-2010	Am. & Ren.	4-1-2010	918-515-0330	4-1-2010	Amend	4-1-2010
918-500-0021	4-1-2010	Am. & Ren.	4-1-2010	918-515-0350	4-1-2010	Amend	4-1-2010
918-500-0035	4-1-2010	Amend	4-1-2010	918-515-0360	4-1-2010	Amend	4-1-2010
918-500-0040	4-1-2010	Amend	4-1-2010	918-515-0370	4-1-2010	Amend	4-1-2010
918-500-0055	4-1-2010	Amend	4-1-2010	918-515-0480	4-1-2010	Amend	4-1-2010
918-500-0100	4-1-2010	Amend	4-1-2010	918-515-0485	4-1-2010	Amend	4-1-2010
918-500-0105	4-1-2010	Amend	4-1-2010	918-515-0490	4-1-2010	Amend	4-1-2010
918-500-0110	4-1-2010	Amend	4-1-2010	918-520-0010	4-1-2010	Repeal	4-1-2010
918-500-0300	4-1-2010	Amend	4-1-2010	918-520-0015	4-1-2010	Repeal	4-1-2010
918-500-0310	4-1-2010	Amend	4-1-2010	918-520-0020	4-1-2010	Repeal	4-1-2010
918-500-0320	4-1-2010	Amend	4-1-2010	918-520-0030	4-1-2010	Repeal	4-1-2010
918-500-0330	4-1-2010	Amend	4-1-2010	918-520-0040	4-1-2010	Repeal	4-1-2010
918-500-0340	4-1-2010	Amend	4-1-2010	918-520-0050	4-1-2010	Repeal	4-1-2010
918-500-0400	4-1-2010	Amend	4-1-2010	918-520-0060	4-1-2010	Repeal	4-1-2010
918-500-0410	4-1-2010	Amend	4-1-2010	918-520-0070	4-1-2010	Repeal	4-1-2010
918-500-0420	4-1-2010	Amend	4-1-2010	918-520-0080	4-1-2010	Repeal	4-1-2010
918-500-0430	4-1-2010	Amend	4-1-2010	918-520-0090	4-1-2010	Repeal	4-1-2010
918-500-0450	4-1-2010	Amend	4-1-2010	918-520-0100	4-1-2010	Repeal	4-1-2010
918-500-0470	4-1-2010	Amend	4-1-2010	918-520-0110	4-1-2010	Repeal	4-1-2010
918-500-0530	4-1-2010	Adopt	4-1-2010	918-525-0042	4-1-2010	Amend	4-1-2010
918-500-0540	4-1-2010	Adopt	4-1-2010	918-600-0010	4-1-2010	Amend	4-1-2010
918-500-0550	4-1-2010	Adopt	4-1-2010	918-674-0033	7-1-2010	Amend	6-1-2010
918-500-0560	4-1-2010	Adopt	4-1-2010	943-001-0000	1-1-2010	Adopt	2-1-2010
918-500-0570	4-1-2010	Adopt	4-1-2010	943-001-0000(T)	1-1-2010	Repeal	2-1-2010
918-500-0580	4-1-2010	Adopt	4-1-2010	943-001-0010	1-1-2010	Adopt	2-1-2010
918-500-0590	4-1-2010	Adopt	4-1-2010	943-001-0010(T)	1-1-2010	Repeal	2-1-2010
918-515-0010	4-1-2010	Amend	4-1-2010	943-001-0015	1-1-2010	Adopt	2-1-2010
918-515-0020	4-1-2010	Amend	4-1-2010	943-001-0015(T)	1-1-2010	Repeal	2-1-2010
918-515-0030	4-1-2010	Amend	4-1-2010	951-003-0005	4-26-2010	Amend	6-1-2010