

OREGON BULLETIN

Supplements the 2010 *Oregon Administrative Rules Compilation*

Volume 49, No. 7
July 1, 2010

For May 17, 2010–June 15, 2010



Published by
KATE BROWN
Secretary of State
Copyright 2010 Oregon Secretary of State

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.

© January 1, 2010 Oregon Secretary of State. All rights reserved. Reproduction in whole or in part without written permission is prohibited.

TABLE OF CONTENTS

	Page
Information and Publication Schedule	2
Table of Contents	3
Executive Orders	4, 5
Other Notices	6, 7
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.	
Department of Administrative Services, Oregon Educators Benefit Board, Chapter 111	8
Department of Agriculture, Chapter 603	8, 9
Department of Agriculture, Oregon Dungeness Crab Commission, Chapter 645	9, 10
Department of Consumer and Business Services, Insurance Division, Chapter 836	10
Department of Corrections, Chapter 291	11
Department of Environmental Quality, Chapter 340	11, 12
Department of Fish and Wildlife, Chapter 635	12, 13
Department of Human Services, Addictions and Mental Health Division: Mental Health Services, Chapter 309	13
Public Health Division, Chapter 333	13, 14
Seniors and People with Disabilities Division, Chapter 411	14
Department of Public Safety Standards and Training, Chapter 259	14
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	15
Highway Division, Chapter 734	15
Department of Veterans' Affairs, Chapter 274	15
Land Conservation and Development Department, Chapter 660	15
Landscape Architect Board, Chapter 804	15, 16
Landscape Contractors Board, Chapter 808	16
Office of Private Health Partnerships, Chapter 442	16
Oregon Department of Education, Chapter 581	16
Oregon Government Ethics Commission, Chapter 199	16
Oregon Health Licensing Agency, Chapter 331	16, 17
Oregon Health Licensing Agency, Board of Cosmetology, Chapter 817	17
Oregon Housing and Community Services Department, Chapter 813	17
Oregon Liquor Control Commission, Chapter 845	17, 18
Oregon Public Employees Retirement System, Chapter 459	18, 19
Oregon Qualified Tuition Savings Board, Chapter 173	19
Oregon State Treasury, Chapter 170	19
Oregon Student Assistance Commission, Office of Degree Authorization, Chapter 583	19, 20
Oregon University System, Oregon State University, Chapter 576	20
Western Oregon University, Chapter 574	20
Oregon Youth Authority, Chapter 416	20
Parks and Recreation Department, Chapter 736	20, 21
Secretary of State, Archives Division, Chapter 166	21
Elections Division, Chapter 165	21
Teacher Standards and Practices Commission, Chapter 584	21, 22
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.	
Board of Architect Examiners, Chapter 806	23, 24
Board of Chiropractic Examiners, Chapter 811	24–26
Board of Licensed Professional Counselors and Therapists, Chapter 833	26–28
Board of Medical Imaging, Chapter 337	28–35
Bureau of Labor and Industries, Chapter 839	35–40
Construction Contractors Board, Chapter 812	40–42
Department of Administrative Services, Human Resource Services Division, Chapter 105	42–44
Public Employees' Benefit Board, Chapter 101	44–47
Department of Agriculture, Oregon Dairy Products Commission, Chapter 617	47
Oregon Highland Bentgrass Commission, Chapter 641	47
Oregon Invasive Species Council, Chapter 609	47, 48
Oregon Mint Commission, Chapter 642	48
Oregon Tall Fescue Commission, Chapter 607	49
Department of Consumer and Business Services, Building Codes Division, Chapter 918	49, 50
Division of Finance and Corporate Securities, Chapter 441	50–59
Insurance Division, Chapter 836	59–61
Oregon Occupational Safety and Health Division, Chapter 437	61–68
Workers' Compensation Division, Chapter 436	68–78
Department of Corrections, Chapter 291	78, 79
Department of Energy, Chapter 330	79–96
Department of Environmental Quality, Chapter 340	96–113
Department of Fish and Wildlife, Chapter 635	113–134
Department of Forestry, Chapter 629	134, 135
Department of Human Services, Addictions and Mental Health Division: Mental Health Services, Chapter 309	135–146
Children, Adults and Families Division: Child Welfare Programs, Chapter 413	146–162
Self-Sufficiency Programs, Chapter 461	162–166
Division of Medical Assistance Programs, Chapter 410	166–216
Seniors and People with Disabilities Division, Chapter 411	216–221
Department of Oregon State Police, Chapter 257	221–231
Department of Public Safety Standards and Training, Chapter 259	231–239
Department of Revenue, Chapter 150	239
Department of Transportation, Chapter 731	239–243
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	243, 244
Highway Division, Chapter 734	244
Department of Veterans' Affairs, Chapter 274	244–246
Landscape Contractors Board, Chapter 808	246–249
Oregon Business Development Department, Chapter 123	249–294
Oregon Department of Aviation, Chapter 738	294–296
Oregon Department of Education, Chapter 581	296–298
Oregon Health Licensing Agency, Chapter 331	298–300
Oregon Housing and Community Services Department, Chapter 813	300, 301
Oregon Public Employees Retirement System, Chapter 459	302–310
Oregon State Marine Board, Chapter 250	310, 311
Oregon State Treasury, Chapter 170	311, 312
Oregon University System, Southern Oregon University, Chapter 573	312–314
Oregon Youth Authority, Chapter 416	314–317
Parks and Recreation Department, Chapter 736	317, 318
Public Utility Commission, Chapter 860	318–329
Real Estate Agency, Chapter 863	329–342
Secretary of State, Archives Division, Chapter 166	342–358
Corporation Division, Chapter 160	358
Travel Information Council, Chapter 733	358–362
Water Resources Department, Chapter 690	362, 363
OAR Revision Cumulative Index	364–417

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 10 - 06

ESTABLISHMENT OF THE EARLY CHILDHOOD MATTERS ADVISORY COUNCIL

The foundation for Oregon's future begins with early childhood education. Providing a full spectrum of supports for the development of children and youth is of paramount importance to our future success. Oregon's children and families need quality, supportive, and engaged experiences from birth through school entry for young children to reach their optimum development for success in school and in life. Since the Governor's Summit on Early Childhood in March 2008, and through the funding of a State Early Head Start program, Oregon has worked to elevate the visibility and importance of early childhood issues.

Pursuant to the "Improving Head Start for School Readiness Act of 2007," Governors are required to designate or appoint a council to serve as the State Advisory Council on Early Childhood Education and Care for children from birth to school entry. This Order designates the Early Childhood Matters Advisory Council to serve as the State Advisory Council.

Leadership of Oregon's early childhood system is shared primarily by four state agencies: the State Commission on Children and Families, the Department of Education, the Employment Department, and the Department of Human Services. The creation of an Early Childhood Matters Advisory Council will give Oregon a way to approach early childhood issues in a unified and comprehensive manner. The Council will give direction and oversight for interagency coordination; assist the State in implementing statutory early childhood guidelines; and provide valuable guidance and advice to the Governor regarding the early childhood system and services.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Early Childhood Matters Advisory Council (ECMAC) is established. The ECMAC is designated as the Oregon State Advisory Council on Early Education and Care for children from birth to school entry, as required by Section 11(b) of the Improving Head Start for School Readiness Act of 2007.

2. The ECMAC membership shall consist of community leaders, representing Oregon's diverse populations, with expertise in advocacy, early childhood research, business and industry, early childhood systems development, design and provision of early childhood services. The ECMAC membership shall include:

- a. One member appointed by the President of the Senate from among members of the Senate;
- b. One member appointed by the Speaker of the House of Representatives from among members of the House of Representatives;
- c. A representative from the Child Care Division of the Oregon Employment Department, appointed by the Governor;
- d. A representative from the division responsible for §619 of part C of the Individuals with Disabilities Education Act (20 U.S.C. §1419, 1431 et seq.) of the Oregon Department of Education appointed by the Governor;
- e. A representative from the Oregon Community College System appointed by the Governor;
- f. A representative from Oregon University System appointed by the Governor;
- g. A representative of local providers of early childhood education and development services, appointed by the Governor;

h. A representative of local educational agencies appointed by the Governor;

i. A representative(s) from Head Start, which may include migrant, seasonal, or Indian Head Start programs, appointed by the Governor;

j. The State Director of Head Start Collaboration, appointed by the Governor;

k. A representative from the State agency responsible for health or mental health care, appointed by the Governor;

l. A representative of the Oregon Commission on Children and Families, appointed by the Governor;

m. A representative of the research community working on early childhood data, appointed by the Governor;

n. Two representatives of the early childhood consumer community, appointed by the Governor;

o. A representative of the business community, appointed by the Governor;

p. A representative of the private foundation community with demonstrated interest in children from birth to school entry, appointed by the Governor;

q. A representative of child advocacy agencies whose focus is children from birth to school entry, appointed by the Governor;

r. A representative of migrant and seasonal farm worker families whose focus is children from birth to school entry, appointed by the Governor;

s. A representative of the dental community whose focus is children from birth to school entry, appointed by the Governor;

t. A representative from the medical community whose focus is children from birth to school entry, appointed by the Governor;

u. A representative from the nine federally recognized Oregon Tribes, whose focus is children from birth to school entry, appointed by the Governor;

v. A representative of the mental health community whose focus is children from birth to school entry, appointed by the Governor;

w. A representative from the Oregon Department of Human Services, appointed by the Governor;

x. A representative of the Governor's Office, appointed by the Governor; and

y. Any other representatives the Governor deems appropriate.

3. Members shall serve at the pleasure of their appointing authority. The terms of each appointment shall be three years. Initial terms shall be proportionately staggered to periods of one, two and three years. Members may be reappointed.

4. The Governor will appoint the Chair and Vice-Chair of the ECMAC from its membership. The Chair is responsible for setting the agenda and coordinating its activities. The ECMAC shall meet at the call of the Chair.

5. The ECMAC will provide state leadership on issues related to early childhood development and education for children from birth through school entry and their families through investment planning, advocacy, and advice to decision makers based on the most recent research on effective best practices and strategies. The ECMAC will

EXECUTIVE ORDERS

provide advice to the Governor on early childhood priorities and strategies. The ECMAC will review research, expert opinion, and public input to develop a statewide strategic plan for achieving the vision articulated in the Early Childhood Matters Framework created as a result of the Governor's Early Childhood Matters Initiative in 2008.

6. In addition to any other responsibilities designated by the Governor, the ECMAC shall:

a. Conduct periodic statewide needs assessments on the quality and availability of early childhood education and development programs and services, including an assessment of the availability of quality pre-kindergarten services for low-income children;

b. Identify opportunities for, and barriers to, collaboration among federally and state-funded child development, child

care, and early childhood education programs and services, including collaboration among administering agencies;

c. Recommend ways to increase the participation of children — especially underrepresented and special populations — in existing federal, state, and local child care and early childhood education programs;

d. Recommend ways to establish a unified data collection system for public early childhood education and development programs and services;

e. Recommend ways to create statewide professional development and career advancement plans for early childhood educators;

f. Assess the capacity and effectiveness of two- and four-year public and private institutions of higher education in the State to support the professional and career development of early childhood educators, including the opportunity to spend time in a Head Start or pre-kindergarten program; and

g. Recommend ways to improve State early learning standards and develop high-quality comprehensive early learning standards.

7. Periodically, the ECMAC shall hold public hearings and provide an opportunity for public comment on the issues described above.

8. On or before July 15, 2010, the ECMAC shall submit a Statewide Strategic Report (Report), addressing the assessments and recommendations described above to the State Director of Head Start Collaboration and the Governor. After submission of the Report, the ECMAC shall meet periodically to review implementation of the

recommendations in the Report and any changes in State and local needs.

9. The ECMAC shall assist, as requested, with preparation of Oregon's three-year plan and application for a U.S. Department of Education grant, under Section 11(b) of the Improving Head Start for School Readiness Act of 2007. In addition to such information as may be required by the Secretary of Education, the application will include:

a. The Report discussed above;

b. A description of the ECMAC responsibilities under this Executive Order;

c. A description, for each fiscal year, of how the State will make effective use of federal funds to create an early childhood education and care system, consistent with the Report;

d. A description of Oregon's early learning standards and goals for increasing the number of children entering kindergarten ready to learn;

e. Information identifying the agency, joint interagency office, or individual, designated to carry out the activities under this Section; and

f. A description of how the State plans to sustain activities under this paragraph beyond the federal grant period.

10. With the exception of the two early childhood consumer community members, the members of the ECMAC shall not be entitled to the reimbursement of expenses or per diem. Early childhood consumer participants may be reimbursed for travel expenses incurred in attending ECMAC business pursuant to ORS 292.495(2), subject to availability of funds.

11. This Order shall expire on August 31, 2013.

Done at Salem, Oregon this 21st of May, 2010.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED CONDITIONAL NO FURTHER ACTION FINDING FOR THE EATON TIRE SITE

COMMENTS DUE: July 31, 5:00 P.M.

PROJECT LOCATION: 1780 Columbia Boulevard, St. Helens, OR 97051

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on its proposal to issue a Conditional No Further Action (CNFA) determination for the site.

HIGHLIGHTS: The Eaton Tire property was reportedly undeveloped until at least 1938, at which time the current on-site building was constructed. The subject property appears to have been used during the late 1930's until the late 1950's as a store and gasoline station. The pumps and USTs were decommissioned in 1990. The USTs were found to have leaked and a cleanup of the release was completed in 1991. An inaccessible pocket of residual hydrocarbons remains beneath the building.

Subsequent investigations initiated in 2008 focused on the floor sumps in the shop bays, and in the parking lot northeast of the building. Residual contamination was discovered in the parking lot in various areas, likely due to leaking parked cars and/or spillage from drums and other containers. Following several site investigations a total of approximately 100 yards of contaminated soil was removed. Residual concentrations of contaminants are generally below risk-based standards for site workers, but some lead and polynuclear aromatic hydrocarbon (PAH) concentrations remain above standards for use under an urban residential exposure scenario. Residual lead and PAH concentrations do not present a risk to site workers under current exposure scenarios. The proposed CNFA applies to current site conditions. Should the site be developed for urban residential use in the future, additional investigative and remedial actions would be required to demonstrate that the site is protective for such use. Should soil be excavated or otherwise disturbed during future site development, soil will be managed in accordance with a DEQ-approved Contaminated Media Management Plan.

HOW TO COMMENT: To review project records, contact Dawn Weinburger at (503) 229-5425. The DEQ project manager is Shawn Rapp (503-229-5614). Written comments should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 by July 31, 2010. A public meeting will be held to receive verbal comments if requested by 10 or more people, or by a group with a membership of 10 or more.

THE NEXT STEP: DEQ will consider all comments received and make a final decision after consideration of these 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, 1-800-735-2900.

DEQ DETERMINES NO FURTHER ACTION REQUIRED SHERIDAN FEDERAL CORRECTION INSTITUTION SITE, SHERIDAN, OREGON

PROJECT LOCATION: 27072 Ballston Road, Sheridan

HIGHLIGHTS: The Oregon Department of Environmental Quality has approved the cleanup conducted at the Sheridan FCI site at 27072 Ballston Road, Sheridan, in Sheridan, Oregon. As a result of this approval, DEQ has issued a determination that no further action is required for cleanup of the site.

The site operates as a federal prison that has utilized storage tanks for chemical and petroleum products. Multiple spills to the environment have been reported and investigated at the facility, including leaks from underground tanks and a diesel spill in 2003. Analysis for volatile organic compounds showed some contamination remaining in groundwater in 2009 sampling.

Based on available data, the site is considered safe for all use. DEQ has concluded that there is no threat to human health and the environment under current site conditions.

A file containing detailed information for the site is available for review in DEQ's office located in Suite 100 at 165 East 7th Avenue in Eugene. Questions concerning this site should be directed to Cathy Rodda at DEQ's Eugene office by calling her at 541-687-7325 or toll-free in Oregon at 1-800-844-8467, extension 7325.

REQUEST FOR COMMENT PROPOSED CLEANUP ACTIONS FORMER MARSHFIELD MANUFACTURED GAS PLANT, NORTH BEND, OREGON

COMMENTS DUE: August 2, 2010

PROJECT LOCATION: 3040 Tremont St, North Bend, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing a series of measures to address residual contamination present at the former Marshfield Manufactured Gas Plant (MGP). The proposed cleanup actions include focused excavation and off-site disposal of up to 2 feet below ground surface contaminated soil west of Highway 101; engineering controls (e.g., capping) to contain contaminated soils that remain on-site on the west and east sides of Highway 101; and institutional controls in the form of deed restrictions and soil and groundwater management plans to mitigate future exposure to contaminated soil or groundwater.

HIGHLIGHTS: The former Marshfield MGP site covers approximately 1-acre, and currently mostly lies beneath Highway 101 and railroad tracks that run along the east side of Highway 101. The property to the east of the site is currently owned by the Coquille Economic Development Corporation. The former plant facilities included a gas house with an attached boiler room, a compressor house, a two-story storehouse, a 25,000-cubic foot gas holder, a 5000-cubic foot gas holder, a 20,000-gallon water tank, a 7000-gallon tar well, a 10,000-gallon oil tank, and a 5000-gallon oil tank. The Marshfield MGP produced oil gas by thermally cracking crude oil. Records indicate the plant produced approximately 14 million cubic feet of oil gas per year during the 1920s.

A draft staff report outlining DEQ's Recommended Remedial Action is posted in DEQ's Environmental Cleanup Site Information (ECSI) database as explained below.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eugene office at 165 E 7th Ave, Ste 100, Eugene, OR 97401. To schedule an appointment to review the file or to ask questions, please contact Bill Mason at (541) 687-7427. Summary information and a copy of the document referenced above is available in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet. To review this material, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 4074 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 4074 in the Site ID/Info column. To be considered, written comments should be sent to Bill Mason, Project Manager, at the address listed above or by email at mason.bill@deq.state.or.us, and must be received by 8:00 AM on Monday, August 2, 2010. A public meeting will be held upon written request by ten or more persons or by a group with a membership of 10 or more.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the proposed remedial actions taken at the site. A public notice of DEQ's final decision will be issued in this publication.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these

OTHER NOTICES

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.

REQUEST FOR COMMENTS

PROPOSED CONDITIONAL NO FURTHER ACTION DETERMINATION SETTLEMENT REGARDING ELIXIR INDUSTRIES, AURORA, MARION COUNTY

COMMENTS DUE: July 30, 2010

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

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) is proposing to develop and record an Easement and Equitable Servitude (deed restriction) restricting where groundwater wells can be placed on the Elixir property. With this restriction in place there will be no risk to current or future site workers from the chlorinated solvent groundwater contamination. Once the restriction is recorded, DEQ proposes to recommend no further action be required for the property. On July 1 through July 30, 2010, DEQ is accepting comments from the public on the proposed determination. **HIGHLIGHTS:** In 1989, chlorinated solvents were detected in the nearby Lakewood Estates community water supply well. DEQ installed a water treatment system on the well in 1991 to ensure the residents had safe water to drink. Subsequent rounds of investigation showed that the contamination was also present beneath the tax lots, Elixir and Ballweber Industries properties. DEQ identified Ballweber and Elixir as potential sources, although Elixir strongly disagreed and contended that chlorinated solvents were never used at their site.

Concentrations of chlorinated solvents have declined beneath all properties over time. Current pre-treatment levels of contaminants in the Lakewood well meet federal and state safe drinking water levels. Since no one is currently using contaminated groundwater at the Elixir property, and a deed restriction can control future groundwater use in the contaminated area, DEQ recommends no further action (aside from the requirements of the deed restriction) be required at the site.

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

THE NEXT STEP: DEQ will review and consider all comments received during the comment period. After considering public comments, DEQ will accept, modify, or reject the proposed remedy for the site. If DEQ accepts the proposed remedy, the next step will be to develop and record an Easement and Equitable Servitude for the site. Once the document has been recorded with Marion County, DEQ will prepare a letter of Conditional No Further Action

REQUEST FOR COMMENT, PROPOSED APPROVAL OF CLEANUP ACTIONS, PROPOSED CONSENT JUDGMENT FOR REMEDIAL ACTION, AND PROPOSED CONDITIONAL NO FURTHER ACTION DETERMINATION, ENTEK INTERNATIONAL LLC, LINN COUNTY, OREGON

COMMENTS DUE: August 2, 2010

PROJECT LOCATION: 250 Hansard Avenue, Lebanon, Oregon
PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to approve a series of measures undertaken by ENTEK International LLC to remediate contamination present at the facility. DEQ also is proposing to enter into a Consent Judgment for Remedial Action with ENTEK. In addition, DEQ now invites public comment on a proposal to issue a No Further Action determination for the site.

HIGHLIGHTS: ENTEK has completed a comprehensive remedial investigation, including a human health and ecological risk screening to evaluate the nature and extent of chemicals in environmental media. The investigations found that actions already taken to remediate site contamination, including an innovative steam injection and vapor extraction effort followed by enhanced bioremediation have been successful in mitigating the effects of the releases. A draft staff report outlining DEQ's Recommended Remedial Action is posted in DEQ's Environmental Cleanup Site Information (ECSI) database as explained below.

The proposed Consent Judgment will provide ENTEK with a release from liability for claims by the State of Oregon under ORS 465.255, including claims for damages to natural resources, relating to historical releases of hazardous substances at or from the site. The proposed Consent Judgment will also provide ENTEK with protection from potential contribution actions by third parties for recovery of remedial action costs associated with historical releases at or from the Facility. DEQ retains all existing rights it may have as to all other parties potentially liable for the releases. A copy of the proposed Consent Judgment is posted in the ECSI database as explained below.

Because ENTEK has completed the remedial actions required in these two documents (with the exception of ongoing confirmation monitoring), DEQ is proposing to issue a Conditional No Further Action determination for the site.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eugene office at 165 E 7th Ave, Ste 100, Eugene, OR 97401. To schedule an appointment to review the file or to ask questions, please contact Bill Mason at (541) 687-7427. Summary information and a copies of the two documents referenced above are available in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet. To review this material, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 2419 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 2419 in the Site ID/Info column. To be considered, written comments should be sent to Bill Mason, Project Manager, at the address listed above or by email at mason.bill@deq.state.or.us, and must be received by 8:00 AM on Monday, August 2, 2010. A public meeting will be held upon written request by ten or more persons or by a group with a membership of 10 or more.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the proposed remedial actions taken at the site. A public notice of DEQ's final decision will be issued in this publication.

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

.....
**Department of Administrative Services,
Oregon Educators Benefit Board
Chapter 111**

Rule Caption: Amending the Oregon Educators Benefit Board's rules on appeals.

Date: 7-29-10 **Time:** 10 a.m. **Location:** PEBB/OEBB Boardroom
1225 Ferry St. SE
Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(a)

Proposed Amendments: 111-080-0030

Last Date for Comment: 7-31-10, 5 p.m.

Summary: OAR 111-080-0030 is being amended to provide clarification and include descriptions of each level of the OEBB appeals process.

Rules Coordinator: April Kelly

Address: Department of Administrative Services, Oregon Educators Benefit Board, 1225 Ferry St. SE, Suite B, Salem, OR 97301

Telephone: (503) 378-6588

.....
**Department of Agriculture
Chapter 603**

Rule Caption: Renumbers rules that relate to Scrapie disease control.

Date: 7-22-10 **Time:** 2 p.m. **Location:** 635 Capitol St. NE
Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 596

Stats. Implemented:

Proposed Ren. & Amends: 603-011-0367 to 603-011-0384, 603-011-0369 to 603-011-0386, 603-011-0371 to 603-011-0388, 603-011-0373 to 603-011-0392, 603-011-0374 to 603-011-0394, 603-

011-0377 to 603-011-0396, 603-011-0378 to 603-011-0398, 603-011-0379 to 603-011-0402

Last Date for Comment: 7-27-10

Summary: The proposed streamlining action places all the rules that regulate the control of Scrapie disease into one sequential order. The current alignment has several other topics mixed in with the Scrapie rules making it confusing to follow. The proposed renumbering will help clarify the regulation.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

.....

Rule Caption: Amends and updates the list of diseases that veterinarians must report to ODA.

Date: 7-22-10 **Time:** 10 a.m. **Location:** 635 Capitol St. NE
Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 596

Stats. Implemented:

Proposed Amendments: 603-011-0212

Last Date for Comment: 7-27-10

Summary: The Oregon Department of Agriculture, Animal Health Division has the responsibility to protect the livestock of this state from disease. Further, the Division must take all measures necessary and proper to control diseases within this state and to eradicate and prevent the spread of communicable diseases that may exist among livestock and to prevent the entry into this state of animals liable to spread diseases to the livestock or people of this state. To assist in this responsibility, the Division requires Oregon veterinarians to immediately report any livestock that are experiencing specific diseases that may be a threat to the Oregon livestock and even may effect our livestock export markets if not controlled. The specific diseases are listed in this rules and are of national and international concern. The amendment to the rule will bring the list up to date with other states and other countries.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

.....

Rule Caption: Requires female dairy cattle to be TB tested and clarifies rule language.

Date: 7-23-10 **Time:** 9 a.m. **Location:** 635 Capitol St. NE
Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 596

Stats. Implemented:

Proposed Amendments: 603-011-0265

Last Date for Comment: 7-27-10

Summary: The Oregon Department of Agriculture, Animal Health Division has the responsibility to protect the livestock of this state from disease. Tuberculosis (TB) is a highly contagious disease spread by direct contact and through the air from animal to animal. Dairy cattle herds are considered to be high risk for contracting TB. To help prevent TB from entering Oregon cattle herds, this rule will lower the age for required TB testing for dairy breed cattle imported into Oregon for breeding and/or dairy purposes. The rule will also clear up confusion about the specific type of animal regulated by this rule. The rule is meant to regulate cattle not bison and exotic ruminants.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Aligns the state with current national swine disease status.

Date: 7-23-10
Time: 1 p.m.
Location: 635 Capitol St. NE
Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 596

Stats. Implemented: ORS 596.341

Proposed Amendments: 603-011-0310

Last Date for Comment: 7-27-10

Summary: The Oregon Department of Agriculture, Animal Health Division has the responsibility to prevent the entry into this state of animals liable to spread diseases to the livestock or people of this state. Currently, the U.S. has eradicated a serious disease called pseudorabies from all domestic swine herds in the country. The proposed amendment streamlines the language and aligns state regulations with the national status of pseudorabies disease in swine. The proposed amendment also clarifies the language concerning importation of feral swine. Under the current rules and Memorandum, other states cannot meet Oregon's definition of feral swine or the requirements for importation of feral swine. The proposed amended language makes that clear. The proposed amendment to the rule will bring the state up to date with other states.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Amends requirements for vaccination of cattle over 12 months old.

Date: 7-23-10
Time: 4 p.m.
Location: 635 Capitol St. NE
Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 596

Stats. Implemented:

Proposed Amendments: 603-011-0525

Last Date for Comment: 7-27-10

Summary: The Oregon Department of Agriculture, Animal Health Division has the responsibility to protect the livestock of the state from disease. Brucellosis is a highly contagious disease spread by direct contact. The domestic livestock in the United States are currently considered free from brucellosis infection. Oregon Revised Statute still requires brucellosis vaccination for female cattle kept for breeding or dairy purposes. Mature vaccination allows cattle owners to be in compliance with the law after their female cattle are not vaccinated and over 12 months old. This amendment brings rule into alignment with national guidelines.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Expand the Umatilla County control area to the entire county and add pests and hosts.

Date: 7-29-10
Time: 1 p.m.
Location: Umatilla County Courthouse
216 SE 4th St., Rm. 114
Pendleton, OR

Hearing Officer: Paul Blom

Stat. Auth.: ORS 561 & 570

Other Auth.: ORS 561.190

Stats. Implemented: ORS 561.510, 561.540 & 570.405 - 570.415
Proposed Amendments: 603-052-0201, 603-052-0206, 603-052-0208, 603-052-0209

Last Date for Comment: 8-5-10

Summary: The Umatilla County Control Area was established to prevent the spread of pests tree to tree and orchard to orchard, particularly from areas not properly treated or abandoned. The rules has

been unenforceable due to lengthy legal description. In recognition of this difficulty and of changes in the agricultural practices in Umatilla County, the proposed rule changes would expand coverage to the entire county (excluding Indian lands) and add new hosts and pests to the list of regulated species. New plant pests include: *Erwinia amylovora* (Fireblight) and *Pseudomonas syringae* (bacterial canker), Pacific Flathead Borer (*Chrysobothris mali*), Western Tentiform Leafminer (*Phyllonorycter elmaella*), Stinkbug (*Pentatomidae*), Lyngus bug (*Lygus* spp.), Woolly Apple Aphid (*Erisoma lanigerum*), Western Cherry Fruit Fly (*Rhagoletis indifferens*), Cherry (Pear) Slug (*Caliroa cerasi*), Spotted Wing Drosophila (*Drosophila suzukii*), Grape Mealybug (*Pseudococcus maritimus*), Longtailed Mealybug (*Pseudococcus longispinus*), Cutworm (*Noctuidae*) and Phylloxera root aphid (*Daktulosphaira vitifoliae*). New hosts include: alder, bear, berry, blueberry, cane berries, elderberry, elm, grape, kiwi, maple, nectarines, oak, poplar, strawberry, and willow. The rules requires that listed pests be kept under control on listed plants. If the landowner is unwilling or unable to keep pests under control then destruction of the plants will be required or penalties assessed.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Updates laboratory fee schedule for official, regulatory and service samples.

Stat. Auth.: ORS 561.571 & 632

Stats. Implemented: ORS 561.190, 571.145 & 632.940

Proposed Amendments: 603-052-1150

Last Date for Comment: 7-23-10

Summary: The proposed amendment would add a fee to the existing laboratory testing fee schedule for molecular analysis of regulated pests. Currently, there is no set fee for testing samples for regulated pests using molecular analysis; members of the export seed industry are incurring fees for this service based on the hourly testing rate. The remaining fees would stay unchanged. This is a house-keeping change to this rule.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Department of Agriculture, Oregon Dungeness Crab Commission Chapter 645

Rule Caption: Amends per diem rate for Oregon Dungeness Crab Commission commissioner from \$30.00 to \$100.00

Date: 7-22-10
Time: 9 a.m.
Location: 964 Central Ave.
Coos Bay, OR 97420

Hearing Officer: Hugh Link

Stat. Auth.: ORS 576.304, Authority of Commissions

Other Auth.: Motion made by Commission at 1-27-10 mtg.

Stats. Implemented: ORS 292.459(10), 576.206(7) & 576.265

Proposed Amendments: 645-040-0010

Last Date for Comment: 7-22-10, 5 p.m.

Summary: Sets per diem for commissioners \$100. 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: Shirley D. Velazquez

Address: Department of Agriculture, Dungeness Crab Commission, P.O. Box 1160, 964 Central Ave., Coos Bay, OR 97420

Telephone: (541) 267-5810

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Adjusts the date the monthly assessment fees and reports are due to ODCC office.

Date: 7-22-10
Time: 11 a.m.
Location: 964 Central Ave.
Coos Bay, OR 97420

Hearing Officer: Hugh Link

Stat. Auth.: ORS 183

Other Auth.: ORS 573.304(14)

Stats. Implemented: ORS 183 & 576.335(1)

Proposed Amendments: 645-010-0015

Last Date for Comment: 7-22-10, 5 p.m.

Summary: This rule adjusts the due date of monthly assessment fees and reports from the 15th day of the month to the 30th day of each month for all purchases or deliveries of Oregon Dungeness crab in the previous month.

Rules Coordinator: Shirley D. Velazquez

Address: Department of Agriculture, Dungeness Crab Commission, P.O. Box 1160, 964 Central Ave., Coos Bay, OR 97420

Telephone: (541) 267-5810

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Standards to Determine Whether Insurer's Continued Operation May Be Hazardous to Policyholders, Creditors or Public.

Date: 8-3-10
Time: 1:30 p.m.
Location: 350 Winter St. NE
Conference Rm. E (basement)
Salem, OR 97301

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244, 731.296 & 731.385

Stats. Implemented: ORS 731.296 & 731.385

Proposed Amendments: 836-013-0100, 836-013-0110, 836-013-0120

Last Date for Comment: 8-10-10

Summary: This rulemaking adds additional standards to the current rule that establishes standards for consideration by the Director of the Department of Consumer and Business services to determine whether the continued operation of an insurer may be hazardous to policy holders, the insurer's creditors or the general public. The rule-making also adds options for corrective action that the director may require an insurer in a hazardous financial condition to take.

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

Rule Caption: Property and Casualty Actuarial Opinion of Reserves and Supporting Documentation.

Date: 8-26-10
Time: 1:30 p.m.*
Location: 350 Winter St. NE
Conference Rm. F (basement)
Salem, OR 97301

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244, 731.574 & 733.210

Stats. Implemented: ORS 731.574 & 733.210

Proposed Adoptions: 836-011-0015

Last Date for Comment: 9-3-10

Summary: *Note: The hearing will begin at 1:30 p.m. and end when all present who wish to testify have done so.

This rulemaking adopts a requirement that property and casualty companies submit an actuarial opinion. The division has been relying on the Property and Casualty Annual Statement Instructions to require property and casualty companies to submit an actuarial opinion. The division has been requesting an Actuarial Opinion Summary, which is required by the Property and Casualty Actuarial Opinion Model Law #745, as part of the financial analysis process. This rule-making will consolidate all of the provisions of the model law into

a single requirement to simplify and make more transparent the requirement.

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

Rule Caption: Modify Requirements for Reporting on Health Insurers' External Grievance and Appeal Processes.

Date: 8-4-10
Time: 1:30 p.m.*
Location: 350 Winter St. NE
Conference Rm. E (basement)
Salem, OR 97301

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244, 743.814 & 743.819

Stats. Implemented: ORS 743.804, 743.807, 743.814, 743.817, 743.819, 743.821, 743.829, 743.837 & 743A.012

Proposed Amendments: 836-053-1000, 836-053-1070, 836-053-1080

Last Date for Comment: 8-13-10

Summary: *Note: The hearing will begin at 1:30 p.m. and end when all present who wish to testify have done so.

ORS 743.804(9) was amended in 2001 (Enrolled House Bill 3040) to include an additional reporting requirement related to applications for external review, but the Insurance Division rules (OAR 836-053-1000, 836-053-1070 and 836-053-1080) were not amended to include the additional reporting requirement. This rulemaking will correct the rules to reflect the statutory requirements. Additionally, OAR 836-053-1070(1) (b) and (h) of the existing rule are confusing and have resulted in inconsistent reporting by the insurers. The amendments to those subsections are intended to eliminate this confusion and inconsistency. Amendments to OAR 836-053-1000 and 836-053-1080 are needed to reflect the amendments to OAR 836-053-1070. In addition, some technical corrections are made throughout to correct incorrect statutory references resulting from a renumbering of ORS 743.699 to ORS 743A.012.

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

Rule Caption: Title Insurance Claims Settlement Communications Standards.

Date: 8-5-10
Time: 10 a.m.*
Location: Labor & Industries Bldg.
350 Winter St. NE
Room F (basement)
Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.230 & 746.240

Proposed Amendments: 836-080-0205, 836-080-0210, 836-080-0235

Last Date for Comment: 8-12-10

Summary: *Note: The hearing will begin at 10 a.m. and end when all present who wish to testify have done so.

This rulemaking amends the current rules that establish minimum standards for claims settlement practices. Violation of these standards constitutes an unfair claims settlement practice. The rule is expanded to apply to title insurance and modifies claims settlement communications standards to address the specific needs of title insurers.

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

NOTICES OF PROPOSED RULEMAKING

Department of Corrections Chapter 291

Rule Caption: Disabled – ADA and Employment with the Oregon Department of Corrections.

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

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

Proposed Repeals: 291-059-0010 – 291-059-0030

Last Date for Comment: 7-30-10

Summary: The Oregon Department of Corrections administers State HR Policy 50.020.10, ADA and Reasonable Accommodation in Employment as the agency's policy for compliance with the Americans with Disabilities Act (ADA). The Department proposes to repeal these rules since the content is covered in a statewide HR policy.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

Rule Caption: Citizens Complaints Concerning the Department of Corrections.

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

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

Proposed Amendments: 291-075-0005 – 291-075-0015

Last Date for Comment: 7-30-10

Summary: The amendments are housekeeping items necessary to update the rules to current operations and organizational structure. The rules have not been revised since 2000.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

Department of Environmental Quality Chapter 340

Rule Caption: Clean Water State Revolving Fund – Use of Federal Funds.

Date:	Time:	Location:
8-2-10	6 p.m.	DEQ HQ, 10th Flr. 811 SW Sixth Ave., Conference Rm. EQC-A Portland, OR
8-2-10	6 p.m.	Jackson Co. Justice Center Suite 101 1101 W Main St. Medford, OR
8-3-10	6 p.m.	St. Anthony's Hospital Cascade Rm. 1601 SE Court Ave. Pendleton, OR

Hearing Officer: Larry McAllister, Jaime Isaza

Stat. Auth.: ORS 468.020 & 468.423–468.440

Stats. Implemented: ORS 468.423–468.440

Proposed Amendments: 340-054-0010, 340-054-0025, 340-054-0065

Last Date for Comment: 8-9-10, 5 p.m.

Summary: These rule revisions will align Oregon's Clean Water State Revolving Fund loan program with changes in federal requirements. This rulemaking amends the Department of Environmental Quality's loan program in OAR 340-054-0025 and 0065 to establish a green project financial reserve and allow additional subsidization respectively, as required by federal appropriations. A minor, clarifying edit is made in OAR 340-054-0010 to include a definition for principal forgiveness.

The rulemaking, if adopted, will 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

eligible loan applicants. This rulemaking may affect public entities (cities, counties, various public districts and tribal nations) eligible for funding through the Department's Clean Water State Revolving Fund loan program.

To request additional information regarding this rulemaking, please contact: Larry McAllister at the Department of Environmental Quality, call toll free in Oregon 800-452-4011 or local 503 229-6412. You may also visit DEQ's proposed administrative rules webpage <http://www.deq.state.or.us/regulations/proposedrules.htm>

To comment on this rulemaking, submit your comments to: Larry McAllister, Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204, or by fax to 503 229-6037, or by email to SRFrule@deq.state.or.us (if you do not receive an auto response to your emailed comments, contact staff listed above).

Rules Coordinator: Maggie Vandehey

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

Telephone: (503) 229-6878

Rule Caption: Greenhouse gas reporting requirements, fees and program updates.

Date:	Time:	Location:
7-15-10	6 p.m.	DEQ – Medford Regional Office Conference Rm. 221 Stewart Ave., Suite 201 Medford, OR 97501
7-16-10	6 p.m.	DEQ – Bend Regional Office Conference Rm. 475 NE Bellevue Dr., Suite 110 Bend, OR 97701
7-19-10	6 p.m.	DEQ – HQ Office Conference Rm. EQC-A 811 SW Sixth Ave. Portland, OR 97204

Hearing Officer: DEQ Employee

Stat. Auth.: ORS 468.020, 468A.050 & 468A.280

Stats. Implemented: ORS 468 & 468A

Proposed Adoptions: 340-215-0050

Proposed Amendments: 340-215-0010, 340-215-0020, 340-215-0030, 340-215-0040, 340-216-0020, 340-220-0050

Last Date for Comment: 7-21-10, 5 p.m.

Summary: Global warming poses a serious threat to Oregon's economy, environment and public health. Greenhouse gas reporting is crucial for Oregon to track and evaluate its greenhouse gas emissions. The Environmental Quality Commission adopted rules in 2008 that require certain air contaminant sources to report greenhouse gas emissions to the Oregon Department of Environmental Quality. DEQ is proposing rules to expand the reporting requirements to additional emission categories, establish fees and update the reporting program.

The proposed rules create reporting requirements for electricity suppliers and fuel distributors, which account for approximately two thirds of total greenhouse gas emissions for the state. The proposed rules establish fees for reporting sources that hold air quality permits with DEQ. DEQ needs fee revenue to cover costs of developing and implementing the reporting program. The proposed rules expand DEQ discretion on circumstances to defer or exempt facilities from reporting. The proposed rules also avoid redundant reporting requirements and assure consistency in reporting by aligning Oregon's requirements with federal greenhouse gas reporting rules.

To request additional information regarding this rulemaking, please contact: Andrea Curtis at the Department of Environmental Quality, call toll free in Oregon 800-452-4011 or 503-229-6866 or visit DEQ's public notices webpage <http://www.deq.state.or.us/regulations/proposedrules.htm>

To comment on this rulemaking, submit your comments to: Andrea Curtis, Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, OR 97204, or by fax to 503-229-5675,

NOTICES OF PROPOSED RULEMAKING

or by email to ghg@deq.state.or.us (if you do not receive an auto response to your emailed comments, contact staff listed above).

Rules Coordinator: Maggie Vandehey

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

Telephone: (503) 229-6878

.....
Department of Fish and Wildlife
Chapter 635

Rule Caption: Adopt and Modify Commercial Dungeness Crab Fishery Gear Rules.

Date:	Time:	Location:
8-6-10	8 a.m.	Department of Fish & Wildlife 3406 Cherry Ave., Commission Rm. Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.119 & 506.129

Proposed Adoptions: Rules in 635-005, 635-006

Proposed Amendments: Rules in 635-005, 635-006

Proposed Repeals: Rules in 635-005, 635-006

Last Date for Comment: 8-6-10

Summary: These rules are for commercial Dungeness crab fishing gear requirements for implementation during the 2010-2011 season, beginning December 1, 2010.

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....
Rule Caption: Amend the Fish Hatchery Management Policy Spawning and Rearing Protocol to Minimize Surplus Eggs/Fish.

Date:	Time:	Location:
8-6-10	8 a.m.	Department of Fish & Wildlife 3406 Cherry Ave. Commission Rm. Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138 & 506.119

Stats. Implemented: ORS 496.171, 496.172, 496.176, 496.182, 496.430, 496.435, 496.445, 496.450 & 496.455

Proposed Adoptions: Rules in 635-007

Proposed Amendments: Rules in 635-007

Proposed Repeals: Rules in 635-007

Last Date for Comment: 8-6-10

Summary: Amend, adopt or repeal rules relating to Fish Hatchery Management Spawning and Rearing Protocol as necessary.

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....
Rule Caption: Adopt Regulations That Restrict Public Access of Department Fish Hatcheries.

Date:	Time:	Location:
8-6-10	8 a.m.	Department of Fish & Wildlife 3406 Cherry Ave. Commission Rm. Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Proposed Adoptions: Rules in 635-008

Proposed Amendments: Rules in 635-008

Proposed Repeals: Rules in 635-008

Last Date for Comment: 8-6-10

Summary: Amend rules relating to the public's access times and activities at Department fish hatcheries.

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....
Rule Caption: Amendments to the Sauvie Island Wildlife Area Management Plan.

Date:	Time:	Location:
8-6-10	8 a.m.	3406 Cherry Ave. Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138 & 496.146

Stats. Implemented: ORS 496.012, 496.138 & 496.146

Proposed Amendments: Rules in 635-008

Last Date for Comment: 8-6-10

Summary: Amendments to Oregon Administrative Rules for the Sauvie Island Wildlife Areas Management Plan. Amendments will guide management activities for the next 10 years.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....
Rule Caption: Amendments regarding harvest of game birds, season dates, open areas, and bag limits.

Date:	Time:	Location:
8-6-10	8 a.m.	3406 Cherry Ave. Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 498.002

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 498.002

Proposed Amendments: Rules in 635-008, 635-010, 635-045, 635-051, 635-052, 635-053, 635-054, 635-060

Last Date for Comment: 8-6-10

Summary: Amend rules regarding the harvest of game birds including 2010-2011 season dates, open areas, regulations and bag limits.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....
Rule Caption: Amend rules related to 2011 Oregon Sport Fishing Regulations.

Date:	Time:	Location:
8-6-10	8 a.m.	Department of Fish & Wildlife 3406 Cherry Ave. Commission Rm. Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146, 496.162, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.138, 496.146, 496.162 & 506.129

Proposed Adoptions: Rules in 635-011, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039

Proposed Amendments: Rules in 635-011, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039

Proposed Repeals: Rules in 635-011, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039

Last Date for Comment: 8-6-10

Summary: Amended rules to adopt sport fishing regulations for fin-fish, shellfish, and marine invertebrates for 2011.

NOTICES OF PROPOSED RULEMAKING

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....

Rule Caption: Amend Rules Relating to Competitive Trials, Commercial and Individual training for Hunting Dogs.

Date:	Time:	Location:
8-6-10	8 a.m.	3406 Cherry Ave. Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 498.006 & 498.106

Stats. Implemented: ORS 496.012, 496.138, 496.146, 498.006 & 498.106

Proposed Amendments: Rules in 635-043, 635-046

Last Date for Comment: 8-6-10

Summary: The purpose of this rule is to carry out the provisions of ORS 498.106 which relates to competitive field trials for hunting dogs and to provide the conditions under which commercial and individual dog training will be allowed.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....

Rule Caption: Amend Rules Relating to Wildlife Taxonomy and to the Non-Controlled, Exempt and Prohibited Species Lists.

Date:	Time:	Location:
8-6-10	8 a.m.	3406 Cherry Ave. Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242 & 2009 OL Ch. 492 (SB 391)

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242 & 2009 OL Ch. 492 (SB 391)

Proposed Amendments: Rules in 635-056

Last Date for Comment: 8-6-10

Summary: Review, update and amend rules relating to controlled, non controlled, exempt and prohibited species. Specific rule changes include: updating taxonomic standards, updating scientific and common names. Amend rules to implement portions of SB 391, enacted by the 2009 Legislative Assembly. This amendment moves Crocodylia from a non controlled to exempt species. Amendments may also include housekeeping and other changes necessary to update the rules.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....

Rule Caption: Adopt Rules for Oregon's Lower Columbia River Salmon and Steelhead Conservation and Recovery Plan.

Date:	Time:	Location:
8-6-10	8 a.m.	Department of Fish & Wildlife 3406 Cherry Ave., Commission Rm. Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Other Auth.: Native Fish Conservation Policy (OAR 635-007-0502 - 0509), federal Endangered Species Act.

Stats. Implemented: ORS 496.162, 506.109 & 506.129

Proposed Adoptions: Rules in 635-500

Proposed Amendments: Rules in 635-500

Proposed Repeals: Rules in 635-500

Last Date for Comment: 8-6-10

Summary: Adopt or amend rules, as necessary, relating to the *Lower Columbia River Conservation and Recovery Plan for Oregon Populations of Salmon and Steelhead*.

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....

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

Rule Caption: Update and combine the "Medicaid Payments" rules with portions of the "Other Contract Services" rules.

Date:	Time:	Location:
7-23-10	8 a.m.	DHS Building, 500 Summer St. NE Salem, OR 97301

Hearing Officer: Richard Luthé

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Proposed Adoptions: 309-016-0600, 309-016-0605, 309-016-0610, 309-016-0615, 309-016-0620, 309-016-0625, 309-016-0630, 309-016-0635, 309-016-0640, 309-016-0645, 309-016-0650, 309-016-0660, 309-016-0665, 309-016-0670, 309-016-0675, 309-016-0680, 309-016-0685, 309-016-0690, 309-016-0695, 309-016-0700, 309-016-0705, 309-016-0710, 309-016-0715, 309-016-0720, 309-016-0725, 309-016-0730, 309-016-0735, 309-016-0740, 309-016-0745, 309-016-0750, 309-016-0755

Proposed Repeals: 309-016-0600(T) – 309-016-0755(T)

Last Date for Comment: 7-30-10

Summary: The Addictions and Mental Health Division is updating the "Medicaid Payments" rules to reflect changes made to service delivery by the new "Integrated Services and Support" Rule (ISSR), which is being developed in conjunction with this rule revision. This revision also combines rules in OAR 309-015 ("Medicaid Payments") and OAR 309-034 ("Other Contract Services") for clarity and to reduce repetition.

Rules Coordinator: Richard Luthé

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, Public Health Division Chapter 333

Rule Caption: Requests for hearings following the suspension of water system operator certification.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.450, 448.455 & 448.994

Proposed Amendments: 333-061-0272

Last Date for Comment: 7-22-10, 5 p.m.

Summary: The Department of Human Services, Public Health Division is proposing to permanently amend Oregon Administrative Rule (OAR) 333-061-0272. OAR 333-061-0272 requires the Department to conduct a contested case hearing within 10 days of the request for hearing following the suspension of an individual's water system operator certification when that request for hearing is received within 10 days of receiving the notice of suspension. The Attorney General's model rules that govern contested case hearings before the Office of Administrative Hearings, OAR 137-003-0501(2), prohibits an agency from adopting procedural rules related to contested case hearings conducted by an administrative law judge. The section of

NOTICES OF PROPOSED RULEMAKING

OAR 333-061-0272 that is a procedural rule related to the conduct of hearings is inconsistent with OAR 137-003-0501(2). OAR 333-061-0272 will be amended to be consistent with OAR 137-003-0501(2).

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

.....

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

Rule Caption: Guardianships and Conservatorships.

Date:	Time:	Location:
7-20-10	10 a.m.	Human Services Bldg. 500 Summer St. NE, Rooms 137AB Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.070

Other Auth.: HB 2137 (2009), Ch. 512 (2009 OL)

Stats. Implemented: ORS 125.012 & 410.070

Proposed Amendments: 411-026-0000, 411-026-0010, 411-026-0020, 411-026-0030, 411-026-0050, 411-026-0060, 411-026-0070, 411-026-0080

Proposed Repeals: 411-026-0040

Last Date for Comment: 7-22-10, 5pm

Summary: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to update the guardianship and conservatorship rules in OAR chapter 411, division 026 to implement House Bill 2137 (2009) and reflect existing procedures, improve readability, and establish consistency with other SPD rules. Specifically, SPD is proposing to:

- Amend OAR 411-026-0000 to add authority to inform the court about abuse and neglect of a protected person;
- Amend OAR 411-026-0010 to update the definitions;
- Amend OAR 411-026-0020 to clarify and add fundamental procedures existing since 2003 such as exhausting lesser restrictive options;
- Amend OAR 411-026-0030 to clarify and add fundamental procedures existing since 2003 such as determining appropriate type of protective proceeding;
- Repeal OAR 411-026-0040 as the language is redundant;
- Amend OAR 411-026-0050 to add language to specify contract attorneys and update procedures to allow for assignment of an attorney based upon specialized legal need;
- Amend OAR 411-026-0060 to add fundamental procedures existing since 2003 such as making reasonable efforts to identify interested parties and fiduciaries;
- Amend OAR 411-026-0070 to reflect new procedures based on ORS 125.012 that SPD may disclose confidential client information to the court or petitioning attorney for the purposes of protective services and adopt new procedures to protect client privacy when disclosing confidential client information to the court; and
- Amend OAR 411-026-0080 to modify language and description of existing procedures to reflect nomination of attorneys for protection of client benefits or state recovery.

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

.....

Rule Caption: Memory Care Communities (formerly known as Alzheimer's Care Units).

Date:	Time:	Location:
7-20-10	3:30 p.m.	Human Services Bldg. 500 Summer St. NE, Rooms 137CD Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.070 & 443.886

Stats. Implemented: ORS 443.886

Proposed Adoptions: 411-057-0100, 411-057-0110, 411-057-0120, 411-057-0130, 411-057-0140, 411-057-0150, 411-057-0160, 411-057-0170, 411-057-0180, 411-057-0190

Proposed Repeals: 411-057-0000, 411-057-0010, 411-057-0020, 411-057-0030, 411-057-0040, 411-057-0045, 411-057-0050, 411-057-0060

Last Date for Comment: 7-22-10, 5 p.m.

Summary: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to repeal OAR 411-057-0000 to 411-057-0060 and adopt OAR 411-057-0100 to 411-057-0190 relating to memory care communities (formerly known as Alzheimer's care units). SPD plans to implement these rules on October 1, 2010. The proposed rules:

- Update language by changing the term "Alzheimer's care unit" to "memory care community";
- Encourage endorsed memory care communities to provide supports to individuals with dementia in a person directed manner, focusing on their daily routines, their preferences as well as needs as to how personal care is provided, and the activities that they engage in;
- Require applicants to demonstrate their capacity to operate a memory care community;
- Address the relinquishment of an endorsement and provide a process for when a memory care community wishes to relinquish their endorsement;
- Clarify that non-endorsed memory care communities may not advertise or imply that they have an endorsement. Requires SPD to send notice to cease advertising;
- Provide responsibilities of administration that requires specific training for Administrators, a memory care community disclosure statement, and policies and procedures specific to memory care communities;
- Allow for emergency staffing situations when required trained staff are unavailable;
- Enhance training requirements for staff when they are hired, yet allow for more flexibility for ongoing in-service training;
- Include a section that outlines the minimal services that are to be provided to residents in a memory care community; and
- Enhance the physical plant requirements for new or remodeled facilities to better ensure resident safety and quality of life.

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 Public Safety Standards and Training Chapter 259

Rule Caption: Housekeeping – include statutory requirement regarding Parole & Probation Officer certification in OAR.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.653

Proposed Amendments: 259-008-0060

Last Date for Comment: 7-21-10, Close of Business

Summary: Parole and probation officers have been inadvertently omitted from the rule summarizing statutory time frames within which public safety officers must obtain basic certification. Rule amendment corrects the oversight.

Rules Coordinator: Marilyn Lorange

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

Telephone: (503) 378-2427

NOTICES OF PROPOSED RULEMAKING

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

Rule Caption: Records Required for Use Fuel Handling and Reporting.

Stat. Auth.: ORS 184.616, 184.619 & 319.860

Stats. Implemented: ORS 319.370, 319.380, 319.390, 319.400 & 319.860

Proposed Amendments: 735-170-0010, 735-170-0020

Last Date for Comment: 7-21-10

Summary: Use fuel handled records are needed by the Department to effectively track diesel that enters the state of Oregon. These rule amendments are meant to clarify the reporting requirements of use fuel handlers.

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: Allows traffic signal owners to assign multiple priorities for emergency vehicles using preemption systems.

Stat. Auth.: ORS 184.616, 184.619 & 810.260

Stats. Implemented: ORS 810.260, 815.440 & 815.445

Proposed Amendments: 734-020-0310, 734-020-0320, 734-020-0330

Last Date for Comment: 7-21-10

Summary: There is considerable concern about the current requirement that other emergency vehicles, such as law enforcement, have a lower priority than fire. The original reason for the multiple priority was a perception that heavier vehicles needed some assurance that they would be able to preempt a signal when responding to an emergency call. However, multiple priorities have risk associated with a vehicle that may have the priority changed on them (i.e., law enforcement) by a higher priority vehicle taking away the preemption, which creates confusion. Recent research has documented measurable benefits associated with the use of preemption devices on law enforcement vehicles. The rule amendments will allow traffic signal owners to assign multiple priorities or the same priority for emergency vehicles using emergency preemption systems. It allows system owners to agree upon and document agreements with authorized operators of emergency preemption systems regarding the use and operation of the systems. It requires agencies operating emergency vehicles to provide training for authorized users, that lights and sirens must be activated when using the devices and that the devices be deactivated when the vehicle is set in park.

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 Veterans' Affairs Chapter 274

Rule Caption: Mediation Communication Confidentiality and Workplace Interpersonal Dispute Rules.

Stat. Auth.: ORS 36.224

Stats. Implemented: ORS 36.224, 36.228, 36.230 & 36.232

Proposed Adoptions: 274-007-0001, 274-007-0002

Proposed Amendments: 274-007-0001(T)

Last Date for Comment: 7-21-10

Summary: The proposed rule 274-007-0001 establishes procedures for the Oregon Department of Veterans' Affairs (ODVA) to make mediation communications confidential and to limit the discovery and admissibility of mediation to communications in subsequent proceedings. This rule covers mediation in which ODVA is a party or mediating a dispute as to which the agency has regulatory authority.

The proposed rule 274-007-0002 establishes procedures for ODVA to exercise its discretion in determining which disputes are mediated confidentially. This rule allows the parties to agree in writing to limit what they may later disclose or use in court from the mediation of disputes among ODVA employees.

Rules Coordinator: Bruce Craig

Address: Department of Veterans' Affairs, 700 Summer St. NE, Salem, OR 97301-1285

Telephone: (503) 373-2327

Land Conservation and Development Department Chapter 660

Rule Caption: Implements Senate Bill 1049 (2010) and facilitates local government implementation of Measure 49 authorizations.

Date:	Time:	Location:
7-22-10	8:30 a.m.	DLCD 635 Capitol St. NE Salem, OR 97301

Hearing Officer: LCD Commission

Stat. Auth.: ORS 197.040 & 2010 OL Ch. 8 (SB 1049)

Stats. Implemented: ORS 195.300-195.336, 197.015, 197.040, 197.065, 197.353, 2007 OL Ch. 424 (2007 Ballot Measure 49), 2009 OL Ch. 855 (HB 3225) & 2010 OL Ch. 8 (SB 1049)

Proposed Adoptions: 660-041-0180

Proposed Amendments: Rules in 660-041

Last Date for Comment: 7-22-10

Summary: The proposed rules would be codified in division 41, under Oregon Administrative Rules (OAR) chapter 660 and would direct review under Senate Bill (SB) 1049 and Measure 49 (M49) of about 400 otherwise ineligible Measure 37 (M37) claims; and would also include measures for local implementation of M49 authorizations. This rulemaking would make permanent some of the temporary M49 rules adopted by the Land Conservation and Development Commission in April of 2010 to implement SB 1049, which enable certain categories of landowners with otherwise ineligible M37 claims to make M49 elections. The bill requires affected claimants to pay a \$2,500 fee to cover the costs of further processing their claims and the DLCD process those claims by June 30, 2011. This rulemaking would also involve adoption of a new rule to assist local governments in working with landowners to implement their Measure 49 authorizations under Section 11 of M49.

Rules Coordinator: Casaria Tuttle

Address: Land Conservation and Development Department, 635 Capitol St. NE, Salem, OR 97301

Telephone: (503) 373-0050, ext. 322

Landscape Architect Board Chapter 804

Rule Caption: Delinquent registration, documenting PDH, auditing PDH, define in good standing, housekeeping changes to affidavit and biennial.

Stat. Auth.: ORS 671, 671.415 & 183

Stats. Implemented: ORS 671.376, 671.395 & 671.315

Proposed Adoptions: 804-025-0030, 804-025-0035

Proposed Amendments: 804-003-0000, 804-022-0020, 804-035-0010, 804-035-0020, 804-035-0035

Last Date for Comment: 7-30-10, Close of Business

Summary: Definitions: "in good standing" is being added to clarify what is required if an inactive registration status is to be granted.

NOTICES OF PROPOSED RULEMAKING

Reinstatement of delinquent registration: The Board is outlining what items must be presented to reinstate a registration that is delinquent.

Documenting PDH: This is a new rule in which the Board is outlining the acceptable documentation that must accompany the log if audited.

Auditing of PDH: This new rule outlines how the PDH audit is carried out by the Board.

Two housekeeping items are included. The name of a required form when completing business registration is being changed to Statement of Responsibility.

A change in wording from biennial to annual: When the business fee was changed from a biennial to an annual payment, the change was not made in OAR 804-035-0035.

Rules Coordinator: Susanna Knight
Address: 707 13th St. SE, Suite 261, Salem, OR 97361
Telephone: (503) 589-0093

Landscape Contractors Board Chapter 808

Rule Caption: Clarifies reinstatement date and allows licenses to change from expired to inactive.

Date:	Time:	Location:
7-22-10	9 a.m.	2111 Front St. NE, Suite 2-101 Salem, OR 97301

Hearing Officer: Michael Snyder
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.650, 671.658, 671.660 & 671.595
Proposed Amendments: 808-003-0130, 808-003-0235, 808-003-0255

Last Date for Comment: 7-22-10, Close of Hearing
Summary: 808-003-0130 – Clarifies reinstatement date.

808-003-0235 – Allows a license that expired less than two years prior to inactive status.

808-003-0255 – Clarifies that to convert a landscape construction professional license from an inactive to active, a licensee must comply with the continuing education requirements.

Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 378-5909

Office of Private Health Partnerships Chapter 442

Rule Caption: Change per definition to reflect new federal guidelines.

Date:	Time:	Location:
7-15-10	9 a.m.	525 Trade St. SE Salem, OR 97301

Hearing Officer: Wanda Davis
Stat. Auth.: ORS 735.724, 735.734 & 735.720–735.740
Other Auth.: HB 2116, 1115 Demonstration Waiver
Stats. Implemented: ORS 735.720 - 735.740
Proposed Amendments: 442-005-0010, 442-005-0050, 442-005-0060, 442-005-0100

Last Date for Comment: 7-15-10

Summary: FHIAP is amending:
442-005-0010 to delete the Investment and Savings definition to streamline eligibility to make insurance more affordable to more children, adults and families.

442-005-0050 to delete the Investment and Savings eligibility requirement and expand program income level from 185% to 200% to make insurance more affordable to more children, adults and families.

442-005-0060 to change the period of uninsurance (POU) from six months to two months.

442-005-0100 to change subsidy to 100% for children.

Rules Coordinator: Margaret Moran

Address: Office of Private Health Partnerships, 250 Church St. SE, Suite 200, Salem, OR 97301

Telephone: (503) 378-5664

Oregon Department of Education Chapter 581

Rule Caption: Requires adoption of process to allow students to demonstrate essential skills in language of origin.

Date:	Time:	Location:
7-21-10	1 p.m.	Dept. of Education 255 Capitol St. NE Salem, OR

Hearing Officer: Cindy Hunt
Stat. Auth.: ORS 329.075
Stats. Implemented: ORS 329.045, 329.075, 329.485 & 338.115
Proposed Adoptions: 581-022-0617
Last Date for Comment: 7-21-10, 5 p.m.

Summary: Rule directs schools districts and public charter schools to adopt process to allow certain English Language Learner students to demonstrate proficiency in essential skills in the students' language of origin.

Rules Coordinator: Diane Roth
Address: 255 Capitol St NE, Salem, OR 97310
Telephone: (503) 947-5791

Oregon Government Ethics Commission Chapter 199

Rule Caption: Adopts rules that provide guidelines to public officials.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.025, 244.040, 244.280(3), 244.282 & 244.284

Proposed Amendments: 199-001-0030, 199-005-0030

Last Date for Comment: 7-14-10, 5 p.m.

Summary: Adopts rules interpreting 2009 revisions to ORS Chapter 244. The rules address determining the source of gifts and housekeeping changes to address the agency name change.

Rules Coordinator: Virginia Lutz
Address: 3218 Pringle Rd SE, #220, Salem, OR 97302
Telephone: (503) 378-5105

Oregon Health Licensing Agency Chapter 331

Rule Caption: General maintenance, amendments made to provide clarification on certain procedures provided by Respiratory Therapists.

Date:	Time:	Location:
8-6-10	9 a.m.	Rhoades Conference Rm. 700 Summer St. NE, Suite 320 Salem, OR

Hearing Officer: Bert Krages
Stat. Auth.: ORS 688.830 & 676.615
Stats. Implemented: ORS 688.800, 688.805, 688.815 & 688.834
Proposed Adoptions: 331-705-0070, 331-715-0045
Proposed Amendments: 331-705-0050, 331-705-0060, 331-710-0010, 331-710-0020, 331-710-0030, 331-715-0000, 331-715-0010, 331-715-0030, 331-720-0010, 331-720-0020, 331-725-0020

Last Date for Comment: 8-6-10

Summary: General amendments to Oregon Administrative Rules, Chapter 331, Divisions 705 to 725 to align current industry, agency and statewide rulemaking standards and principles. Amendments include allowance for a Certification of Completion from a college or university which has been notarized by the program director and defining "place" as referenced in ORS 688.805 to specify emergency and ambulatory settings.

Amendments made to align with administrative rules for all Oregon Health Licensing Agency programs pertaining to application, identification requirements, examination, and affidavit of licensure.

NOTICES OF PROPOSED RULEMAKING

Adopt 331-705-0070, Sleep Lab Exemption, to allow for certain respiratory care services (e.g. positive airway pressure) to be performed in sleep labs under a medical director. The sleep lab must be owned by a hospital or a physician to be within the exemption. The exemption excludes certain respiratory care services that require a respiratory therapist to provide the service due to the complexity.

Adopt 331-715-0045, Pharmacological Agents, to set general parameters around which pharmacological agents respiratory therapists may use and by what method. Prohibits the use of certain pharmacological agents under intravenous administration.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

Oregon Health Licensing Agency, Board of Cosmetology Chapter 817

Rule Caption: Amendments to the Board of Cosmetology's fees and business authorization renewal term.

Date:	Time:	Location:
7-30-10	9 a.m.	Rhoades Conference Rm. 700 Summer St. NE, Suite 320 Salem, OR

Hearing Officer: Bert Krages

Stat. Auth.: ORS 676.605, 676.606, 676.615 & 690.235

Stats. Implemented: ORS 676.605, 676.606, 676.615 & 690.235

Proposed Amendments: 817-040-0003

Last Date for Comment: 7-30-10

Summary: The Board of Cosmetology (Board) is proposing to amend its fee schedule in an effort to prevent revenue shortfall in the current and future biennia. In addition, the Board proposes to return business authorizations to a one-year renewal cycle to stabilize the Board's revenue stream.

The proposed fee changes will reduce the cost for graduating students to obtain certification in the fields of practice. The reciprocity application and original certificate fees will increase due to the time and complexity in processing these applications. At the same time, all business authorizations will increase since these authorizations have not been increased for 10 years. The Board's objective is to reduce the financial burden for recent graduates entering the field and to stabilize Board revenues in the current and future biennia.

Fee changes will be implemented in two phases. The first phase would occur in October 2010 and includes a decrease to the delinquency fee with increases to reciprocity applications, certificates issued by reciprocity, all business authorizations, practitioner certificate renewals, and information packets. The second phase would occur in June 2011 and includes decreases to practitioner applications, examinations, and original practitioner certificates.

The Board of Cosmetology monitors more than 65,000 active authorizations held by approximately 35,500 authorization holders, which accounts for 75 percent of the overall Health Licensing Agency's budget. Over the last two biennia, the Board's costs have increased due to inflationary factors and personal services increases. These increases have been financed by the Board's ending balance resulting in projected current and future biennia negative ending balances. Fee adjustments are necessary to increase and stabilize revenue streams in order to address the projected negative ending balances.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, Board of Cosmetology, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Establishes Manufactured Dwelling Parks Preservation Fund; authorizes assistance to acquire manufactured dwelling parks.

Date:	Time:	Location:
8-12-10	9 a.m.	725 Summer St. NE Room 124B Salem, OR 97301-1266

Hearing Officer: Debie Zitzelberger

Stat. Auth.: ORS 456.555

Stats. Implemented: 2009 OL Ch. 906, Sec. 7

Proposed Adoptions: 813-027-0001, 813-027-0010, 813-027-0020, 813-027-0030, 813-027-0040, 813-027-0050, 813-027-0060, 813-027-0070, 813-027-0080, 813-027-0090

Proposed Repeals: 813-027-0001(T), 813-027-0010(T), 813-027-0020(T), 813-027-0030(T), 813-027-0040(T), 813-027-0050(T), 813-027-0060(T), 813-027-0070(T), 813-027-0080(T), 813-027-0090(T)

Last Date for Comment: 8-12-10, Close of Hearing

Summary: The rules will implement the Manufactured Dwelling Parks Preservation Fund and authorizes the department to provide assistance to community organizations and tenant groups in acquiring manufactured dwelling parks.

Rules Coordinator: Sandy McDonnell

Address: North Mall Office Building, 725 Summer Street NE, Suite B, Salem Oregon 97301-1266

Telephone: (503) 986-2012

Rule Caption: Establishes the Housing Preservation Fund; authorizes assistance for the acquisition, renovation or maintenance of eligible housing.

Date:	Time:	Location:
8-12-10	9 a.m.	725 Summer St. NE, Rm. 124B Room 124B Salem, OR 97301-1266

Hearing Officer: Shelly Cullin

Stat. Auth.: ORS 456.555

Stats. Implemented: 2009 OL Ch. 906, Sec. 7

Proposed Adoptions: 813-028-0001, 813-028-0010, 813-028-0020, 813-028-0030, 813-028-0040, 813-028-0050, 813-028-0060, 813-028-0070, 813-028-0080, 813-028-0090

Proposed Repeals: 813-028-0001(T), 813-028-0010(T), 813-028-0020(T), 813-028-0030(T), 813-028-0040(T), 813-028-0050(T), 813-028-0060(T), 813-028-0070(T), 813-028-0080(T), 813-028-0090(T)

Last Date for Comment: 8-12-10, Close of Hearing

Summary: The rules will implement the Housing Preservation Program and authorize the department to allocate financial aid in the acquisition, renovation or maintenance of section 8 housing or other housing with federal rent subsidies.

Rules Coordinator: Sandy McDonnell

Address: North Mall Office Building, 725 Summer Street NE, Suite B, Salem Oregon 97301-1266

Telephone: (503) 986-2012

Oregon Liquor Control Commission Chapter 845

Rule Caption: Repeal obsolete rules regarding license refusal bases.

Stat. Auth.: ORS 471, 471.030, 471.040 & 471.730(2) & (5)

Stats. Implemented: ORS 471.311, 471.313 & 471.315

Proposed Repeals: 845-005-0327

Last Date for Comment: 7-30-010

Summary: This rule contains a decision making tool in the form of a matrix that can be used in lieu of applying license refusal criteria on an individual basis. The commission has not used this rule in license investigations for many years due to legal problems identi-

NOTICES OF PROPOSED RULEMAKING

fied with the specific rules as drafted. The Commission currently utilizes the separate refusal criteria outlined in statute and other rules instead. Commission staff are forming a task force with external stakeholders to identify needed statutory revisions to license denial criteria. Once the task force's work is completed, a new matrixed approach to evaluating a license applicant's qualifications may be addressed by rulemaking.

Rules Coordinator: Jennifer Huntsman

Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222

Telephone: (503) 872-5004

Oregon Public Employees Retirement System

Chapter 459

Rule Caption: Eligibility and costs to members for requesting retirement estimates and verification of retirement data.

Date:	Time:	Location:
8-24-10	1 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.610 & 238.650

Stats. Implemented: ORS 238.610

Proposed Amendments: 459-005-0250

Last Date for Comment: 9-3-10

Summary: Allows only one free estimate per year and only within one year of retirement eligibility. This rule is also being amended due to SB 897 to establish procedures for identifying and recovering administrative costs for providing additional verifications of retirement data after the member has received one free verification request.

Copies of the proposed rules are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

Rule Caption: New rules to implement verification of retirement provisions of Senate Bill 897 (2010).

Date:	Time:	Location:
8-24-10	2 p.m.	PERS Brdrm. 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650, 238A.450 & 2010 OL Ch. 1

Stats. Implemented: 2010 OL Ch. 1

Proposed Adoptions: 459-005-0040, 459-005-0045

Proposed Amendments: 459-005-0610

Last Date for Comment: 9-3-10

Summary: The rules and rule modifications are needed to implement Senate Bill 897 (2010), which allows members of PERS to request verification of certain retirement data (operative July 1, 2011). Clarifies employer reporting requirements, data included in the verification, conditions that may affect data in verification, and other matter relevant to implementation. Modifies 459-005-0610 to accommodate SB 897.

Copies of the proposed rules are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

Rule Caption: Amend "Equal To Or Better than" (ETOB) rule to reflect better testing standards.

Date:	Time:	Location:
7-6-10	1 p.m.	PERS Brdrm. 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 237.620

Proposed Amendments: 459-030-0025

Last Date for Comment: 7-23-10

Summary: The ETOB testing standards in the current administrative rule, when used to compare employer defined contribution plans to the PERS' defined benefit plan, provided unacceptable results preventing the PERS Board from fulfilling its statutory responsibilities. With the aid of actual test data and additional input from stakeholders and actuaries, the ETOB testing standards will be examined and adjusted to provide a test that will more reasonably adhere to statutory directives.

Copies of the proposed rules are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

Rule Caption: Implement portion of Senate Bill 897 and federal law changes; clarify health insurance eligibility provisions.

Date:	Time:	Location:
7-6-10	1 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.410, 238.650 & 238A.450 & 2010 OL Ch. 1

Stats. Implemented: ORS 238.410, 238.415, 238.420 & 238A.050 & 2010 OL Ch. 1

Proposed Amendments: 459-035-0000, 459-035-0001, 459-035-0020, 459-035-0030, 459-035-0040, 459-035-0070, 459-035-0080
Last Date for Comment: 7-23-10

Summary: Senate Bill 897, which became effective on February 8, 2010, allows OPSRP Pension Program retired members, their spouses, and eligible dependents to participate in the PERS Health Insurance Program. The proposed rule modifications are necessary to include ORS Chapter 238A in that program's rules.

Additional modifications to OAR 459-035-0001 and 459-035-0020 will incorporate changes to the definition of dependent pursuant to changes in federal law enacted in the Patient Protection and Affordable Care Act.

OAR 459-035-0040 is also being amended to clarify the eligibility for receiving a RHIPA subsidy, which will benefit members and staff.

Other modifications to these rules would allow PERS to extend health insurance participation to registered domestic partners. Those modifications were adopted by the Board in 2009 but not filed because the IRS had not ruled on the plan's compliance.

Copies of the proposed rules are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

Rule Caption: New rule to address distribution of IAP accounts at retirement.

NOTICES OF PROPOSED RULEMAKING

Date: 8-24-10
Time: 1 p.m.
Location: PERS Boardroom
11410 SW 68th Pkwy.
Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.400
Proposed Adoptions: 459-080-0260
Last Date for Comment: 9-3-10

Summary: The new proposed rule clarifies that distribution under ORS 238A.400 of the member's Individual Account Program (IAP) account(s) at retirement shall begin only at the time the member retires for service under the PERS Chapter 238 Program or OPSRP Pension Program. Also, the proposed rule provides a member of the IAP who is retired for disability under the PERS Chapter 238 Program may begin distribution of the member's IAP account(s) upon reaching earliest service retirement age.

Copies of the proposed rules are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

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

Oregon Qualified Tuition Savings Board
Chapter 173

Rule Caption: Update rules that relate to Oregon's 529 college savings program.

Date: 7-20-10
Time: 9 a.m.
Location: 350 Winter St. NE, Suite 100
Salem, OR 97301

Hearing Officer: Michael Parker
Stat. Auth.: ORS 183.341, 183.502(3), 36.224 & 348.853(2)
Stats. Implemented: ORS 348.841-348.873, 183.341, 183.502(3), 36.224, 36.228, 36.230, 36.232, 348.853(2), 348.857(4), 348.867(1), 348.857(1), 348.860(1), 348.841(2), 348.857(2), 348.870(1), 348.867(2), 348.841(9), 348.870(3) & 348.857(6)

Proposed Adoptions: 173-001-0020, 173-005-0005, 173-016-0010

Proposed Amendments: 173-001-0005, 173-001-0010, 173-001-0015, 173-005-0000, 173-006-0000, 173-006-0005, 173-007-0000, 173-007-0005, 173-008-0000, 173-008-0005, 173-008-0010, 173-009-0000, 173-009-0005, 173-009-0010, 173-009-0015, 173-010-0000, 173-010-0025, 173-011-0000, 173-012-0000, 173-012-0005, 173-014-0000, 173-014-0005, 173-014-0010, 173-015-0010

Last Date for Comment: 7-13-10

Summary: The rules being adopted and amended are the rules of the Oregon 529 College Savings Board regarding notice of proposed rulemaking and model rules of procedure; administration; eligibility; change in account ownership or designated beneficiary; opening and account, application participation agreement; contributions; distributions; termination of an account; fees; investment policies; confidentiality; and other miscellaneous matters.

Rules Coordinator: Michael J. Parker
Address: Qualified Tuition Savings Board, 350 Winter St. NE, Suite 100, Salem, OR 97301
Telephone: (503) 373-1903

Oregon State Treasury
Chapter 170

Rule Caption: Revise Division Administrative Fees for Private Activity Bonds and Conduit Revenue Bonds and Create Waiver.

Stat. Auth.: ORS 287A.634 & 287.640
Stats. Implemented: ORS 287A.634 & 287.640
Proposed Amendments: 170-061-0015
Last Date for Comment: 7-23-10

Summary: Amendments to this rule reduce the Debt Management Division's (DMD) fees for its activities related to (1) the issuance of smaller denomination, private placement conduit revenue bonds and (2) the processing certain types of Private Activity Bond (PAB) allocations. In addition, the amendment allows the Debt Management Division to waive or reduce administrative fees on various services it provides to state and local governments based on compelling financial circumstances.

Currently, DMD charges a one-time processing fee of \$5,000 when it issues private placement, conduit revenue bonds with a denomination at or below \$5 million, while all other transactions in this category pay the standard \$15,000 per transaction. Generally, these types of transactions are conducted for non-profits, small businesses, and low-income multi-family housing developments. The amended rule would reduce DMD's one-time processing fee to \$10,000 on private placement, conduit revenue bonds sized between \$5 million and \$10 million, in an effort to help keep down overall issuance costs for these relatively smaller-sized transactions.

The Division now charges a one-time \$10,000 fee for the processing of all private activity bond allocations by the Private Activity Bond Committee. This amendment reduces the one-time processing fee to \$2,000 when PAB allocations are made to first-time homebuyer Mortgage Credit Certificate (MCC) programs. Normally, DMD staff must track PAB allocations for up to four years in order to determine if PAB bonds are actually issued, at which time an allocation is considered "spent" under Federal tax law. On-going tracking of MCC allocations by staff is not required, however, as they are considered "spent" upon allocation under Federal tax law. The reduced fee therefore reflects the reduced amount of DMD staff work involved in processing these types of PAB allocations.

Rules Coordinator: Sally Wood
Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301
Telephone: (503) 378-4990

Oregon Student Assistance Commission,
Office of Degree Authorization
Chapter 583

Rule Caption: Defines honorary and earned degrees. Clarifies limits on use of honorary degrees.

Date: 7-23-10
Time: 9:30 a.m.
Location: 1500 Valley River Dr.
Suite 100
Eugene, OR 97401

Hearing Officer: Beverly Boyd
Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.609
Proposed Amendments: 583-030-0011, 583-030-0016
Last Date for Comment: 7-23-10, Close of Hearing
Summary: Clarifies the definition of "degree" to include both earned and honorary degrees. Sets forth limits on use of honorary degrees.
Rules Coordinator: Beverly R. Boyd
Address: 1500 Valley River Drive, Suite 100, Eugene, OR 97401
Telephone: (541) 687-7394

Rule Caption: Amends rule to comply with ORS 348.597 related to ODA jurisdiction as amended by 2009 legislature.

Date: 7-23-10
Time: 9:30 a.m.
Location: 1500 Valley River Dr.
Suite 100
Eugene, OR

Hearing Officer: Beverly Boyd
Stat. Auth.: ORS 348.597
Stats. Implemented: ORS 348.597
Proposed Amendments: 583-030-0011
Last Date for Comment: 7-23-10, Close of Hearing
Summary: ORS 348.597 (as revised 2009) changed ODA jurisdiction to include all for-profit colleges and exempt all nonprofit region-

NOTICES OF PROPOSED RULEMAKING

ally accredited colleges that have operated in Oregon at least five years. This rule change implements the statutory change.

Rules Coordinator: Beverly R. Boyd

Address: 1500 Valley River Drive, Suite 100, Eugene, OR 97401

Telephone: (541) 687-7394

Rule Caption: Revises standards related to faculty qualifications, job placement and admissions.

Date:	Time:	Location:
7-23-10	9:30 a.m.	1500 Valley River Dr. Suite 100 Eugene, OR 97401

Hearing Officer: Beverly Boyd

Stat. Auth.: ORS 348.594 et seq.

Stats. Implemented: ORS 348.603

Proposed Amendments: 583-030-0035

Last Date for Comment: 7-23-10, Close of Hearing

Summary: Revises three parts of the standards applicable to schools and programs under ODA jurisdiction. Clarifies standards for use of high school diplomas. Clarifies expectations of faculty credentials. Clarifies standards related to placement of graduates.

Rules Coordinator: Beverly R. Boyd

Address: 1500 Valley River Drive, Suite 100, Eugene, OR 97401

Telephone: (541) 687-7394

Oregon University System, Oregon State University Chapter 576

Rule Caption: Creates discount for OSU Veterinary Teaching Hospital employees, professional students, alumni and service animal owners.

Stat. Auth.: ORS 351.070

Other Auth.: OAR 580-040-0010

Stats. Implemented: ORS 351.070

Proposed Adoptions: 576-010-0031, 576-010-0036, 576-010-0041

Last Date for Comment: 8-4-10, 5 p.m.

Summary: The purpose of this rule is to authorize Oregon State University's Veterinary Teaching Hospital ("VTH") to charge discounted fees for certain services and merchandise to faculty, professional students, staff and alumni of the College, as well as owners of service animals, through the establishment of a Discounted Fee Program. College of Veterinary Medicine ("College") faculty and staff will be eligible to receive a 20% discount on certain VTH services for eligible pets and a 40% discount off the retail price of Drug Room merchandise. Professional students will be eligible to receive a 25% discount on certain VTH services for eligible pets and a 40% discount off the retail price of Drug Room merchandise. Graduates of the College and owners of eligible service animals will be eligible to receive a 20% discount on certain VTH services.

Rules Coordinator: Barbara Melton

Address: Office of the General Counsel, 638 Kerr Administration Bldg, Corvallis, OR 97331-2128

Telephone: (541) 737-6262

Oregon University System, Western Oregon University Chapter 574

Rule Caption: Revisions to special course fees and general services fees.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Proposed Amendments: 574-050-0005

Last Date for Comment: 7-21-10

Summary: Amendments will allow for increases, additions, and revision of special course fees and general service fees.

Rules Coordinator: Debra L. Charlton

Address: Oregon University System, Western Oregon University, 345 N Monmouth Ave., Monmouth, OR 97361

Telephone: (503) 838-8597

Oregon Youth Authority Chapter 416

Rule Caption: These rules institute guidelines for acceptable use of electronic networks by offenders within OYA facilities.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Proposed Adoptions: 416-040-0005, 416-040-0010, 416-040-0015, 416-040-0020

Last Date for Comment: 7-28-10, Close of Business

Summary: These rules institute guidelines for acceptable use of electronic networks by offenders within OYA close custody facilities. An offender is a person in the legal and physical custody of the OYA, or a person in the legal custody of the Department of Corrections and the physical custody of the OYA in OYA facilities. Electronic networks are specific computers, hardware, software, storage media, and networks accessible to authorized offenders within OYA close custody facilities. Electronic networks provide offenders access to education and employment information to assist in their successful reintegration from confinement into the community. Access to electronic networks may be granted as described in these rules contingent upon the safety, security, and order of the facility.

Rules Coordinator: Winifred Skinner

Address: 530 Center Street NE, Suite 200, Salem, Oregon 97301-3765

Telephone: (503) 373-7570

Parks and Recreation Department Chapter 736

Rule Caption: Amendment of OAR 736-018-0045 to Adopt the Bates State Park Master Plan.

Date:	Time:	Location:
7-20-10	6 p.m.	Prairie City Grange Hall 204 N. McHaley Prairie City, OR

Hearing Officer: Curtis Smith

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180(1)

Proposed Amendments: 736-018-0045

Last Date for Comment: 8-19-10

Summary: ORS 390.180(1) authorizes the Director of the Oregon Parks and recreation Department (OPRD) to adopt administrative rules that establish a master plan for each state park. Accordingly, OPRD is adopting a master plan for Bates State Park, a newly established park in Grant County, Oregon. Master plans for state parks are adopted as state rules under OAR 736-018-0045. The purpose of amending AR 736-018-0045 is to adopt the new master plan as a state rule.

The master plan responds to the most current information in park resource conditions and public recreation needs as they pertain to this park. The plan was formulated through OPRD's mandated master planning process involving meetings with the general public, an advisory committee, recreation advocacy groups, environmental advocacy groups, affiliated Tribes, and affected state and federal agencies and local governments.

Rules Coordinator: Vanessa DeMoe

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

Telephone: (503) 986-0719

Rule Caption: Clarify Sponsorship agreements and Titles at Oregon Exposition Center.

NOTICES OF PROPOSED RULEMAKING

Date: 7-22-10
Time: 9 a.m.
Location: Oregon Expo Center & Fairgrounds, Pavilion
2330 17th St. NE
Salem, OR 97301

Hearing Officer: Brian T. Silcott

Stat. Auth.: ORS 565.080

Stats. Implemented:

Proposed Amendments: Rules in 736-201

Last Date for Comment: 7-22-10

Summary: More clearly define "Sponsorship" and how sponsorship agreements may be used within OEC and State Fair.

Make changes to reflect current Executive Titles at OEC.

Rules Coordinator: Vanessa DeMoe

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

Telephone: (503) 986-0719

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

Rule Caption: City Government Personnel Records Recruitment and Selection Records – Retention Period correction.

Date: 7-26-10
Time: 10 a.m.
Location: 800 Summer Street 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: 7-26-10, 5 p.m.

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), Recruitment and Selection Records, was incorrect and that it should be reduced from 10 years to 3 years. This proposed rule will correct the rule to reflect the Advisory Committee's previous decision. This is the second hearing for this proposed rule, and the comment period is being extended.

Rules Coordinator: Julie Yamaka

Address: 800 Summer Street NE, Salem, OR 97310

Telephone: (503) 378-5199

.....
**Secretary of State,
Elections Division
Chapter 165**

Rule Caption: Amendment of Procedural Rules for Contested Case Hearings.

Stat. Auth.: ORS 246.150, 260.232 & 260.995

Stats. Implemented: ORS 260.232 & 260.995

Proposed Amendments: 165-001-0080

Last Date for Comment: 7-28-10

Summary: This rule is proposed for amendment to update the procedures for conducting contested case hearings by requiring each party to deliver exhibits to the administrative law judge, all parties and the agency no later than five business days prior to the commencement of any hearing.

Rules Coordinator: Brenda Bayes

Address: Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310

Telephone: (503) 986-1518

.....
Rule Caption: Multiple Political Party Designations on General Election Ballot.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 254.135

Proposed Adoptions: 165-007-0320

Last Date for Comment: 7-28-10

Summary: This rule adopts the procedures for candidates who are nominated by multiple political parties to accept those nominations. Additionally this rule sets forth the three character designations that will be used to abbreviate political parties listed on the ballot and the manner in which the political party designations selected by candidates nominated by multiple minor political parties will appear on the ballot opposite the name of the candidate.

Rules Coordinator: Brenda Bayes

Address: Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310

Telephone: (503) 986-1518

.....
Rule Caption: Updating Procedures for Filing County and Metropolitan service District Measures in State Voters' Pamphlet.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 251.285

Proposed Amendments: 165-016-0095

Last Date for Comment: 7-28-10

Summary: The proposed amendment clarifies that the fee or number of signatures required for a petition as required by statute shall be paid for each measure argument. Additionally, the amendment incorporates changes made by the 2009 Legislative Assembly.

Rules Coordinator: Brenda Bayes

Address: Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310

Telephone: (503) 986-1518

.....
**Teacher Standards and Practices Commission
Chapter 584**

Rule Caption: Adopts Social Worker and Instructor Appraisal Committee Standards. Clarifies Emergency Licenses, testing, endorsements, out-of-state preparation, and 120 day "grace" period.

Date: 7-22-10
Time: 1–3 p.m.
Location: TSPC Office
465 Commercial St. NE
Salem, OR 97301

Hearing Officer: Victoria Chamberlain

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–342.430 & 342.985

Proposed Adoptions: 584-017-0500, 584-017-0510, 584-017-0520, 584-017-0530, 584-017-0541, 584-017-0551, 584-017-0555, 584-017-0560, 584-017-0570, 584-017-0580, 584-042-0022

Proposed Amendments: 584-036-0080, 584-038-0004, 584-038-0190, 584-050-0040, 584-060-0012, 584-060-0013, 584-060-0014, 584-060-0051, 584-060-0062, 584-060-0210

Last Date for Comment: 8-5-10

Summary: (1) 584-017-0500: *Purpose of School Social Worker Licensure* – New standard for Social Worker Program.

(2) 584-017-0510: *Selection, Recruitment, and Admission of Candidates* – New standard for Social Worker Program

(3) 584-017-0520: *Retention and Advising* – New standard for Social Worker Program.

(4) 584-017-0530: *Curriculum Design* – New standard for Social Worker Program.

(5) 584-017-0541: *Knowledge, Skills Abilities and Cultural Competencies for Initial School Social Worker License* – New standard for Social Worker Program. Distinguishes School Social Worker Program from the School Counseling Program.

(6) 584-017-0551: *Knowledge, Skills, Abilities and Cultural Competencies for Continuing School Social Worker License* – New standard for Social Worker Program.

(7) 584-017-0555: *Authorization Level for School Social Workers* – New standard for Social Worker Program. Establishes only one "level" for School Social Worker License.

(8) 584-017-0560: *Practica for the School Social Worker Program* – New standard for Social Worker Program. Specifies practica in two essential parts; licensure required for supervision of practica;

NOTICES OF PROPOSED RULEMAKING

designates number of visits by supervising faculty; and requires work sample in both placements.

(9) 584-017-0570: *Knowledge of School Law for School Social Worker* – New standard for Social Worker Program.

(10) 584-017-0580: *Verification of Program Completion* – New standard for Social Worker Program.

(11) 584-036-0080: *Licensure Tests* – Allows out-of-state applicants who passed an out-of-state subject-matter test can waive a comparable Oregon licensure test.

(12) 584-038-0004: *Adding Endorsements to a Basic or Standard License* – Clarifies that practicum to add endorsement to Basic and Standard is the same as adding endorsement to Initial or Continuing.

(13) 584-038-0190: *Basic Advanced Math* – Completes incomplete sentence.

(14) 584-042-0022: *Instructor Appraisal Committees* – Adopts new rule regarding Instructor Appraisal Committees (IAC).

(15) 584-050-0040: *Expiration and Continued Use of Expired Licenses and Registrations* – Clarifies use of 120 “grace” period.

(16) 584-060-0012: *Initial I Teaching License Requirements* – Clarifies out-of-state preparation.

(17) 584-060-0013: *Initial II Teaching License Requirements* – Clarifies when coursework must be completed.

(18) 584-060-0014: *Initial Teaching License for Out-of-State Candidate First Application* – Housekeeping updates.

(19) 584-060-0051: *Teaching Authorization Levels* – Middle Level authorization (clarifies grade levels and when Multiple Subjects endorsement is required).

(20) 584-060-0062: *Endorsements to Initial I, Initial II or Continuing Teaching Licenses* – Clarifies licensure endorsements.

(21) 584-060-0210: *Emergency Teaching License* – Clarifies a complete resume is required and transcripts may be required.

Rules Coordinator: Victoria Chamberlain

Address: Teacher Standards and Practices Commission, 465 Commercial St. NE, Salem, OR 97301

Telephone: (503) 378-6813

ADMINISTRATIVE RULES

Board of Architect Examiners Chapter 806

Rule Caption: Allow Electronic JE and Eliminate Oral Interview for Reciprocity Candidates.

Adm. Order No.: BAE 2-2010

Filed with Sec. of State: 6-11-2010

Certified to be Effective: 10-3-10

Notice Publication Date: 3-1-2010

Rules Amended: 806-010-0020, 806-010-0035, 806-010-0060

Subject: This rule amendment eliminates the oral interview for those applying to practice architecture in Oregon for registration and who are already registered in another Board approved jurisdiction (reciprocity candidates) and makes the jurisprudence examination (JE) available electronically for all candidates rather than requiring they come to Oregon to sit for the JE. This rule also makes some house-keeping and grammatical changes.

Rules Coordinator: Carol Moeller—(503) 763-0662, ext. 23

806-010-0020

Initial Registration by Examination

(1) A person seeking registration who is not actively registered in another Board approved jurisdiction must present the Board with appropriate application and fees, and a complete record demonstrating to the Board that the person has met the required accredited education, experience, and examination, as follows:

(a) A person must have obtained a first professional degree in architecture from a NAAB-accredited program of architecture.

(b) A person may submit an application and examination fee to the Oregon Board only after he or she has established an IDP record with NCARB.

(c) A person may begin taking the ARE only after he or she receives written notice from the Board that the application has been approved.

(d) After a person meets the requirements of (1)(a) through (1)(c) above, he or she may only use the title "Architectural Intern". A person that uses this title without first receiving written notice from the Board that they are qualified to do so may be subject to disciplinary action.

(e) Before the Board can evaluate a person for initial registration by examination, an applicant must demonstrate the following:

(A) Successful completion of the IDP program; and

(B) Successful passing of all divisions of the ARE; and

(C) Successful completion of educational requirements outlined in (1)(a) above.

(f) Upon successfully meeting all requirements, a person seeking initial licensure by exam must also pass the Board's jurisprudence examination (JE) and an oral interview before the Board.

(2) The Board may grant registration after evidence is received that a person has met all requirements, passes the JE and oral interview, and pays the established registration fees.

(3) **IDP:** The Board requires a person to complete acceptable experience, as evaluated by NCARB and found within NCARB's Intern Development Program Guidelines. A person should direct requests for admittance to the IDP to NCARB.

(4) **ARE:** Before beginning to take the ARE, the Board requires a person to provide the Board with a complete application for examination made on forms provided by the Board and accompanied by a fee, and arrange for NCARB records to be sent to the Board. The Board must review and approve NCARB verification prior to a person scheduling any division of the examination. A person may begin testing only after he or she receives written approval from the Board.

(a) The intent of the ARE is to evaluate a person's competence in the protection of public health, safety and welfare to provide the architectural services of building design and construction systems; building systems; construction documents and services; programming, planning and practice; schematic design; site planning and design; and structural systems. The subject of life safety is the basic purpose of the ARE and this subject permeates the entire examination; the subject of energy conservation is an economic and welfare issue and as a subject is considered through the synthetic process of developing architecture. The ARE content is based on the knowledge and skills required of a newly registered architect, practicing independently, to provide architectural services. The ARE evaluates an individual's competence in the provision of architectural services to protect the public health, safety, and welfare.

(b) **Grades:** The Board adopts the grading procedures established by NCARB. NCARB's test result findings are binding. A person will have no opportunity to review or challenge test results.

(A) Periodically the ARE is updated with a newer version. When this occurs, there will be a conversion between older and newer versions, and those individuals who have not completed the ARE in one version must complete appropriate transitions to be considered as passing the ARE.

(B) To protect an individual's right to control the distribution of his or her scores, the Board will not divulge test results to others, except at the individual's specific written request.

(C) Individuals must pass or fail a division of the ARE at least once every five years or the individual will lose eligibility to test and must establish new eligibility under the rules in effect at that time.

(c) **Five-Year Rolling Clock:** All divisions of the ARE must be passed within a consecutive five-year period of time, referred to as the "five-year rolling clock", with specific criteria to follow:

(A) The five-year rolling clock period begins on the date when the first successfully passed division is administered, and all ARE divisions must be completed during the five-year period that follows.

(B) If an individual does not successfully complete all divisions of the ARE within the five-year window, the passing scores of earlier divisions will expire.

(C) Once the grade for a division expires and is considered invalid, examinees may retake the invalid division as long as all ARE divisions are validly passed within a consecutive five-year window.

(D) The five-year rolling clock applies to all examinees who have not yet completed all divisions of the ARE. Individuals who passed divisions of the ARE prior to January 1, 2006, were given an extension of time to complete the remaining unpassed divisions. That extension of time expires on December 31, 2010. Effective January 1, 2011, all candidates are subject to the five-year rolling clock.

(E) A person must complete all divisions of the ARE within the established timelines before the Board will consider that person for registration.

(d) **Retakes:** A person who has received written notice from the Board that they may begin testing may schedule the examination divisions, in any order of administration and on a time schedule of the person's choice, by appointment with the test centers. Individuals have unlimited opportunities to re-take divisions, except that a failed division cannot be rescheduled within the six month period following the date that the failed division was administered.

(5) **Completing Registration:** Once the application materials have been evaluated and the Board determines that a person has demonstrated that they have met the education, IDP, and ARE requirements, the Board may invite the person to continue with the final steps to registration.

(6) **Jurisprudence Examination (JE):** After an applicant has successfully completed the education, ARE, and IDP requirements, they must pass the Board's JE covering Oregon statutes and rules governing the practice of architecture before being further considered for registration.

(a) The JE will be administered in a manner approved by the Board. Individuals will have no longer than 60 minutes in which to complete the JE. A passing score of 84% is the minimum accepted passing score.

(b) Individuals will be notified whether they pass or fail the JE, and will not be allowed any opportunity to review or challenge test results.

(c) Individuals who do not pass the JE may retest no sooner than the date the Board notifies them in writing that they may retest. However, in no event may a person test sooner than 30 days after the date of the failed JE.

(7) **Oral Interview:** Individuals who successfully pass the JE must appear before the Board for an oral interview. The oral interview is held on regularly scheduled Board meeting dates. Individuals will be invited to the oral interview after the person passes the JE. The oral interview is an opportunity for individuals to meet the Board and discuss the rules and laws in effect in Oregon.

(8) **Registration:** Upon successful completion of the requirements of this section and upon payment of the registration fee, the Board may grant a certificate of registration by written notification.

(9) **Limits:**

(a) No person may use the "Architect" title, except under the conditions outlined in OAR 806-010-0037 and ORS 671.065.

(b) No person may practice architecture in Oregon until such time as the Board notifies the person in writing that registration is granted by the Oregon Board.

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

Stat. Auth.: ORS 671.125

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

Hist.: AE 5, f. 12-22-64; AE 6, f. 6-5-69; AE 11, f. 2-15-74, ef. 3-11-74; AE 1-1978, f. & ef. 1-23-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 1-1980, f. & ef. 2-14-80; AE 2-1980, f. & ef. 10-3-80; AE 2-1981(Temp), f. & ef. 7-28-81; AE 2-1983, f. & ef. 1-12-83; AE 2-1984, f. &

ADMINISTRATIVE RULES

ef. 10-23-84; AE 1-1986, f. 11-12-86, ef. 11-13-86; AE 2-1992, f. & cert. ef. 3-30-92; AE 5-1992(Temp), f. & cert. ef. 10-21-92; AE 1-1993, f. & cert. ef. 7-1-93; AE 1-1996, f. 1-23-96, f. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; Administrative correction, 6-17-99; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 5-2001, f. & cert. ef. 10-24-01; BAE 5-2002 f. 8-14-02 cert. ef. 8-15-02; BAE 4-2003, f. 8-13-03, cert. ef. 8-14-03; BAE 2-2005, f. & cert. ef. 5-12-05; BAE 1-2008, f. & cert. ef. 2-28-08; BAE 4-2009, f. & cert. ef. 7-10-09; BAE 2-2010, f. 6-11-10, cert. ef. 10-3-10

806-010-0035

Reciprocal Registration Process

(1) Any registered or certified architect from another Board recognized jurisdiction who desires registration to practice in Oregon, must furnish the Board with an Oregon Board application and the individual's Council Record from NCARB. In addition, the applicant must provide evidence for all of the following:

(a) A first professional degree in architecture from a NAAB-accredited program of architecture;

(b) Successfully passing the ARE;

(c) If a person has not previously been examined for seismic and lateral forces knowledge through successful completion of an NCARB examination in 1965 or later, the person must then provide evidence of successfully completing the NCARB Division Structural Systems examination;

(d) Verification of completion of NCARB's IDP program or two years of consecutive and active practice in architecture in a Board-recognized jurisdiction after initial registration; and.

(e) The reciprocal application fee (See Schedule of Actual Fees, OAR 806-010-0105).

(2) **Jurisprudence Examination (JE):** After a person has completed the application process, they must pass the Board's JE covering Oregon statutes and rules governing the practice of architecture.

(a) The JE will be administered in a manner approved by the Board. Individuals will have no longer than 60 minutes in which to complete the JE. A passing score of 84% is the minimum accepted passing score.

(b) Individuals will be notified whether they pass or fail the JE, and will not be allowed any opportunity to review or challenge test results.

(c) Individuals who do not pass the JE may retest no sooner than the Board notifies them in writing that they may retest. However, in no event may a person test sooner than 30 days after the date of the failed JE.

(3) **Oral Interview:** The Board reserves the right to require an oral interview of any individual who applies for licensure by reciprocity and who successfully passes the JE. The oral interviews are held on regularly scheduled Board meeting dates. If an oral interview is required, the Board will notify the person. The oral interview is an opportunity for registrants to meet the Board and discuss the rules and laws in effect in Oregon.

(4) **Registration:** Upon successful completion of the requirements of this section and upon payment of the registration fee, the Board may grant a certificate of registration by written notification.

(5) Limits:

(a) The "Architect" title may be used only under the conditions outlined in OAR 806-010-0037 and ORS 671.065.

(b) No person may practice architecture in Oregon until such time as the Board notifies the person in writing that registration is granted by the Oregon Board.

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.050 & 671.065

Hist.: AE 5, f. 12-22-64; AE 11, f. 2-15-74, ef. 3-11-74; AE 1-1978, f. & ef. 1-23-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 2-1980, f. & ef. 10-3-80; AE 1-1984, f. & ef. 8-22-84; AE 1-1987, f. & ef. 3-30-87; AE 1-1988, f. & cert. ef. 3-14-88; AE 1-1992, f. 1-9-92, cert. ef. 1-10-92; AE 3-1992, f. & cert. ef. 6-30-92; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; BAE 1-1999, f. & cert. ef. 3-25-99; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 5-2002, f. 8-14-02 cert. ef. 8-15-02; BAE 4-2003, f. 8-13-03, cert. ef. 8-14-03; BAE 2-2004, f. & cert. ef. 3-2-04; BAE 1-2008, f. & cert. ef. 2-28-08; BAE 2-2010, f. 6-11-10, cert. ef. 10-3-10

806-010-0060

Abandonment and Reinstatement of Practice

(1) **Inactive Status.** Unless otherwise provided by the Board, a licensee's certificate becomes inactive at the end of the grace periods, or on the 61st day following the renewal deadline date if registrant fails to meet renewal requirements as designated by statute or rule (including, but not limited to, failure to comply with the continuing professional education (CPE) program or failure to pay renewal fees or accrued penalties). A registrant may also request inactive status prior to the 61st day following the renewal deadline date. An inactive Oregon certificate prohibits an architect from practicing architecture in Oregon, as defined by statute and rule. An inactive Oregon certificate also prohibits use of the architect title in Oregon, as defined by statute and rule.

(2) The Board may reinstate an inactive licensee's certificate to practice architecture to active status from inactive status as provided in this rule:

(a) **Inactive for less than or equal to five years.** An inactive licensee whose certificate has been inactive in Oregon for less than, or equal to, five years may gain reinstatement to active status only after:

(A) Filing a current application for reinstatement;

(B) Demonstrating current professional proficiency, as outlined under subsection (3)(a) of this rule; and

(C) Paying the reinstatement fee (See Schedule of Actual Fees, OAR 806-010-0105).

(b) Inactive over five years. An individual who held a previously active license in Oregon whose license has been inactive for greater than five years, may gain reinstatement to active status only after:

(A) Filing a current application for reinstatement;

(B) Paying the reinstatement and registration fees (See Schedule of Actual Fees, OAR 806-010-0105);

(C) Demonstrating current professional proficiency, as outlined under subsection (3)(a) or (3)(b) of this rule;

(D) Providing verification of meeting the National Council of Architect Registration Board (NCARB)'s seismic requirements, or the equivalent, as determined by this Board; and

(E) Passing a jurisprudence examination (JE). The JE will be administered in a manner approved by the Board. Individuals will have no longer than 60 minutes in which to complete the JE. A score of 84% is the minimum accepted passing score. Individuals will be notified whether they pass or fail the JE, and will not be allowed any opportunity to review or challenge test results. Individuals who do not pass the JE may reschedule the JE no sooner than the date the Board notifies the person in writing that they may retest; however, may not test sooner than 30 days after the date of the failed JE.

(F) Attending an oral interview. Individuals whose Oregon license has been inactive over five years and who successfully pass the JE must appear before the Board for an oral interview. Oral interviews are held on regularly scheduled Board meeting dates. Individuals will be invited to the oral interview after they have successfully passed the JE. The oral interview is an opportunity for individuals to meet the Board and discuss the rules and laws in effect in Oregon.

(c) **"Architect Emeritus".** An Architect Emeritus seeking reinstatement of his or her Oregon registration that became inactive as an "Architect Emeritus" may gain reinstatement as follows:

(A) An Architect Emeritus in that status for equal to or less than five years may gain reinstatement to active status, at the discretion of the Board, only upon:

(i) Filing a reinstatement application;

(ii) Demonstrating current professional proficiency, as outlined in subsection (3) of this rule; and

(iii) Paying the reinstatement fee.

(B) An Architect Emeritus in that status for greater than five years may gain reinstatement to active status only upon meeting the requirements listed in OAR 806-010-0060(2)(b).

(3) **"Current Professional Proficiency".** For purposes of this rule, current professional proficiency may be established by any one of the following:

(a) Submitting to the Board verifiable evidence of compliance with the aggregate continuing professional education (CPE) requirements for the reporting periods that the certificate was inactive in Oregon;

(b) Satisfying the requirements of OAR 806-010-0020 or 806-010-0035.

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.080

Hist.: AE 5, f. 12-22-64; AE 2-1978, f. & ef. 3-6-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 2-1980, f. & ef. 10-3-80; AE 1-1987, f. & ef. 3-30-87; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 1-1999, f. & cert. ef. 3-25-99; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 4-2002, f. & cert. ef. 8-7-02; BAE 2-2004, f. & cert. ef. 3-2-04; BAE 7-2006, f. & cert. ef. 12-13-06; BAE 1-2010, f. & cert. ef. 4-6-10; BAE 2-2010, f. 6-11-10, cert. ef. 10-3-10

Board of Chiropractic Examiners Chapter 811

Rule Caption: Increase chiropractic assistant initial training house from six to twelve, other provisions.

Adm. Order No.: BCE 2-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 6-15-10

Notice Publication Date: 5-1-2010

Rules Amended: 811-010-0110

ADMINISTRATIVE RULES

Subject: Increase chiropractic assistant initial training house from six to twelve, other provisions.

Rules Coordinator: Donna Dougan—(503) 378-5816, ext. 24

811-010-0110

Chiropractic Assistants

(1) Ancillary personnel authorized by ORS 684.155(c) shall be known as Chiropractic Assistants.

(2) Chiropractic Assistants may be certified upon compliance with the following standards and procedures:

(a) The Chiropractic Assistant applicant shall successfully complete a Board approved training course offered by an association, college or otherwise approved person. Effective January 1, 2010, the initial training course shall be at least twelve hours in length, of which eight hours shall be didactic training and four hours shall be practical training.

(A) The practical training must be in physiotherapy, electrotherapy and hydrotherapy administered by a health care provider licensed to independently provide those therapies.

(B) A chiropractic physician may perform the initial practical training provided this is direct contact time.

(C) The initial training must have been completed within 60 days preceding the application submission date;

(b) The applicant shall complete an application form and an open book examination supplied by the Board;

(c) If an applicant has a certificate or license from another state and adequate documentation of training, the Board may waive the requirement for the initial training course; and

(d) A person initially certified between March 1st and May 31st is exempt from the continuing education requirement for renewal.

(3) The training course verification form, completed application form, completed examination, and fees in the following amounts shall be submitted to the Board:

(a) Application fee — \$25;

(b) Examination fee — \$35; and

(c) Certification fee — \$50.

(4) The applicant shall be at least 18 years of age.

(5) The Chiropractic Assistant shall not perform electrotherapy, hydrotherapy, or physiotherapy until he or she receives a certificate from the Board.

(6) A Chiropractic Assistant shall be directly supervised by the Chiropractor at all times. The supervising Chiropractor must be on the premises.

(7) The scope of practice does not include performing physical examinations, taking initial histories, taking X-rays, interpretation of postural screening, doing manual muscle testing or performing osseous adjustments or manipulations.

(8) Chiropractic Assistants shall report to the Board, in writing, his/her mailing address and place of employment. Notification of a change of mailing address or place of employment must be made within 10 days of the change.

(9) On or before each June 1, the Board of Examiners shall send the renewal notice to the Chiropractic Assistant at the last known mailing address.

(10) On or before each August 1 the Chiropractic Assistant shall mail to the Board of Examiners the renewal form with the following:

(a) Renewal fee of \$50; and

(b) Evidence of successful completion of six hours of continuing education during the 12 months preceding. No continuing education hours may be carried over into the next renewal year.

(11) Continuing education programs may be comprised of subjects that are pertinent to clinical practices of chiropractic. Continuing education must meet the criteria outlined in OAR 811-015-0025 sections (8), (9) and (10).

(12) The failure, neglect or refusal of any person holding a certificate to show compliance with subsection (10)(a) and (b) of this rule shall cause the certificate to automatically expire August 1 and the Chiropractic Assistant must reapply.

(13) The Chiropractic Assistant's certificate shall be displayed at all times in the Chiropractic Physician's office during the Chiropractic Assistant's employment.

(14) The Board may refuse to grant a certificate to any applicant, may suspend or revoke a certificate, or may impose upon an applicant for certification or Chiropractic Assistant a civil penalty not to exceed \$1,000 upon finding of any of the following:

(a) Cause, which is defined as, but not limited to, failure to follow directions, unprofessional or dishonorable conduct, injuring a patient, or unlawful disclosure of patient information. The supervising Chiropractic Physician is required to notify the Board, in writing, of any dismissal of a Chiropractic Assistant for cause within ten days. The Board shall determine if there is cause for action and shall be governed by the rules of the Board adopted pursuant to ORS Chapter 183;

(b) Conviction of a misdemeanor involving moral turpitude or a felony; or

(c) Failure to notify the Board of a change of location of employment as required by these rules.

(15) Unprofessional or dishonorable conduct is defined as: any unethical, deceptive, or deleterious conduct or practice harmful to the public; any departure from, or failure to conform to, the minimal standards of acceptable Chiropractic Assistant practice; or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a Chiropractic Assistant:

(a) Engaging in any conduct or verbal behavior with or towards a current patient that may reasonably be interpreted as sexual, seductive, sexually demeaning or romantic (also see ORS 684.100).

(b) A certificate holder shall not engage in sexual relations or have a romantic relationship with a current patient unless a consensual sexual relationship or a romantic relationship existed between them before the commencement of the Chiropractic Assistant-patient relationship.

(A) "Sexual relations" means:

(i) Sexual intercourse; or

(ii) Any touching of sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the Chiropractic Assistant for the purpose of arousing or gratifying the sexual desire of either Chiropractic Assistant or patient.

(B) A patient's consent to, initiation of or participation in sexual behavior or involvement with a Chiropractic Assistant does not change the nature of the conduct nor lift the prohibition.

(C) In determining whether a patient is a current patient, the Board may consider the length of time of the Chiropractic Assistant-patient contact, evidence of termination of the Chiropractic Assistant-patient relationship, the nature of the Chiropractic Assistant-patient relationship, and any other relevant information.

(c) Use of protected or privileged information obtained from the patient to the detriment of the patient.

(d) Practicing outside the scope of the practice of a Chiropractic Assistant in Oregon;

(e) Charging a patient for services not rendered;

(f) Intentionally causing physical or emotional injury to a patient;

(g) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;

(h) Soliciting or borrowing money from patients;

(i) Possessing, obtaining, attempting to obtain, furnishing, or prescribing controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; illegally using or dispensing controlled drugs;

(j) Aiding, abetting, or assisting an individual to violate any law, rule or regulation intended to guide the conduct of Chiropractic Assistants or other health care providers; or

(k) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose such information;

(l) Perpetrating fraud upon patients or third party payors, relating to the practice of chiropractic;

(m) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice of a Chiropractic Assistant;

(n) Practicing as a Chiropractic Assistant without a current Oregon certificate;

(o) Allowing another person to use one's Chiropractic Assistant certification for any purpose;

(p) Resorting to fraud, misrepresentation, or deceit in applying for or taking the certificate examination or obtaining a certificate or renewal thereof;

(q) Impersonating any applicant or acting as a proxy for the applicant in any Chiropractic Assistant certificate examination;

(r) Disclosing the contents of the certificate examination or soliciting, accepting, or compiling information regarding the contents of the examination before, during, or after its administration;

ADMINISTRATIVE RULES

(s) Failing to provide the Board with any documents requested by the Board;

(t) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except attorney-client privilege;

(u) Claiming any academic degree not actually conferred or awarded;

(v) Disobeying a final order of the Board; and

(w) Splitting fees or giving or receiving a commission in the referral of patients for services.

(x) Receiving a suspension or revocation of a certificate or license for a Chiropractic Assistant, or other license or certificate, by another state based upon acts by the Chiropractic Assistant or applicant that describes acts similar to this section. A certified copy of the record of suspension or revocation of the state making that is conclusive evidence thereof.

(16) The service of the Chiropractic Assistant is the direct responsibility of the licensed Chiropractic Physician. Violations may be grounds for disciplinary action against the Chiropractic Physician under ORS 684.100(9).

Stat. Auth.: ORS 684.155

Stats. Implemented: ORS 684.054 & 684.155(c)(A)

Hist.: CE 1-1990, f. & cert. ef. 2-15-90; CE 5-1992(Temp), f. 10-21-92, cert. ef. 10-23-92; CE 2-1993, f. 3-1-93, cert. ef. 4-23-93; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2001, f. 1-31-01, cert. ef. 2-1-01; BCE 1-2002, f. & cert. ef. 2-6-02; BCE 2-2008, f. & cert. ef. 10-9-08; BCE 2-2010, f. & cert. ef. 6-15-10

Rule Caption: Establishes requirements for chiropractic pre-payment plans to address escrow accounts, refunds and treatment plans.

Adm. Order No.: BCE 3-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 6-15-10

Notice Publication Date: 5-1-2010

Rules Adopted: 811-015-0002

Subject: Increase chiropractic assistant initial training house from six to twelve, other provisions.

Establishes requirements for chiropractic pre-payment plans to address escrow accounts, refunds and treatment plans.

Rules Coordinator: Donna Dougan—(503) 378-5816, ext. 24

811-015-0002

Pre-Paid Treatment Plans

(1) Chiropractic physicians may accept pre-payment for services planned but not yet delivered only if they do so in such a way that it does not constitute the practice of insurance.

(2) The patients file must contain: the proposed treatment plan, the diagnosis or condition being treated, and the duration of the pre-payment plan.

(a) If nutritional products or other hard goods including braces, supports or patient aids are to be used during the proposed treatment plan, the patient documents must state whether these items are included in the gross treatment costs or if they constitute a separate and distinct service and fee. Any additional fees must be explained to the patient in advance and noted in the chart notes.

(b) The pre-payment plan must include a written explanation on how the unused portion of funds are calculated or prorated should the patient complete care early or discontinue care due to the patient's choice, doctor's choice, moving, or new injury.

(3) A contract for services outlining the pre-payment plan and consent for treatment must be maintained in the patient's file.

(4) Any discounts provided as part of a pre-paid treatment plan must be compliant with other applicable state or federal laws.

Stat. Auth.: ORS 684

Stats. Implemented:

Hist.: BCE 3-2010, f. & cert. ef. 6-15-10

Board of Licensed Professional Counselors and Therapists Chapter 833

Rule Caption: Suspend administrative rules related to impaired professional program.

Adm. Order No.: BLPCT 4-2010(Temp)

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 7-1-10 thru 12-27-10

Notice Publication Date:

Rules Suspended: 833-055-0001, 833-055-0010, 833-055-0020

Subject: Suspends administrative rules related to impaired professional program. Law passed during the 2009 legislative session eliminated the Board's authority to operate an impaired professional program and created a centralized program for all health related licensing Boards. The effective date is July 1, 2010.

Rules Coordinator: Becky Eklund—(503) 378-5499, ext. 3

833-055-0001

Availability of Impaired Professional Program

(1) Pursuant to ORS 675.785(15), the Board establishes an impaired professional program to assist licensees, who are unable to competently or safely practice counseling or marriage and family therapy because of substance abuse or mental or physical illness, to retain or regain their licenses by imposing participation as a condition of reissuance or retention of licensure.

(2) The program shall be available to licensees or former licensees seeking re-licensure who:

(a) Voluntarily seek assistance or self referral; and

(b) Have been referred by the Board in lieu of or in addition to disciplinary action.

(3) The program shall not be available to licensees or former licensees seeking re-licensure who:

(a) Have been diagnosed as requiring treatment for sexual offenders;

(b) Have been previously disciplined by the Board at least three times;

(c) Have previously enrolled in the program and been referred to the Board for disciplinary action.

Stat. Auth.: ORS 675.785

Stats. Implemented: ORS 675.785

Hist.: LPCT 1-1998, f. 1-2-98, cert. ef. 1-5-98; Suspended by BLPCT 4-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 12-27-10

833-055-0010

Confidentiality of Information

(1) Confidentiality of information within the possession of the Board and compiled as part of the impaired professional program shall be regulated by state and federal confidentiality rules. As a general rule, information shall not be considered public record; however, such information may be disclosed:

(a) Pursuant to an order of the court;

(b) Pursuant to chapter 791, Oregon Laws 1977;

(c) Pursuant to written release;

(d) In a disciplinary hearing before the Board or in a subsequent trial or appeal of a Board action or order.

(2) The name of a any licensee who voluntarily enrolls and completes the program, including required aftercare shall not be published.

(3) Enrollment may be disclosed, and possibly published when enrollment is in lieu of or in addition to disciplinary action.

Stat. Auth.: ORS 675.785

Stats. Implemented: ORS 675.785

Hist.: LPCT 1-1998, f. 1-2-98, cert. ef. 1-5-98; Suspended by BLPCT 4-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 12-27-10

833-055-0020

Procedure

(1) Upon its own motion, receipt of a complaint, as the result of an investigation, or as part of contested case action under ORS 183.310 to 183.550, or as a result of self-referral, the Board may require a licensee to undergo evaluation and/or rehabilitative therapy for impairment.

(a) Evaluation will be performed by a drug and evaluation center or professional of the Board's choosing. The evaluator shall have access to all materials regarding the licensee in the Board's files and will have additional authority to contact all persons who have communicated with the Board regarding the alleged impaired status of the licensee.

(b) Rehabilitative therapy shall be provided by a agency or professional approved by the Board.

(c) The costs of evaluation and/or therapy will be the responsibility of the enrolled licensee.

(d) The results of evaluation and/or therapy will be filed with the Board.

(2) The Board may impose one or more disciplinary sanctions under ORS 675.745 against a licensee or former licensee who:

(a) Refuses to cooperate with an evaluation ordered by the Board;

(b) Refuses to enter a rehabilitation program or to participate in ongoing monitoring recognized by the Board;

(c) Fails to sign a release allowing the Board to fully communicate with the evaluator and/or rehabilitation program regarding results, progress, or lack of progress;

ADMINISTRATIVE RULES

(d) Fails to complete a rehabilitation program or ongoing monitoring program recognized by the Board.

Stat. Auth.: ORS 675.785

Stats. Implemented: ORS 675.785

Hist.: LPCT 1-1998, f. 1-2-98, cert. ef. 1-5-98; Suspended by BLPCT 4-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 12-27-10

Rule Caption: Amend rules for supervision of registered interns and create supervisor registry.

Adm. Order No.: BLPCT 5-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 4-1-2010

Rules Adopted: 833-130-0010, 833-130-0020, 833-130-0030, 833-130-0040, 833-130-0050, 833-130-0060, 833-130-0070

Rules Amended: 833-050-0081

Subject: Revise eligibility requirements for supervisors of registered interns gaining clinical experience toward licensure. Establish a list of approved supervisors – a supervisor registry.

Rules Coordinator: Becky Eklund—(503) 378-5499, ext. 3

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 interns, at the time of supervision must:

(a) Be 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) Meet registered intern supervisor qualifications as required in OAR chapter 833, division 130.

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; BLPCT 5-2010, f. 6-15-10, cert. ef. 7-1-10

833-130-0010

Registry Established

(1) Effective September 1, 2010, the Board will establish a Supervisor Registry that consists of licensed professional counselors and licensed marriage and family therapists.

(2) The Board may approve placement of a licensee on the Supervisor Registry if the licensee is a Supervisor Candidate or an Approved Supervisor.

(3) Registered interns pursuing licensure will be encouraged to find qualified supervisors from the registry.

Stat. Auth.: ORS 675.705 - 675.835

Stats. Implemented: ORS 675.705 - 675.835

Hist.: BLPCT 5-2010, f. 6-15-10, cert. ef. 7-1-10

833-130-0020

Placement on Supervisor Registry

Licensees wishing to be placed on the Supervisor Registry must submit a request on forms provided by the Board.

Stat. Auth.: ORS 675.705 - 675.835

Stats. Implemented: ORS 675.705 - 675.835

Hist.: BLPCT 5-2010, f. 6-15-10, cert. ef. 7-1-10

833-130-0030

Registry Renewal

A licensee who wishes to remain on the Supervisor Registry must complete the following every 5 years:

(1) Complete a renewal form provided by the Board;

(2) Successfully pass the Board's law and rules exam; and

(3) Obtain at least 5 clock hours of supervision-related training.

Stat. Auth.: ORS 675.705 - 675.835

Stats. Implemented: ORS 675.705 - 675.835

Hist.: BLPCT 5-2010, f. 6-15-10, cert. ef. 7-1-10

833-130-0040

Supervisor Candidates

(1) Supervisor Candidates must work toward meeting the requirements of an Approved Supervisor. If after five years as a Supervisor Candidate, the candidate has not met Approved Supervisor requirements, the candidate may no longer supervise registered interns.

(2) To qualify as a Supervisor Candidate, a licensee must meet the following requirements:

(a) Be licensed in Oregon as a professional counselor or as a marriage and family therapist;

(b) Complete 30 hours of supervision training;

(c) Receive supervision during supervisor candidacy from a board-approved supervisor;

(d) Successfully complete all requirements to qualify as an Approved Supervisor within five years;

(e) Successfully pass the Board's law and rules exam; and

(f) Be free of Board disciplinary action.

(3) Supervisors of marriage and family therapist interns must also have supervision training that includes systems components.

Stat. Auth.: ORS 675.705 - 675.835

Stats. Implemented: ORS 675.705 - 675.835

Hist.: BLPCT 5-2010, f. 6-15-10, cert. ef. 7-1-10

833-130-0050

Approved Supervisors

(1) To qualify as an Approved Supervisor, a licensee must meet the following requirements:

(a) Be licensed in Oregon for at least 3 years as a professional counselor or marriage and family therapist; or

(b) Have an active Oregon license as a professional counselor or marriage and family therapist and be an Approved Supervisor through American Association for Marriage and Family Therapy or the NBCC Center for Credentialing and Education, or be an American Association of Pastoral Counselors diplomate.

(2) Before placement on the Supervisor Registry, a licensee must also:

(a) Complete 30 hours of supervision training;

(b) Successfully pass the Board's law and rules exam;

(c) Be free of Board disciplinary action;

(d) Provide the Board with documentation of at least 12 hours of supervision by a Board Approved Supervisor within the past 2 to 5 years. The licensee may have up to two Approved Supervisors, and both Approved Supervisors must complete an evaluation. Approved supervision may include one on one or group supervision of not more than 6 supervisees; and

ADMINISTRATIVE RULES

(e) Document a minimum of 100 hours between 2 and 5 years of experience supervising at least two registered interns or student interns from Board-Approved Oregon graduate programs.

(3) Supervisors of marriage and family therapist interns must also have supervision training that includes systems components.

Stat. Auth.: ORS 675.705 - 675.835

Stats. Implemented: ORS 675.705 - 675.835

Hist.: BLPCT 5-2010, f. 6-15-10, cert. ef. 7-1-10

833-130-0060

Current and former supervisors

(1) As of September 1, 2010, Licensed Professional Counselors and Licensed Marriage and Family Therapists may be placed on the Supervisor Registry as Approved Supervisors if they have:

(a) A current, active license in Oregon as a professional counselor or as a marriage and family therapist;

(b) Within the last five years.

(A) A minimum of three years supervising graduate students, registered interns, or counselors or therapists;

(B) Passed the Board's law and rules exam; and

(C) Are free of disciplinary action from the Board; and

(c) Completed 30 clock hours of supervision training.

(2) Current supervisors of registered interns who are operating under an approved clinical experience plan on September 1, 2010, may complete the plan without meeting requirements for placement on the registry.

Stat. Auth.: ORS 675.705 - 675.835

Stats. Implemented: ORS 675.705 - 675.835

Hist.: BLPCT 5-2010, f. 6-15-10, cert. ef. 7-1-10

833-130-0070

Supervisors Not on the Registry

(1) Licensed Professional Counselors or Licensed Marriage and Family Therapists who wish to supervise interns registered with the Board must meet the following requirements:

(a) Have a current, active license in Oregon as a professional counselor or as a marriage and family therapist;

(b) Been licensed as a professional counselor or marriage and family therapist in Oregon for at least 3 years or have national supervisor certification by the National Board of Certified Counselors Center for Credentialing and Education, the American Association of Marital and Family Therapists, or as a diplomate of the American Association of Pastoral Counselors;

(c) Complete 30 hours of supervision training;

(d) Successfully pass the Board's law and rules exam; and

(e) Are free of disciplinary action from the Board.

(2) Other mental health professionals may serve as supervisors of registered interns if they meet the following requirements:

(a) Have a current, active license in Oregon as a mental health professional;

(b) Have been licensed in Oregon as a mental health professional for at least 3 years;

(c) Complete 30 hours of supervision training;

(d) Successfully passed the Board's law and rules exam; and

(e) Are free of disciplinary action from his or her state licensing board.

(3) Supervisors of marriage and family therapist interns must also have supervision training that includes systems components.

Stat. Auth.: ORS 675.705 - 675.835

Stats. Implemented: ORS 675.705 - 675.835

Hist.: BLPCT 5-2010, f. 6-15-10, cert. ef. 7-1-10

Board of Medical Imaging Chapter 337

Rule Caption: Name Change – Adding Modalities; Diagnostic Medical Sonography, MRI and Nuclear Medicine – July 01, 2010.

Adm. Order No.: BRT 1-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 6-15-10

Notice Publication Date: 5-1-2010

Rules Adopted: 337-010-0007, 337-010-0009, 337-010-0013, 337-010-0014, 337-010-0016, 337-010-0023, 337-010-0026, 337-030-0002, 337-030-0005, 337-030-0010, 337-030-0015, 337-030-0020, 337-030-0025

Rules Amended: 337-001-0000, 337-001-0005, 337-010-0006, 337-010-0008, 337-010-0010, 337-010-0011, 337-010-0015, 337-010-0025, 337-010-0030, 337-010-0031, 337-010-0045, 337-020-0015,

337-020-0040, 337-021-0005, 337-021-0010, 337-021-0020, 337-021-0030, 337-021-0040, 337-021-0070

Rules Repealed: 337-010-0012, 337-010-0020, 337-010-0036, 337-010-0055, 337-010-0060, 337-010-0061, 337-010-0065, 337-010-0075, 337-020-0010

Subject: The Board is adopting, amending and repealing rules to change its name from the Oregon Board of Radiologic Technology (OBRT) to the Oregon Board of Medical Imaging (OBMI). In addition, there are housekeeping changes to include a fee, board composition, fingerprint card and background requirements and further clarification to existing modalities and a national title change for the Limited Permit Holder to Limited X-ray Machine Operators (LXMO). These rules assist in the implementation of statutory changes made by HB 2245 and approved during the 2009 Legislative Session. These changes include regulatory oversight and licensure for three additional modalities: Diagnostic Medical Sonography, Magnetic Resonance Imaging (MRI) and Nuclear Medicine Technology. The Board had a public hearing and received oral and written comment for their consideration in achieving the rules substantive goals while reducing the negative impact of the rules on business.

Rules Coordinator: Linda Russell—(971) 673-0216

337-001-0000

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any rule, the Oregon Board of Medical Imaging must give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 15 days prior to the effective date.

(2) By mailing a copy of the Notice to persons on the Board's mailing list established pursuant to ORS 183.335(6).

(3) By distributing a copy of the Notice to the following persons, organizations, or publications:

(a) American Registry of Radiologic Technologists;

(b) American Society of Radiologic Technologists;

(c) Oregon Society of Radiologic Technologists;

(d) Oregon Medical Association;

(e) Oregon Association of Hospitals;

(f) Oregon Association of Chiropractic Physicians;

(g) Oregon Association of Naturopathic Physicians;

(h) Oregon Osteopathic Association;

(i) Oregon Podiatry Association;

(j) Society of Nuclear Medicine;

(k) Pacific Northwest Society of Nuclear Medicine Technologists'

Section;

(l) American Registry for Diagnostic Medical Sonography;

(m) American Society of Echocardiography;

(n) Cardiovascular Credentialing International;

(o) Society for Vascular Surgery;

(p) Society for Vascular Ultrasound;

(q) Society of Diagnostic Medical Sonography;

(r) Society of Invasive Cardiovascular Professionals;

(s) American Registry of Magnetic Resonance Imaging

Technologists.

Stat. Auth.: ORS 183

Stats. Implemented:

Hist.: RT 1-1978, f. & ef. 5-11-78; BRT 1-2010, f. & cert. ef. 6-15-10

337-001-0005

Model Rules of Practice

The Uniform and Model Rules of Procedure under the Administrative Procedures Act, dated January 1, 2008 as promulgated by the Attorney General of the State of Oregon, are by this reference adopted as the rules of practice and procedure of the Board of Medical Imaging and will be controlling except as otherwise required by statute or rule.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Radiologic Technology.]

Stat. Auth.: ORS 171, 183 & 688.555(1)

Stats. Implemented: ORS 183.341

Hist.: RT 1-1978, f. & ef. 5-11-78; RT 1-1980, f. & ef. 6-10-80; RT 1-1982, f. & ef. 3-11-82; RT 1-1985, f. & ef. 2-21-85; RT 1-1986, f. & ef. 1-31-86; RT 2-1988, f. & cert. ef. 11-9-88; BRT 6-1998, f. & cert. ef. 10-16-98; BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0006

Definitions

For purposes of ORS 688.405 to 688.605 and these rules:

ADMINISTRATIVE RULES

(1) The "Practice of Medical Imaging" shall be defined as but not limited to the use of ionizing radiation, ultrasound, radio waves or magnetic fields upon human anatomy for diagnostic or therapeutic purposes including the physical positioning of the patient, the determination of exposure parameters, and the handling of the ionizing radiation equipment.

(2) "Approved school" means a school accredited in one of the medical imaging modalities or subspecialties by a national or regional post-secondary accreditation body and whose graduates are qualified to sit for a credentialing examination recognized by the Board of Medical Imaging in the graduate's medical imaging modality or subspecialty.

(3) "Clinical instructor" means an individual assigned to supervise students in a clinical setting who is:

(a) A licensed physician who routinely supervises the medical imaging modality being studied by a student; or

(b) An individual licensed by the board and credentialed by a credentialing organization in the medical imaging modality being studied by a student.

(4) "Credential" means the recognition awarded to an individual who meets the requirements of a credentialing organization.

(5) "Credentialing organization" means a nationally recognized organization that issues credentials through testing or evaluations that determine that a person meets defined standards for training and competence in a medical imaging modality.

(6) "Diagnostic medical sonography" means the use of nonionizing high frequency sound waves with specialized equipment to direct the sound waves into areas of the human body to generate images for the assessment and diagnosis of various medical conditions.

(7) "Graduate" means an individual who has completed the didactic and clinical education at an approved school, including documented clinical proficiency, but who has not met all requirements for credentialing by a credentialing organization.

(8) "Hybrid imaging or radiation therapy equipment" means equipment that combines more than one medical imaging modality into a single device.

(9) "Ionizing radiation" means alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons or other particles capable of producing ions. "Ionizing radiation" does not include radiation such as radiofrequency or microwaves, visible, infrared or ultraviolet light or ultrasound.

(10) "License" means a license issued by the board to practice one or more of the medical imaging modalities.

(11) "Licensed nurse practitioner" means a nurse practitioner licensed in Oregon.

(12) "Licensed physician" means a physician or surgeon licensed in Oregon.

(13) "Licensed physician assistant" means a physician assistant licensed in Oregon.

(14) "Limited X-ray machine operator" means a person other than a licensed physician who performs diagnostic X-ray procedures under the supervision of a licensed physician, a licensed nurse practitioner or a licensed physician assistant using equipment that emits external ionizing radiation resulting in diagnostic radiographic images that are limited to select human anatomical sites.

(15) "Limited X-ray machine operator course of study" means a board-approved set of didactic and clinical experience elements designed to prepare a person for gaining practical experience and for passing the limited X-ray machine operator examination.

(16) "Magnetic resonance imaging" means the process by which certain nuclei, when placed in a magnetic field, absorb and release energy in the form of radio waves that are analyzed by a computer thereby producing an image of human anatomy and physiological information.

(17) "Medical imaging" means the use of specialized equipment for the production of visual representations of human anatomy, tissues or organs for use in clinical diagnosis and treatment and includes but is not limited to X-ray, single photon emission, positron emission technology, ultrasound, magnetic fields, visible light and radio waves.

(18) "Medical imaging licensee" means a person other than a licensed physician or a limited X-ray machine operator who holds a valid license and operates medical imaging equipment for diagnostic or therapeutic purposes under the supervision of a licensed physician.

(19) "Medical imaging modality" means:

(a) Diagnostic medical sonography and all its subspecialties;

(b) Magnetic resonance imaging and all its subspecialties;

(c) Nuclear medicine technology and all its subspecialties;

(d) Radiation therapy and all its subspecialties; or

(e) Radiography and all its subspecialties.

(20) "Nuclear medicine technology" means the specialized equipment that measures radiation emitted by radionuclides, including counters and cameras that form medical images for interpretation by a physician, or assists in therapeutic use of radionuclides.

(21) "Radiographer" means a person other than a licensed physician who performs a comprehensive set of diagnostic radiographic procedures under the supervision of a licensed physician using external ionizing radiation to produce radiographic, fluoroscopic or digital images.

(22) "Radiography" means the use of ionizing radiation to produce radiographic, fluoroscopic or digital images of human anatomy for diagnostic purposes.

(23) "Radiologist" means a person licensed to practice medicine in the State of Oregon who is certified by or board eligible for certification by the American Board of Radiology, the American Osteopathic Association, the Royal College of Radiologists or the Royal College of Physicians and Surgeons of Canada.

(24) "Student" means an individual enrolled in:

(a) An approved school, college or university academic training program in medical imaging; or

(b) A limited X-ray machine operator course of study.

(25) "Supervision" means the act of monitoring and reviewing the performance of medical imaging licensees or limited X-ray machine operators through regular inspections of work produced, regardless of whether the supervising individual is continuously physically present during the [performance] use of medical imaging equipment or X-ray equipment.

(26) "Positioning" is the act of placing the patient in the standard or appropriate position for a medical imaging examination or radiation therapy based on the medical condition of patient.

Stat. Auth.: ORS 183.310(7) & 688.555(1)

Stats. Implemented: ORS 688.415, 688.525 & 688.915

Hist.: RT 2-1986, f. 4-29-86, ef. 7-1-86; RT 1-1989, f. & cert. ef. 1-24-89; RT 1-1990, f. & cert. ef. 2-2-90; RT 1-1992, f. & cert. ef. 1-15-92; BRT 1-2003, f. 8-14-03, cert. ef. 8-15-03; BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0007

Recognized Credentialing Organizations and Credentials

Licensees will be recognized on their licenses with listing of their major modality and all sub-specialties for which they have been certified. Currently recognized subspecialties are listed as follows under each credentialing organization:

(1) American Registry for Diagnostic Medical Sonographers (ARDMS)

(A) Registered Diagnostic Medical Sonographer — RDMS

(B) Registered Diagnostic Cardiac Sonographer — RDSC

(C) Registered Vascular Technologist — RVT

(D) The following specializations under the main three categories above will also be listed as provided by the ARDMS, subject to change:

AB — Abdomen

AE — Adult Echocardiography

BR — Breast Specialty

FE — Fetal Echocardiography

NE — Neurosonology

OB — Obstetrics & Gynecology

PE — Pediatric Echocardiography

VT — Vascular Technology

Example: John Doe, RDMS (AB, OB), RDSC (AE, PE)

(2) American Registry of Magnetic Resonance Imaging Technologists (ARMRIT) Primary designation: MRI No sub-specialties

Example: John Doe MRIT (ARMRIT)

(3) American Registry of Radiologic Technologists (ARRT). An ARRT certificate confers upon its holder the right to use the title "Registered Technologist" and its abbreviation "R.T.(ARRT)" or "Registered Radiologist Assistant" and its abbreviation "R.R.A. (ARRT)" in connection with his or her name as long as the registration of the certificate is in effect. The category designation should be inserted between the "R.T." and the "(ARRT)" and should be shown as "R.T.(*)(ARRT)" where the asterisk is replaced by the letter or letters indicated in the list below

(R) for Radiography

(N) for Nuclear Medicine Technology

(T) for Radiation Therapy

(MR) for Magnetic Resonance Imaging

(S) for Sonography

(CV) for Cardiovascular-Interventional Radiography

(M) for Mammography

(CT) for Computed Tomography

(QM) for Quality Management

(BD) for Bone Densitometry

(VS) for Vascular Sonography

(CI) for Cardiac-Interventional Radiography

(VI) for Vascular-Interventional Radiography

(BS) for Breast Sonography

ADMINISTRATIVE RULES

Example: Joe Doe RT (R) (ARRT)

(4) Certification Board of Radiology Practitioner Assistants (CBRPA) "Radiology Practitioner Assistant" (R.P.A.) An RPA means an American Registry of Radiologic Technologists (A.R.R.T.) technologist who has successfully completed an advanced training program and is certified by the CBRPA

Example: Jane Doe RT (ARRT) (RPA) (CBRPA)

(5) Cardiovascular Credentialing International (CCI)
CCT — Angiography — Certified Cardiographic Technician
RCCS — Sonography — Registered Congenital Cardiac Sonographer
RCES — Angiography — Registered Cardiac Electrophysiology Specialist
RCIS — Angiography — Registered Cardiovascular Invasive Specialist
RCS — Sonography — Registered Cardiac Sonographer
RPhS — Sonography — Registered Phlebology Sonographer
RVS — Sonography — Registered Vascular Specialist

Example: Jane Doe RCES (CCI)

(6) Nuclear Medicine Technologist Certification Board (NMTCB)

Primary certification: Nuclear Medicine Technologist — NMT. Sub-specialties:

Nuclear Cardiology — NCT
Positron Emission Tomography — PET
Example: John Doe NMT, NCT (NMTCB)

Stat. Auth: ORS 688.555(1)

Stats. Implemented: ORS 688.425(1)

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0008

Change of Contact Information

Every licensee or permittee shall maintain on file with the Board their correct current contact information including telephone number, email address, residence address, employer and name.

Stat. Auth.: ORS 183.310(7) & 688.555(1)

Stats. Implemented:

Hist.: RT 1-1992, f. & cert. ef. 1-15-92; BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0009

Change of Credentialing or License Status

Every licensee or permittee must:

(1) Maintain credentialing in their licensed specialty throughout the licensure period

(2) Notify the Board within 30 days of any pending or final actions by the credentialing organization against the licensee.

(3) Notify the Board within 30 days of lapse or suspension of any professional license.

Stat. Auth: ORS 688.555(1)

Stats. Implemented: 688.455

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0010

Qualifications of Radiographer in Diagnostic Field

In addition to those qualifications set out in ORS 688.465, applicants for licensure as a radiologic technologist in the diagnostic field must: Submit evidence of current credentialing by the American Registry of Radiologic Technologists (ARRT) in radiography. The Board will verify current credential status through review of the ARRT directory. If the applicant is not listed in the current ARRT directory, he or she must request written verification of current credential be submitted directly to the Board by the ARRT.

Stat. Auth.: ORS 688.465 & 688.555(1)

Stats. Implemented: ORS 688.455

Hist.: RT 2-1978, f. & ef. 7-7-78; RT 2-1982, f. & ef. 3-11-82; RT 2-1986, f. 4-29-86, ef. 7-1-86; BRT 2-2006, f. 12-15-06, cert. ef. 1-1-07; BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0011

Qualifications of Computed Tomography Equipment Operators and Hybrid Technology Equipment Operators' Licensing

(1) An individual who operates computed tomography equipment for diagnosis must be credentialed by the American Registry of Radiologic Technologists in Computed Tomography (CT) or in Radiography with training in the operation of CT equipment in accordance with applicable RPS rules; currently OAR 333-106-0370 (x-ray) and 333-116-0880 (NM).

(2) In addition to qualifications to operate radiation therapy devices, Radiation Therapists operating CT for treatment planning must submit evidence of completion of a minimum of twelve (12) hours training in the use of computed tomography from an approved source as determined by the board.

(3) Nuclear Medicine Technologists who perform non-diagnostic attenuation CT exams with a hybrid scanner such as PET/CT, SPECT/CT or new emerging hybrid scanners must meet the training requirements in accordance with OAR 333-116-0880.

(4) In addition to qualifications to operate radionuclide imaging devices, Nuclear Medicine technologists may be granted a CT Technologist

operator's license to perform diagnostic CT examinations if the following requirements are met:

(a) Credentialing by the American Registry of Radiologic Technologists in Computed Tomography, or

(b) The Board may grant authorization to allow Nuclear Medicine Technologists who are enrolled in a CT training program to perform diagnostic CT exams with direct supervision after they have completed a Board approved didactic training program that will allow the student to perform the ARRT required number of CT exams to sit for the ARRT (CT) exam. The authorization will be effective for 3 consecutive academic terms, and will expire automatically unless the Board is presented with evidence of passing the ARRT (CT) exam.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.480

Hist.: BRT 2-2006, f. 12-15-06, cert. ef. 1-1-07; BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0013

Qualifications of Magnetic Resonance Imaging Technologist

An individual who operates Magnetic Resonance Imaging equipment must submit evidence of current credentialing in MRI by the American Registry of Radiologic Technologists (ARRT) or the American Registry of Magnetic Resonance Imaging Technologists (ARMRIT). The Board will verify current credential status through review of the ARRT or ARMRIT directory. If the applicant is not listed in the current applicable directory, he or she must request written verification of current credential be submitted directly to the Board by their credentialing organization.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.455

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0014

Qualifications of Diagnostic Medical Sonographer

An individual who operates ultrasound equipment for medical imaging purposes must submit evidence of current credentialing in diagnostic medical sonography from the American Registry of Diagnostic Medical Sonography (ARDMS), American Registry of Radiologic Technologists (ARRT), or Cardiac Credentialing International (CCI). The Board will verify current credential status through review of the ARDMS, ARRT or CCI directory. If the applicant is not listed in the current applicable directory, he or she must request written verification of current credential be submitted directly to the Board by their credentialing organization.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.455

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0015

Qualifications of Radiation Therapist

In addition to those qualifications set out in ORS 688.475, applicants for licensure as a radiation therapist must: Submit evidence of current credentialing from the American Registry of Radiologic Technologists (ARRT) in radiation therapy. The Board will verify current credential status through review of the ARRT directory. If the applicant is not listed in the current ARRT directory, he or she must request written verification of current credential be submitted directly to the Board by the ARRT.

Stat. Auth.: ORS 688

Stats. Implemented: ORS 688.455

Hist.: RT 2-1978, f. & ef. 7-7-78; RT 2-1982, f. & ef. 3-11-82; RT 2-1986, f. 4-29-86, ef. 7-1-86; BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0016

Qualifications of Nuclear Medicine Technologist

An individual who operates nuclear medicine equipment must submit evidence of current credentialing by the Nuclear Medicine Technology Certification Board (NMTCB) the American Registry of Radiologic Technologists (ARRT) in Nuclear Medicine. The Board will verify current credential status through review of the NMTCB or ARRT directory. If the applicant is not listed in the current applicable directory, he or she must request written verification of current credential be submitted directly to the Board by their credentialing organization.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.455

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0023

Determination of Fitness; State and Nationwide Criminal Background Checks

(1) The purpose of this rule is to provide for the reasonable screening of: applicants for licensure; board members, employees, contract vendors and individuals subject to investigation by the Board, in order to determine

ADMINISTRATIVE RULES

if they have a history of criminal behavior such that they are not fit to be granted or retain a license issued by the Board.

(2) "Subject individual" means a person from whom the Board may require fingerprints for the purpose of enabling the Board to request a state or nationwide criminal records check. In this rule, subject individual means: applicants for licensure or renewal of a license; board members, employees, contract vendors and individuals subject to an investigation by the Board.

(3) This rule is to be applied when evaluating the criminal history of a subject individual and conducting fitness determinations based upon such history. The fact that a subject individual does not have an adverse criminal history does not guarantee the granting or renewal of a license.

(4) The Board may request that the Department of State Police conduct a state criminal history check and a national criminal history check, using fingerprint identification of subject individuals. The Board may conduct state criminal records checks on subject individuals and any licensee through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police. Criminal history information obtained from the Law Enforcement Data System must be handled in accordance with ORS Chapter 181, OAR 257-010 to 257-015 and applicable Oregon State Police procedures.

(5) Additional Information Required. In order to conduct a state and national criminal history check and fitness determination, the Board may require additional information from the subject individual as necessary. Additional information may include but is not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial, or other background information.

(6) In making the fitness determination, the Board may consider:

(a) The nature of any record that may include but is not limited to any record of arrest or conviction for:

(A) Any drug or alcohol offence;

(B) Any felony;

(C) Any offence involving fraud, theft, identity theft or other instance of dishonesty;

(D) Any offence involving violation of federal importation or customs laws or rules;

(E) Any offence requiring registration as a sex offender.

(b) The facts that support the conviction or indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's license; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(e) Any false statement made by the individual regarding the criminal history of the individual;

(f) Any refusal to submit or consent to a criminal record check including a refusal to provide fingerprint identification;

(g) Any other pertinent information obtained as part of an investigation.

(7) If a subject individual is determined to be unfit, then the individual may not be granted a license or a renewal of a license or registration. The Board may make a fitness determination conditional upon applicant's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(8) All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.

(9) Criminal offender information is confidential. Dissemination of information received under this rule may only be made to people with a demonstrated and legitimate need to know the information. When the information is part of the investigation of an applicant or licensee, it is confidential pursuant to ORS 676.175. Any fingerprint cards used to conduct a check shall be destroyed by either the Federal Bureau of Investigation or the Department of State Police as specified in ORS 181.534.

(10) The Board will permit the subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(11) If an applicant, licensee or permittee is determined not to be fit for a license, they are entitled to a contested case hearing pursuant to ORS 183.413 to 470 and in accordance with OAR 855-001-0005 to 0017.

(12) A challenge to the accuracy or completeness of information provided by the Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process.

(13) Request for re-evaluation following correction. If the subject individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the Federal Bureau of Investigation or other agency reporting information to the Board, the Board will conduct a new criminal history check and re-evaluate the criminal history upon submission of a new criminal history request form.

(14) If the subject individual discontinues the application or fails to cooperate with the criminal history check process then the application is considered incomplete.

(15) Subject individuals will be required to pay the actual costs charged by the Department of State Police for the state and national criminal background check.

Stat. Auth.: ORS 181.534, 688.557

Stats. Implemented: ORS 688.557

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0025

Continuing Education

Licenseses must comply with all continuing education and continuing competency requirements of the applicable credentialing organization by submitting their annual registration.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.505

Hist.: RT 2-1978, f. & ef. 7-7-78; RT 1-1985, f. & ef. 2-21-85; RT 1-1987, f. & ef. 1-27-87; RT 2-1990, f. & cert. ef. 4-27-90; RT 1-1992, f. & cert. ef. 1-15-92; BRT 3-1998, f. & cert. ef. 7-15-98; BRT 1-2003, f. 8-14-03, cert. ef. 8-15-03; BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0026

LXMO Permit Renewal

(1) LXMO permit holders must submit evidence of continuing education at the time they file an application for license renewal. An initial permanent LXMO permit that is prorated for a period of less than 24 months includes the requirement of an average of one hour of continuing education per month, depending on the number of anatomic areas in a limited permit.

(2) LXMO permit holders must obtain a minimum of continuing education hours according to the following schedule:

(a) One to three anatomic areas: 9 hours per year.

(b) Four or more anatomic areas: 12 hours per year.

(3) The Board may require LXMO permit holders to produce documents verifying continuing education activities for purposes of an audit by the Board. LXMO permit holders are required to retain verification documents for a period of two years following the renewal date. At any time during that two years the Board may require LXMO permit holders to produce those documents for purposes of an audit by the Board.

(4) Verification Documents for LXMO Renewal Applicants include:

(a) A completed OBMI worksheet, listing all continuing education activities performed during the immediately preceding licensing period.

(b) All renewal applicants are subject to audit of their Continuing Education hours by the Board.

(5) Acceptable Types of Continuing Education Activities:

(a) Any independent reading, video or audiocassette must include a pre-approved post-test to be acceptable for meeting OMBI's continuing education requirements.

(b) Acceptable forms of continuing education activities for LXMO permit holders (no maximum) include, with one hour of credit for each hour spent in the activity:

(A) Attendance at meetings of professional organizations that are directly related to radiography (educational portions of the meetings only).

(B) Directed reading of professional and scientific journals and newsletters related to radiography, listening to or viewing video recordings related to radiography, all of which include a post-test.

(C) Symposia, workshops, lectures, refresher courses, correspondence courses, etc. pertaining to radiography.

(D) In-service education when related to radiography.

ADMINISTRATIVE RULES

(E) A minimum of one hour of education in one permit area is required per year and 2 hours of either radiation use and safety or radiographic technique is required per year.

Stat. Auth.: ORS 688.555(1)
Stats. Implemented: ORS 688.505
Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0030

Limited X-Ray Machine Operator (LXMO) Permits

(1) Applicants for LXMO Permits Qualifications:

(a) An applicant for a LXMO permit must be at least 18 years of age, pay an application fee, and, effective January 1, 2007, have successfully passed a course of instruction that reflects the current Core Module of the "Content Specifications for the Examination for the Limited Scope of Practice in Radiography" published by the American Registry of Radiologic Technologists. The curriculum must consist of not less than 52 hours of instruction approved by the Board in the following subjects:

- (A) Radiation physics;
- (B) Interaction of radiation with matter;
- (C) Radiation exposure, monitoring, and radiation units;
- (D) Principle of the radiographic equipment;
- (E) Biological effects of radiation;
- (F) Low-dose technique and minimizing patient exposure;
- (G) Applicable Federal and State radiation regulations;
- (H) Darkroom, film processing, and quality assurance;
- (I) Film and image critique;
- (J) Personnel protection;
- (K) Digital and computer-generated radiographic imaging;
- (L) Developing and using technique charts; and
- (M) Patient care.

(b) Have received a course of instruction in laboratory practice approved by the Board:

(A) Meeting the requirements stated in the Board's publication "Overview of Guidelines for Instructors of Courses in Preparation for the Limited Scope Examination in Diagnostic Radiologic Technology dated "October 1, 2008" which is incorporated by reference and made a part of this rule;

(B) Reflects the current Radiographic Procedure Module(s) of the "Content Specifications for the Examination for the Limited Scope of Practice in Radiography" published by the American Registry of Radiologic Technologists

(C) Taught by a licensed registered technologist specific to each category for which a limited permit is sought and have received the instructor's certification that the applicant has demonstrated all the positions/projections described in the Behavioral Objectives for each category. Effective January 1, 2007, the minimum hours in each category is as follows:

- (1) Skull/Sinus, 18 hours;
- (2) Spine, 30 hours;
- (3) Chest, 12 hours;
- (4) Extremities, 60 hours;
- (5) Podiatric 10 hours.

An individual must successfully pass a Board-approved Core Module course and successfully complete the didactic portion of a Radiographic Procedure Module (Skull/Sinus, Spine, Chest, Extremities, and Podiatric) relative to the anatomical area the student wishes to radiograph. Student status will continue for one year from the date of completion of the didactic portion of the corresponding Radiographic Procedure Module. Student status expires at the end of the one-year period specified above; or seven days after the date on which an applicant becomes eligible for a permanent LXMO permit.

(d) Radiographic procedures cannot be performed on patients without having passed the ARRT Core exam and corresponding ARRT Radiographic Procedure module. The applicant must obtain a temporary permit to successfully complete a practical experience program approved by the Board specific to each category for which the applicant seeks a LXMO permit. The practical experience component must consist of experience with live patients with a licensed RT, radiologist, or licensed physician, licensed nurse practitioner or licensed physician assistant with adequate training in radiography in accordance with RPS Rules present in the room during radiographic exposures. Processed images made by the students are evaluated and critiqued by an ARRT-registered, Oregon-licensed radiographer Practical Experience Evaluator;

(e) The student may be evaluated for imaging by using the Practical Experience Evaluation Form developed by the Board. If the Practical Experience Evaluator chooses to use a method for evaluation other than the Practical Experience Evaluation Form, that method must receive prior

approval from the Board. The Practical Experience Evaluator must provide the student with a certificate of completion in the categories in which the student has successfully completed practical experience.

(2) Applicants for LXMO Permits in X-ray Bone Densitometry: Qualifications:

(a) An applicant for a limited permit in x-ray bone densitometry must be at least 18 years of age, pay an application fee set by the Board, and have successfully passed a Board approved 24 hour course of instruction which includes not less than 20 hours of radiation protection, equipment operation and quality control specific to x-ray bone densitometry, and meets the didactic and practical experience requirements stated in the Board's publication "Behavioral Objectives and Teaching Guide Bone Densitometry Equipment Operators dated October 01, 2008 which is incorporated by reference and made a part of this rule.

(b) An individual must successfully pass a Board-approved course in x-ray bone densitometry. Student status will continue for one year from the date of completion of the "Bone Densitometry Equipment Operators Examination" given by the American Registry of Radiologic Technologists. Student status expires at the end of the one-year period specified above; or seven days after the date on which an applicant becomes eligible for a permanent LXMO permit.

(c) Bone density procedures cannot be performed on patients without having passed the ARRT Bone Densitometry Equipment Operators Examination.

(3) LXMO Permit students who wish to sit for the ARRT Limited Scope of Practice in Radiography Examination need to have a Course Completion Certificate to be eligible to sit for the ARRT "Limited Scope of Practice in Radiography" Examination from a program both approved by the board and licensed by the Oregon Department of Education, Private Career School Section or otherwise approved or accredited by the Oregon Department of Higher Education.

(4) Time Frame for Completing Requirements for a LXMO Permit: An applicant has a maximum of one year from the time of completion of a LXMO permit didactic class term to make application for a LXMO permit or add categories to an existing LXMO permanent permit. During the practical experience program after passing the ARRT exam, the applicant may only make x-ray exposures of patients under direct supervision by a licensed RT, radiologist, or licensed physician, licensed nurse practitioner or licensed physician assistant with adequate training in radiography in accordance with RPS Rules present in the room during radiographic exposures.

(5) Students are allowed 3 attempts to pass an ARRT exam.

(6) Limited Scope Examination Fees:

(a) Students can sit for the examination throughout the year. The examination fee is \$20 for each examination category for which the student is tested, combined with an administration fee set by the American Registry of Radiologic Technologists (ARRT). These fees, together with the necessary certifications and verifications that the applicant has completed Board-approved Core Module course, Radiographic Procedure Module courses and a practical experience program must be submitted to the Board office. On submission and acceptance of the application materials, OBMI shall register the applicant with the ARRT, after which the applicant has 90 days in which to sit for the exam.

(b) The examination shall consist of two sections:

(A) Core Section (Radiation Use and Safety, Equipment Operation, Quality Control, Image Production, Image Evaluation, and Patient Care), which all applicants are required to pass; and

(B) Specific Radiographic Procedures (positioning and techniques) in the category or categories (Skull/Sinus, Spine, Chest, Extremities, and Podiatric) for which a limited permit is desired to be obtained. At least one category must be passed to obtain a permanent LXMO Permit (ORS 688.515(h)). The LXMO Permit may be issued only in those categories that are passed.

(c) A score of 70 percent constitutes a minimum passing score for each section of the limited scope examination;

(d) Limited scope examinations will be administered at computer-based testing sites identified by ARRT. The student is subject to rules regarding test administration at the testing site;

(e) The application fee for the LXMO permit examination is non-refundable.

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

Stat. Auth.: ORS 388.555(1)

Stats. Implemented: ORS 688.515(4) & 688.515(8)

Hist.: RT 2-1978, f. & ef. 7-7-78; RT 2-1982, f. & ef. 3-11-82; RT 3-1982, f. & ef. 9-30-82; RT 2-1985, f. & ef. 7-1-85; RT 2-1986, f. & ef. 4-29-86, ef. 7-1-86; RT 1-1987, f. & ef. 1-27-87; RT 3-1987, f. & ef. 4-16-87; RT 5-1987, f. & ef. 10-19-87; RT 1-1988, f. & cert. ef. 4-13-88; RT 2-1988, f. & cert. ef. 11-9-88; RT 3-1988, f. & cert. ef. 11-9-88; RT 1-1989, f. & cert. ef.

ADMINISTRATIVE RULES

1-24-89; RT 3-1990, f. & cert. ef. 11-7-90; RT 4-1990, f. & cert. ef. 11-7-90; RT 1-1991, f. & cert. ef. 1-30-91; RT 1-1992, f. & cert. ef. 1-15-92; BRT 4-1998, f. & cert. ef. 7-15-98; BRT 2-2002, f. & cert. ef. 11-18-02; BRT 1-2006, f. & cert. ef. 2-6-06; BRT 2-2006, f. 12-15-06, cert. ef. 1-1-07; BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0031

Requirements for LXMO Permit Program Sponsors

(1) Instructors of Core Module or Radiographic Procedure Module classes must provide the Board with the names of all students who have successfully completed the didactic portions of the LXMO permit program. The list must indicate the specific didactic portion(s) of the LXMO permit program the student has successfully completed and the completion date.

(2) Retention of Student Records: instructors of Core Module or Radiographic Procedure Module classes and practical experience evaluators must retain student grades and attendance records for a period of two years.

(3) LXMO permit program sponsors must annually submit to the Board for review an outline of the LXMO permit program. The outline along with the names of all instructors teaching in the program must be submitted to the Board office no later than July 1 each year. In addition to a written outline, and as a condition of Board approval, each LXMO permit program site shall be inspected biannually or as needed by a Board member or an authorized representative of the Board. The site visit shall include an inspection of the physical premises on which LXMO permit programs are conducted as well as interviews with students currently enrolled in the LXMO permit program.

(4) A resource library shall be maintained at the program site and the resource materials shall be made available to students.

(5) Prior to the first class meeting, Board-approved LXMO permit programs must provide students with clear statements describing the course and program policies. These must include but are not necessarily limited to information regarding the following:

(a) Student costs including tuition, books, lab fees, LXMO permit examination fees, LXMO permit application and renewal fees;

(b) Tuition refund policies;

(c) How the practical experience requirement will be fulfilled including a clear explanation of the responsibilities to be assumed by the program and the responsibilities that will be assumed by the student;

(d) Employment guarantees, if any;

(e) Course outlines and minimum hourly requirements for each section of the course;

(f) The LXMO permit examination process including applications, deadlines for filing for the examination, and examination fees;

(g) LXMO permits including applications and fees.

(6) Failure by the LXMO permit program sponsor to submit the outline required under this section or to cooperate in the site visit procedure shall constitute grounds for the Board's refusal to approve the program.

(7) If the Board's inspection of a LXMO permit program site reveals that corrective action needs to be taken, the Board or its representative will so notify the program director. The program director shall respond in writing to the Board within 20 days of receiving the information. The response shall consist of a description of the corrective action that will be taken.

(8) Any LXMO Permit course of instruction, approved by the Board in order to satisfy the Board's requirement for didactic and clinical experience portions of the LXMO Permit course of instruction, shall be made generally available to the public for purposes of enrollment in and completion of the course, unless the Board, for good cause, decides otherwise.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.515(3)(e)

Hist.: RT 1-1989, f. & cert. ef. 1-24-89; RT 3-1990, f. & cert. ef. 11-7-90; BRT 6-1998, f. & cert. ef. 10-16-98; BRT 2-2006, f. 12-15-06, cert. ef. 1-1-07; BRT 1-2010, f. & cert. ef. 6-15-10

337-010-0045

Temporary Licensee

(1) Temporary Licensee

(A) Students who have successfully completed, or will successfully complete within 6 months, an approved school's didactic and clinical programs may apply for a temporary license that will be effective upon completion of the approved school's program.

(B) A temporary license is intended to allow graduates of an approved school to gain additional paid medical imaging experience in the applicable imaging modality before completing required credentialing examinations.

(C) A temporary license is valid for 6 months and may be renewed upon Board approval.

(D) A temporary licensee must apply to the Board for a medical imaging license within 30 days of being awarded a credential in a medical imaging modality by a recognized credentialing organization.

(E) If a temporary licensee is also licensed by the Board in another medical imaging modality, the restrictions of this subsection shall only apply when the individual is functioning as a temporary licensee.

(2) Temporary Licensee Supervision. A temporary licensee may only operate the applicable medical imaging modality under the direct supervision of a licensed physician, or an individual licensed by the Board and credentialled by a credentialing organization in the medical imaging modality identified on the temporary license. For purposes of this subsection, direct supervision means that the supervisor is physically present in the building and available to assist the temporary licensee as needed.

Stat. Auth.: ORS 688

Stats. Implemented:

Hist.: RT 2-1978, f. & ef. 7-7-78; BRT 1-2010, f. & cert. ef. 6-15-10

337-020-0015

Timely Renewal of Medical Imaging Licenses and LXMO Permits — Permanent

(1) Before the expiration date of a license or LXMO permit, the Board will, as a courtesy, mail or email notice for renewal of license LXMO permit to the last address on file in the Board's records to every person holding a current license or LXMO permit.

(2) An applicant for renewal of a license or LXMO permit must accurately complete the renewal form and pay the applicable licensing fee.

(3) An OBMI license renewal application must be received by OBMI 30 days before a license expires.

(4) A license expires biennially on the first day of the birth month of the licensee.

(5) No person is allowed to practice after a license expires.

(6) No applicant for initial or renewal licensure may practice medical imaging until s/he has received a certificate of licensure, either a license or a limited LXMO permit, from the Board.

(7) No person who has allowed his or her license or LXMO permit to expire may practice medical imaging until s/he has renewed or reinstated a license or LXMO permit and has received a certificate of licensure from the Board.

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

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.445(5) & 688.515(4)

Hist.: BRT 1-2003, f. 8-14-03, cert. ef. 8-15-03; BRT 1-2010, f. & cert. ef. 6-15-10

337-020-0040

Requirements for Prorating of Fees

License and LXMO permit renewal fees will be prorated only if the applicant can demonstrate to the Board that (s)he did not practice medical imaging in Oregon during the time the license or LXMO permit was expired.

Stat. Auth.: ORS 688

Stats. Implemented:

Hist.: RT 2-1989, f. & cert. ef. 11-2-89; BRT 1-2010, f. & cert. ef. 6-15-10

337-021-0005

Fee for a Temporary License

The Board shall issue a six (6) month Temporary License to a qualified applicant upon receipt of a \$30 fee.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.515(6)

Hist.: BRT 1-2002, f. 1-10-02, cert. ef. 1-14-02; BRT 1-2010, f. & cert. ef. 6-15-10

337-021-0010

Fee for a Temporary LXMO Permit

The Board shall issue a six (6) month Temporary LXMO Permit to a qualified applicant upon receipt of a \$30 fee.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.515(6)

Hist.: BRT 2-1998(Temp), f. & cert. ef. 4-20-98 thru 10-15-98; BRT 5-1998, f. & cert. ef. 7-15-98; BRT 1-2002, f. 1-10-02, cert. ef. 1-14-02; BRT 1-2010, f. & cert. ef. 6-15-10

337-021-0020

Fee for a Delinquent Renewal

An additional \$25 delinquent fee must accompany license or LXMO permit renewals not postmarked by the last day of the month that the license or permit expires.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.445(4) & 688.515(4)

Hist.: BRT 2-1998(Temp), f. & cert. ef. 4-20-98 thru 10-15-98; BRT 5-1998, f. & cert. ef. 7-15-98; BRT 1-2002, f. 1-10-02, cert. ef. 1-14-02; BRT 1-2010, f. & cert. ef. 6-15-10

ADMINISTRATIVE RULES

337-021-0030

Fee for a Medical Imaging Licensee — Permanent

Effective July 1, 2010, the fee for a Medical Imaging Licensee is \$5 per month.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.445(5)

Hist.: BRT 5-1998, f. & cert. ef. 7-15-98; BRT 1-2002, f. 1-10-02, cert. ef. 1-14-02; BRT 1-2010, f. & cert. ef. 6-15-10

337-021-0040

Fee for a LXMO Permit — Permanent

Effective July 1, 2010, the fee for a renewed LXMO permit is \$5 per month.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.515

Hist.: BRT 5-1998, f. & cert. ef. 7-15-98; BRT 1-2002, f. 1-10-02, cert. ef. 1-14-02; BRT 2-2002, f. & cert. ef. 11-18-02; BRT 1-2010, f. & cert. ef. 6-15-10

337-021-0070

Application Fees Non-Refundable

The application fee for an initial license or initial LXMO permit or LXMO Permit Examination application fee is non-refundable.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.455 & 688.515(3)

Hist.: BRT 2-2002, f. & cert. ef. 11-18-02; BRT 1-2010, f. & cert. ef. 6-15-10

337-030-0002

Unprofessional Conduct

Unprofessional Conduct includes but is not limited to the following:

(1) Engaging in the practice of medical imaging technology while under the influence of intoxicating liquor, controlled substance, or any other drugs which impair consciousness, judgment, or behavior to the extent that normal physical or mental faculties are impaired. For purposes of this definition, a person is "under the influence" of intoxicating liquor if either the person has 0.08 or more of alcohol in the blood as shown by a chemical analysis of breath or blood or other evidence establishes that the person's normal physical or mental faculties are impaired after having consumed intoxicating liquor; or

(2) Making or filing false reports or records in the practice of medical imaging technology, impeding or obstructing the proper making and filing of reports or records, or willfully failing to file the proper report or record; or

(3) Disclosure of information in violation of state and federal law; or

(4) Discrimination in the practice of medical imaging against any person on account of sex, race, religion, creed, color, or national origin; or

(5) Repeatedly failing to abide by city, state, and federal regulations or laws pertaining to the practice of radiologic technology; or

(6) Engaging in sexual harassment in the practice of medical imaging. "Sexual Harassment" is defined as deliberate or repeated comments or gestures of a sexual nature or touching of the sexual or other intimate parts of a person when the recipient states expressly or it can be reasonably inferred, that the comment, gesture or touching is unwanted by the recipient;

(7) Failing to respond to inquiries by the Board;

(8) Failing to cooperate in investigations conducted by the Board or a Temporary Peer Review Committee;

(9) Failing to provide competent care to a patient. Competent care requires the technical knowledge, skill, thoroughness, and preparation reasonably necessary for the care;

(10) Violation of ORS 688.405 to 688.605 or any rule of the Board;

(11) Failure to timely pay any civil penalty imposed by the Board;

(12) Violation of any order of the Board.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.525(1)(b)

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-030-0005

Enforcement, Investigations and Inspections

(1) Investigations

(a) Licensees must report violations of ORS 688.405 through 688.605 and OAR 337.

(b) Disciplinary issues concerning administrative matters (e.g., lapsed license, false information, etc.)

(c) Disciplinary issues concerning scope of practice and standards of practice

(2) OBMI may form temporary peer review committees (TPRC's) in the relevant modality or subspecialty to advise the board of appropriate action.

(3) TPRC's will consider disciplinary issues concerning scope of practice and standards of practice.

(4) Selection and appointment of TPRC's by OBMI

(a) Composition

(A) Two licensees holding similar credentials

(B) One physician experienced in applicable medical specialty and imaging modality

(C) One public OBMI member

(b) Authority TPRC's will make recommendations to the OBMI

(c) Responsibilities

(A) Review relevant medical information resulting from investigation

(B) If necessary, request additional information be provided

(d) OBMI to make final determination

(e) Privacy, Confidentiality, Discoverability of information from investigation, Temporary Peer Review Committee, or OBMI meetings
Committee members must maintain confidentiality as provided by ORS 676.175

(f) Licensee compliance with investigation — Inspections. In addition to those requirements set out in ORS 688.595, licenses and permits shall be on file in the department in which the licensee or permit holder works and shall be made available for inspection by the Radiation Protection Services (RPS), Department of Human Services, State of Oregon.

Stat. Auth.: ORS 688

Stats. Implemented:

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-030-0010

Imposition of Civil Penalties

(1) When a civil penalty is imposed it does not preclude the imposition of any other disciplinary sanction against the licensee or permittee.

(2) The civil penalty shall be payable to the Board by cash, cashiers check, or money order.

(3) Civil penalties shall be imposed per violation according to the following schedule in the absence of a finding of aggravating or mitigating circumstances:

(a) Practicing medical imaging without a current Oregon license or permit due to nonpayment of fees:

(A) Date license becomes void to six months, \$100;

(B) Six months to twelve months, \$200;

(C) One year to two years, \$500;

(D) Two years and up, \$1,000.

(b) Practicing medical imaging without a current Oregon license or permit, not related to nonpayment of fee - \$1,000;

(c) Unprofessional conduct by a licensee or permittee - \$1,000;

(d) Violation of ORS 688.405 to 688.605 or any rule of the Board of Medical Imaging unless otherwise provided in this schedule, \$1,000;

(e) Gross negligence in the practice of medical imaging, \$1,000;

(f) Employing an individual to practice medical imaging when the individual does not have a current, valid Oregon license or permit, \$1,000;

(g) Making a false statement to the Board, \$500;

(h) Practicing medical imaging outside the scope for which the license or permit is issued, \$500;

(i) Obtaining or attempting to obtain a license or permit or a renewal of a license or permit by false representation, \$500;

(j) Purporting to be a licensee or permittee when the person does not hold a valid license or permit, \$1,000;

(k) Practice medical imaging under a false or assumed name, \$500;

(l) Conviction of a crime where such crime bears a demonstrable relationship to the practice of medical imaging, \$1,000;

(m) Has undertaken to act as a medical imaging licensee independently of the supervision of a practitioner licensed by the State of Oregon to practice one of the healing arts, \$1,000.

(n) Employing or allowing an individual to practice medical imaging outside the scope of the license or LXMO permit, \$1,000;

(4) The Board must report to the appropriate credentialing organizations all Board disciplinary actions and all cases where the Board issues a conditional license.

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.605(4)

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-030-0015

Aggravation and Mitigation

After misconduct has been established, aggravating and mitigating circumstances may be considered in deciding what sanction to impose:

(1) Aggravation or aggravating circumstances are any considerations or factors that may justify an increase in the degree of discipline to be imposed. Mitigation or mitigating circumstances are any considerations or

ADMINISTRATIVE RULES

factors that may justify a reduction in the degree of discipline to be imposed.

(2) Factors which may be considered as aggravating factors include:

(a) Prior disciplinary offenses;

(b) A pattern of misconduct;

(c) Multiple offenses;

(d) Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;

(e) Submission of false evidence, false statement, or other deceptive practices during the disciplinary process;

(f) Refusal to acknowledge wrongful nature of conduct.

(3) Factors which may be considered mitigating factors include:

(a) Absence of a prior disciplinary record;

(b) Timely good faith effort to make restitution or to rectify consequences of misconduct;

(c) Full and free disclosure to disciplinary board or cooperative attitude toward proceeding;

(d) Physical or mental disability or impairment;

(e) Interim rehabilitation;

(f) Imposition of other penalties or sanctions.

Stat. Auth.: ORS 183.310(7) & 688.555(1)

Stats. Implemented:

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-030-0020

Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases

In addition to the notice requirements under the Attorney General's Model Rules of Procedure adopted under OAR 337-001-0005, the notice to parties in contested cases may include the statement that an answer to the assertions or charges will be required, and if so, the consequence of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of OAR 337-010-0075 with the notice.

Stat. Auth.: ORS 688

Stats. Implemented:

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

337-030-0025

Hearing Request and Answers: Consequences of Failure to Answer

(1) A hearing request, and answer when required, shall be made in writing to the Board by the party or his attorney and an answer shall include the following:

(a) An admission or denial of each factual matter alleged in the notice;

(b) A short and plain statement of each relevant affirmative defense the party may have.

(2) Except for good cause:

(a) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;

(b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;

(c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and

(d) Evidence shall not be taken on any issue not raised in the notice and answer.

Stat. Auth.: ORS 688

Stats. Implemented:

Hist.: BRT 1-2010, f. & cert. ef. 6-15-10

Bureau of Labor and Industries Chapter 839

Rule Caption: Conforms certain minimum wage/overtime exemptions to federal law; clarifies meal period rule.

Adm. Order No.: BLI 15-2010

Filed with Sec. of State: 5-25-2010

Certified to be Effective: 6-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 839-020-0004, 839-020-0050, 839-020-0125

Subject: The rule amendments: (1) Conform the state minimum wage exemption in ORS 653.020(14) for individuals "employed in domestic service employment in or about a family home to provide companionship services for individuals who, because of age to infirmity, are unable to care for themselves" to the federal definition/exemption, by specifying in the definition of "Companionship services" in OAR 839-020-0004(11) that such individuals are not require to be employed by the individual for whom they provide such

services in order to be exempt; (2) Conform the minimum wage requirement in the overtime exemption in state law for certain computer system analysts, computer programmers, software engineers, or other similar skilled workers, to that in federal law, which requires such workers to be paid the equivalent of \$27.63 per hour for each hour worked (although not necessarily on an hourly basis); and (3) Clarify that, for 30 continuous minutes during their meal period must be paid for the entire 30-minute meal period.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-020-0004

Definitions

As used in ORS 653.010 to 653.261 and these rules, unless the context requires otherwise:

(1) "Administrator" means the Administrator of the Wage and Hour Division.

(2) "Adult" means an individual of 18 years of age or more.

(3) "Adult foster home" means any family home or facility in which residential care is provided in a homelike environment for five or fewer adults who are not related to the provider by blood or marriage.

(4) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry and any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. "Agricultural employment" is employment in "Agriculture" as herein defined.

(5) "Bureau" means Bureau of Labor and Industries.

(6) "Casual basis" as used in ORS 653.020(2) and these rules means employment which is irregular and intermittent and which is not performed by an individual whose vocation is providing domestic services.

(7) "Child care service person" means an individual who performs child care services in the home of the individual or the child and who during any part of a 24 hour period provides custodial care and protection to infants or children.

(8) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

(9) "Commission" means the Wage and Hour Commission.

(10) "Commissions" or "pay on a commission basis" means payment based on a percentage of total sales, or of sales in excess of a specified amount, or on a fixed allowance per unit agreed upon as a measure of accomplishment or on some other formula and may be the sole source of compensation or payment in addition to other compensation.

(11) "Companionship services", as used in ORS 653.020(14) and in these rules, means those services which provide fellowship, care and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Such services may include household work related to the care of the elderly or infirm person such as meal preparation, bed making, washing of clothes and other similar services. They may also include the performance of general household work: provided, however, that such work is incidental, i.e., does not exceed 20 percent of the total weekly hours worked. Individuals employed in domestic service employment in or about a family home to provide companionship services are not required to be employed by the individual for whom they provide such services. The term "companionship services" does not include services relating to the care and protection of the elderly or infirm which require and are performed by trained personnel, such as a registered or practical nurse. While such trained personnel do not qualify as companions, this fact does not remove them from the category of covered domestic service employees when employed in or about a family home.

(12) "Division" means the Wage and Hour Division of the Bureau of Labor and Industries.

(13) "Domestic service" means services of a household nature performed by an employee in or about a family home (permanent or temporary) of the person by whom the employee is employed. The term includes, but is not limited to, employees such as cooks, waiters, butlers, valets, maids, housekeepers, governesses, nurses, janitors, gardeners, and companions to the elderly and infirm.

(14) "Domicile" means the permanent residence of a person or the place to which that person intends to return even though that person may actually reside elsewhere.

(15) "Employed on a seasonal basis at", as used in ORS 653.020(10) and in these rules, means employment that occurs during the time the

ADMINISTRATIVE RULES

organized camp provides services to campers at the camp site where campers are located. The term includes employment at the camp site in duties preparatory to the opening or closing of the camp site. The term includes employment during the camping season only and does not include full time, year around employment.

(16) "Employer" has the same meaning as that in ORS 653.010(3).

(17) "Fair market value" means an amount not to exceed the retail price customarily paid by the general public for the same or similar meals, lodging or other facilities or services provided to the employee by the employer. In determining the fair market value of meals, lodging and other facilities and services, the bureau will be guided by these rules and by Title 29, CFR Part 531 — Wage Payments under the Fair Labor Standards Act of 1938, where applicable.

(18) "Family home", as used in ORS 653.020(2) and this section, means a residence, the purpose of which is to provide an abode for the owner or renter of the residence and family members of the owner or renter. For example, a boarding house or an adult foster care home are not family homes for purposes of ORS 653.020(2) and these rules. However, when casual domestic service work is performed in structures where the owner or renter resides and operates a business, such work may qualify as exempt under ORS 653.020(2) depending upon all the facts of the particular arrangement.

(19) "Homeworker" means any employee suffered or permitted to produce goods or services for an employer in or about a home, apartment or room in a residence in which that employee or other employees of an employer resides, regardless of the source of the materials used by the homeworker in such production.

(20) "Hours worked" means all hours for which an employee is employed by and required to give to the employer and includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place and all time the employee is suffered or permitted to work. "Hours worked" includes "work time" as defined in ORS 653.010(11).

(21) "Immediate family" means grandfather, grandmother, father, mother, son, daughter, sister, brother, uncle or aunt.

(22) "Minimum wage" means the rate of pay prescribed in ORS 653.025 and 653.030.

(23) "Minor" means an individual of 17 years of age or less.

(24) "Organized camp" has the same meaning as that in ORS 653.010(6).

(25) "Primary duty" means, as a general rule, the major part, or over 50 percent, of an employee's time. However, a determination of whether an employee has management as the employee's primary duty must be based on all the facts of a particular case. Time alone is not the sole test and in situations where the employee does not spend over 50 percent of the employee's time in managerial duties, the employee might have management as a primary duty if other pertinent factors support such a conclusion. Factors to be considered include, but are not limited to, the relative importance of the managerial duties as compared with other duties, the frequency with which the employee exercises discretionary powers, the relative freedom from supervision and the relationship between the salary paid the employee and wages paid other employees for the kind of non-exempt work performed by the supervisor.

(26) "Primary school" means a learning institution containing any combination of grades Kindergarten - 8 or age level equivalent.

(27) "Reside" means a personal presence at some place of abode with no present intention of definite and early removal and with the intent to remain for an undetermined period, but not necessarily combined with the intent to stay permanently.

(28) "Resident manager" means an employee of an adult foster home who is domiciled at the home and who is directly responsible for the care of residents in the home on a day to day basis.

(29) "Salary" means a predetermined amount constituting all or part of the employee's compensation paid for each pay period of one week or longer (but not to exceed one month) and in no instance will be any amount less than required to be paid pursuant to ORS 653.025.

(30) "Salary basis" means a salary as defined in section (29) of this rule, which is not subject to deduction because of lack of work for part of a work week, however, deductions for absences of one day or more may be made if the employee is absent for other reasons. Deductions may not be made for absences of less than one day, except as permitted for employers covered by the Federal Family and Medical Leave Act of 1993, Public Law 103-3, for part-day absences due to leave pursuant to that law. Employees who are not paid for workweeks in which they performed no work are considered to be on a salary basis provided they are paid on a salary basis in

workweeks when work is performed.

(a) Payment of additional compensation is not inconsistent with the salary basis of payment.

(b) Compensation paid in the form of fees is not inconsistent with the salary basis of payment, provided the fees paid in each pay period are not less than the amount required to be paid pursuant to ORS 653.025 and meet the requirements for fee payments under Title 29, Code of Federal Regulations, Part 541.605 and related regulations as amended April 23, 2004.

(31) "Secondary school" means a learning institution containing any combination of grades 9 - 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

(32) "Violation" means a transgression of any statute or rule, or any part thereof and includes both acts and omissions.

(33) "Willfully" means knowingly. An action is done knowingly when it is undertaken with actual knowledge of a thing to be done or omitted or action undertaken by a person who should have known the thing to be done or omitted. A person "should have known the thing to be done or omitted" if the person has knowledge of facts or circumstances which, with reasonably diligent inquiry, would place the person on notice of the thing to be done or omitted to be done. A person acts willfully if the person has the means to inform himself or herself but elects not to do so. For purposes of these rules, the employer is presumed to know the requirements of ORS 653.010 to 653.261 and these rules.

Stat. Auth.: ORS 653.040

Stats. Implemented: ORS 653.010 - 653.261

Hist.: BL 1-1987, f. & cert. ef. 1-12-87; BL 1-1990, f. 2-27-90, cert. ef. 2-28-90; BL 10-1990, f. & cert. ef. 7-26-90; BL 3-1992, f. & cert. ef. 3-2-92; BL 5-1993(Temp), f. 5-7-93, cert. ef. 5-14-93; BL 12-1993, f. 10-29-93, cert. ef. 11-1-93; BL 9-1996, f. & cert. ef. 10-8-96; BL 9-1997, f. & cert. ef. 11-13-97; BL 1-2002, f. & cert. ef. 1-9-02; TIC 3-2006, f. & cert. ef. 11-24-06; BL 41-2006(Temp), f. & cert. ef. 11-27-06 thru 5-23-07; BL 11-2007, f. 5-10-07, cert. ef. 5-15-07; BL 15-2010, f. 5-25-10, cert. ef. 6-1-10

839-020-0050

Meal and Rest Periods

(1) The purpose of this rule is to prescribe minimum meal periods and rest periods for the preservation of the health of employees.

(2)(a) Except as otherwise provided in this rule, every employer shall provide to each employee, for each work period of not less than six or more than eight hours, a meal period of not less than 30 continuous minutes during which the employee is relieved of all duties.

(b) Except as otherwise provided in this rule, if an employee is not relieved of all duties for 30 continuous minutes during the meal period, the employer must pay the employee for the entire 30-minute meal period.

(c) An employer is not required to provide a meal period to an employee for a work period of less than six hours. When an employee's work period is more than eight hours, the employer shall provide the employee the number of meal periods listed in Appendix A of this rule.

(d) Timing of the meal period: If the work period is seven hours or less, the meal period is to be taken between the second and fifth hour worked. If the work period is more than seven hours, the meal period is to be taken between the third and sixth hour worked.

(3) If an employer does not provide a meal period to an employee under section (2) of this rule, the employer has the burden to show that:

(a) To do so would impose an undue hardship on the operation of the employer's business as provided in section (4), and that the employer has complied with section (5) of this rule;

(b) Industry practice or custom has established a paid meal period of less than 30 minutes (but no less than 20 minutes) during which employees are relieved of all duty; or

(c) The failure to provide a meal period was caused by unforeseeable equipment failures, acts of nature or other exceptional and unanticipated circumstances that only rarely and temporarily preclude the provision of a meal period required under section (2) of this rule. If an employee is not relieved of all duties for 30 continuous minutes during the meal period, the employer must pay the employee for the entire 30-minute meal period.

(4) As used in section (3)(a) of this rule, "undue hardship" means significant difficulty or expense when considered in relation to the size, financial resources, nature or structure of the employer's business. For the purpose of determining whether providing a meal period requires significant difficulty or expense, the following factors may be considered:

(a) The employer's cost of complying with the requirement to provide a meal period under section (2) of this rule.

(b) The overall financial resources of the employer.

(c) The number of persons employed at the particular worksite and their qualifications to relieve the employee; the total number of persons employed by the employer; and the number, type and geographic separate-

ADMINISTRATIVE RULES

ness of the employer's worksites.

(d) The effect of providing the meal period required under section (2) of this rule on worksite operations involving: the startup or shutdown of machinery in continuous-operation industrial processes; intermittent and unpredictable workflow not in the control of the employer or employee; the perishable nature of materials used on the job; and the safety and health of other employees, patients, clients or the public.

(5) When an employer does not provide a meal period to an employee under section (2) of this rule, and is able to make the required showing under section (3)(a) of this rule:

(a) The employer shall instead provide the employee adequate paid periods in which to rest, consume a meal, and use the restroom; and

(b) The employer shall first provide to each employee a notice provided by the commissioner of the Bureau of Labor and Industries regarding rest and meal periods in the language used by the employer to communicate with the employee. The employer shall retain and keep available to the commissioner a copy of the notice for the duration of the employee's employment and for no less than six months after the termination date of the employee. Notices that comply with this subsection are available upon request from the bureau. This subsection takes effect on March 16, 2009.

(6)(a) Except as provided in subsection (b) of this section, every employer shall provide to each employee, for each segment of four hours or major part thereof worked in a work period, a rest period of not less than ten continuous minutes during which the employee is relieved of all duties, without deduction from the employee's pay.

(A) As the nature of the work allows, the employer shall provide the rest period approximately in the middle of each segment of four hours or major part thereof worked in a work period. When the employee's work period is more than eight hours, the employer shall provide the employee the number of rest periods listed in Appendix A of this rule.

(B) The employer shall provide rest periods in addition to and taken separately from the time provided for a meal period. An employer may not require or allow an employee to add the rest period to a meal period or deduct the rest period from the beginning or end of the employee's work period to reduce the overall length of the work period.

(C) An employer has the burden to show that the employer provided the rest periods required under this section.

(b) An employer is not required to provide a rest period to an employee when all of the following conditions are met:

(A) The employee is 18 years of age or older;

(B) The employee works less than five hours in any period of 16 continuous hours;

(C) The employee is working alone;

(D) The employee is employed in a retail or service establishment, i.e., a place where goods and services are sold to the general public, not for resale; and

(E) The employee is allowed to leave the employee's assigned station when the employee must use the restroom facilities.

(7) The provisions of this rule regarding meal periods and rest periods may be modified by the terms of a collective bargaining agreement if the provisions of the collective bargaining agreement entered into by the employees specifically prescribe rules concerning meal periods and rest periods.

(8)(a) Pursuant to the provisions of ORS 653.261(5), if an employer agrees, an employee may waive a meal period if all of the following conditions are met:

(A) The employee is employed to serve food or beverages, receives tips, and reports the tips to the employee's employer;

(B) The employee is at least 18 years of age;

(C) The employee voluntarily requests to waive the employee's meal periods no less than seven calendar days after beginning employment;

(D) The employee's request to waive the employee's meal periods is in writing in the language used by the employer to communicate with the employee, on a form provided by the commissioner, and is signed and dated by both the employee and employer;

(E) The employer retains and keeps available to the commissioner a copy of the employee's request to waive the employee's meal period during the duration of the employee's employment and for no less than six months after the termination date of the employee;

(F) The employee is provided with a reasonable opportunity to consume food during any work period of six hours or more while continuing to work;

(G) The employee is paid for any and all meal periods during which the employee is not completely relieved of all duties;

(H) The employee is not required to work longer than eight hours

without receiving a 30-minute meal period during which the employee is relieved of all duties;

(I) The employer makes and keeps available to the commissioner accurate records of hours worked by each employee that clearly indicate whether or not the employee has received meal periods; and

(J) The employer posts a notice provided by the commissioner regarding rest and meal periods in a conspicuous and accessible place where all employees can view it.

(b) Either the employer or employee may revoke the agreement for the employee to waive the employee's meal periods by providing at least seven (7) calendar days written notice to the other.

(c) Notwithstanding subsection (b) of this section, an employee who has requested to waive meal periods under this section may request to take a meal period without revoking the agreement to waive such periods. The request to take a meal period must be submitted in writing to the employer no less than 24 hours prior to the meal period requested.

(d) An employer may not coerce an employee into waiving a meal period.

(e) An employer will be considered to have coerced an employee into waiving the employee's meal period under the following circumstances:

(A) The employer requests or requires an employee to sign a request to waive meal periods;

(B) An employee is required to waive meal periods as a condition of employment at the time of hire or at any time while employed;

(C) The employer requests or requires any person, including another employee, to request or require an employee to waive meal periods; or

(D) The employee signs a form requesting to waive meal periods prior to being employed for seven calendar days.

(f) Employee waiver forms and notices regarding rest and meal periods that comply with this section are available upon request from the bureau.

(9) Minors under 18 years of age are not subject to this rule. Rest and meal period requirements for minors under 18 years of age are provided in OAR 839-021-0072.

(10) As used in this rule:

(a) "Work period" means the period between the time the employee begins work and the time the employee ends work.

(b) "Work period" includes a rest period as provided in section (6) of this rule, and any period of one hour or less (not designated as a meal period) during which the employee is relieved of all duties.

(c) "Work period" does not include a meal period unless the meal period is paid work time as provided in section (2) or (5) of this rule.

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

Stat. Auth.: ORS 183 & 653

Stats. Implemented: ORS 653.261

Hist.: BL 1-1987, f. & ef. 1-12-87; BL 10-1990, f. & cert. ef. 7-26-90; BL 9-1996, f. & cert. ef. 10-8-96; BLI 1-2002, f. & cert. ef. 1-9-02; BLI 41-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 21-2008, f. & cert. ef. 7-8-08; BLI 29-2008(Temp), f. 9-22-08, cert. ef. 9-23-08 thru 3-22-09; BLI 3-2009, f. & cert. ef. 1-12-09; BLI 15-2010, f. 5-25-10, cert. ef. 6-1-10

839-020-0125

Overtime Exemptions Pertaining to Employers Regulated Under the Federal Fair Labor Standards Act

(1) This rule applies to employers and employees subject to OAR 839-020-0030, Overtime Generally, by virtue of the repeal of ORS 653.020(7) by Section 2, Chapter 446, 1989 Oregon Laws.

(2) No employer shall be deemed to have violated OAR 839-020-0030 under the following circumstances:

(a) By employing any employee for a workweek in excess of that specified in OAR 839-020-0030 without paying the compensation for overtime employment prescribed therein; provided that, such employee received compensation for employment in excess of 12 hours in any workday, or for employment in excess of 56 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which the employee is employed; and, provided further that such employee is so employed as follows:

(A) In pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than 1,040 hours during any period of 26 consecutive weeks; or

(B) In pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board which provides that during a specified period of 52 consecutive weeks the employees shall be employed not more than 2,240 hours and shall be guaranteed not less than 1,840 hours (or not less than 46 weeks at the normal number of hours worked per week, but not

ADMINISTRATIVE RULES

less than 30 hours per week) and not more than 2,080 hours of employment for which the employee shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum workweek applicable to such employee under OAR 839-020-0030 or 2,080 hours in such period at rates not less than one and one-half times the regular rate at which the employee is employed. (Reference: Sec. 7(b)(1) and Sec. 7(b)(2), FLSA)

(b) By an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products, if:

(A) The annual gross volume of sales of such enterprise is less than \$1,000,000 exclusive of excise taxes; and

(B) More than 75 per centum of such enterprise's annual dollar volume of sales is made within the state in which such enterprise is located; and

(C) Not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; and

(D) Such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to the employee under ORS 653.025. (Reference: Sec. 7(b)(3), FLSA)

(c) By employing any employee for a workweek in excess of the maximum workweek applicable to such employee under OAR 839-020-0030 if such employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of such employee necessitate irregular hours of work, and the contract or agreement specifies a regular rate of pay of not less than the minimum hourly rate provided in ORS 653.025 and compensation at not less than 1-1/2 times such rate for all hours worked in excess of such maximum workweek, and a weekly guarantee of pay for not more than 60 hours based on the rates so specified. (Reference: Sec. 7(f), FLSA);

(d) By employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified in OAR 839-020-0030, if the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable under ORS 653.025 and if more than half of the employee's compensation for a representative period (not less than one month) represents commissions on goods or services. In determining the proportion of compensation representing commission, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw of guarantee. (Reference: Sec. 7(i), FLSA);

(e) When an employer engaged in the operation of a hospital or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises enters into an agreement or understanding arrived at between the employer and employee before performance of the work, that provides for a work period of 14 consecutive days in lieu of the workweek of seven consecutive days for purposes of overtime computation and provides further that for the employee's employment in excess of eight hours in any workday and in excess of 80 hours in such 14-day period, the employee receives compensation at a rate not less than one and one-half times the regular rate at which the employee is employed. (Reference: Sec. 7(j), FLSA);

(f) By employing an employee of a not for profit amusement or recreational establishment in excess of the applicable work week specified in OAR 839-020-0030 if the establishment does not operate for more than seven months in any calendar year, or if, the establishment's average receipts for any six months of such year were not more than 33-1/3 per centum of its average receipts for the other six months of such year. (Reference: Section 13(a)(3), FLSA);

(g) By employing an employee in excess of the applicable workweek specified in OAR 839-020-0030 when the employee is employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacean, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee. (Reference: Sec. 13(a)(5), FLSA)

(h) By employing an employee who is compensated at a rate of not less than the equivalent of \$27.63 per hour for each hour worked and who is a computer systems analyst, computer programmer, software engineer, or

other similarly skilled worker, whose primary duty consists of the following:

(A) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

(B) The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(C) The design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

(D) A combination of duties described in paragraphs (A), (B), and (C) of this paragraph the performance of which requires the same level of skills. (Reference: Sec. 13 (a)(17), FLSA)

(3) The provisions of OAR 839-020-0030 do not apply when the provisions of Section 13(b), of the Fair Labor Standards Act apply to employees as follows:

(a) Any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of Section 204 of the Motor Carrier Act, 1935; or

(b) Any employee of an employer engaged in the operation of a common carrier by rail and subject to the provisions of Part I of the Interstate Commerce Act; or

(c) Any employee of a carrier by air subject to the provisions of Title II of the Railway Labor Act; or

(d) Any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

(e) Any employee employed as a seaman; or

(f) Any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located in a city or town of 100,000 population or less, according to the latest available decennial census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of 100,000, or is located in a city of 25,000 population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area; or

(g) Any sales person, parts person or mechanic primarily engaged in selling or servicing automobiles, trucks, or farm implements, if the employee is employed by a non-manufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers; or

(h) Any sales person primarily engaged in selling trailers, boats, or aircraft if the salesperson is employed by a non-manufacturing establishment primarily engaged in the business of selling trailers, boats or aircraft to ultimate purchasers; or

(i) Any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Commissioner shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under OAR 839-020-0030; or

(j) Any employee employed in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a sharecrop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

(k) Any employee with respect to the employee's employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on the farmer's own account or in conjunction with other farmers, if such employee is primarily employed during the employee's workweek in agriculture by such farmer, and if such employee is paid for the operations at a wage rate not less than that prescribed by ORS 653.025; or

(l) Any employee employed within the area of production (as defined by the Commissioner) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operation; or

(m) Any employee engaged in the transportation and preparation for transportation of fruits and vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the State of Oregon, or any employee engaged in transportation, whether or not performed by the farmer, between the farm and any point within the State of Oregon of persons employed or to be employed in the harvesting

ADMINISTRATIVE RULES

of fruits or vegetables; or

(n) Any employee who is employed in domestic service in a household and who resides in such household; or

(o) Any employee employed by an establishment which is a motion picture theater; or

(p) Any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by the employee's employer in such forestry or lumbering operations does not exceed eight; or

(q) Any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee is an employee of a private entity engaged in providing services or facilities in a national park or national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture, and receives compensation for employment in excess of 56 hours in any workweek at a rate not less than one and one-half times the regular rate at which the employee is employed. (Reference: Sec. 13(b), (1), (2), (3), (5), (6), (9), (10), (11), (12), (13), (14), (16), (21), (27), (28), and (29), FLSA)

(4) The provisions of OAR 839-020-0030 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer or to any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths). (Reference: Sec. 13(d), FLSA)

Stat. Auth.: ORS 653.040 & 653.261

Stats. Implemented: ORS 653.261

Hist.: BL 5-1989(Temp), f. 8-18-89, cert. ef. 9-1-89, (and corrected by BL 10-1989(Temp), f. 12-4-89, cert. ef. 9-1-89); BL 1-1990, f. 2-27-90, cert. ef. 2-28-90; BL 10-1990, f. & cert. ef. 7-26-90; BL 5-1992, f. 4-24-92, cert. ef. 4-29-92; BL 6-1992(Temp), f. & cert. ef. 6-5-92; BL 14-1992, f. & cert. ef. 12-14-92; BL 9-1996, f. & cert. ef. 10-8-96; BL 7-2003, f. 12-31-03, cert. ef. 1-1-04; BL 15-2010, f. 5-25-10, cert. ef. 6-1-10

Rule Caption: Implementing statutory enactment's restricting use of employee's credit history for employment purposes.

Adm. Order No.: BLI 16-2010

Filed with Sec. of State: 6-1-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 4-1-2010

Rules Adopted: 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0080, 839-005-0085

Subject: The proposed rules would implement statutory enactments making discrimination on the basis of credit history an unlawful employment practice, except for employers that are federally insured banks or credit unions; state or federal employers required to use individual credit history for employment purposes; law enforcement units employing public safety officers; and positions for which an applicant's or employee's history is substantially job-related.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-005-0060

Purpose and Scope

(1) It is the policy of the State of Oregon to guarantee individuals the fullest possible participation in the social and economic life of the state, including employment. Obtainment or use by an employer of information in an applicant's credit history impacts the individual's privacy, and must relate only to the position for which the individual is being considered or holds. The people of Oregon have the right to employment without unlawful discrimination on the basis of credit history.

(2) Prohibited discrimination is a basis of unlawful practices described in ORS chapter 659A and other chapters of the Oregon statutes.

(3) Any individual claiming to be aggrieved by an unlawful practice including a violation of OL 2010, Ch. 102 may file a complaint under ORS 659A.820 or may bring a civil action under ORS 659A.885.

(4) The Civil Rights Division of the Bureau of Labor and Industries enforces Oregon Law 2010, Chapter 102 (OL 2010, Ch. 102). These rules implement and interpret OL 2010, Ch. 102.

Stat. Auth.: OL 2010, Ch. 102(5), 659A.805

Stats. Implemented: OL 2010, Ch. 102

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10

839-005-0065

Definitions

(1) "Applicant" means an individual who has submitted information for the purpose of gaining employment.

(2) "Credit history" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing or credit capacity.

(3) "Division" means the Civil Rights Division of the Bureau of Labor and Industries.

(4) "Employer" means any person who in this state, directly or through an agent, engages or uses the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed.

(5) "Respondent" includes any person against whom a complaint or charge of unlawful practices is filed with the division or whose name has been added to such complaint or charge pursuant to ORS 659A.835(1).

(6) "Substantially job-related" is defined in OAR 839-005-0080.

Stat. Auth.: OL 2010, Ch. 102(5), 659A.805

Stats. Implemented: OL 2010, Ch. 102

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10

839-005-0070

Unlawful Discrimination

(1) It is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.

(2) Obtainment or use of credit history information may not be conducted in a manner that results in adverse impact discrimination as prohibited by 42 U.S.C. § 2000e-2, ORS 659A.030 and OAR 839-005-0010. A finding of adverse impact discrimination does not require establishment of intentional discrimination.

(3) OL 2010, Ch. 102 permits an employer to obtain or use for employment purposes information contained in the credit history of an applicant or employee under circumstances described at OL 2010, Ch. 102(2). OL 2010(2)(d) permits an employer to obtain or use information contained in the credit history of an applicant or employee if the credit history information is substantially job-related, and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.

(4) The burden of proving the employer's disclosure to the employee of its reasons for the use of such information rests with the employer.

Stat. Auth.: OL 2010, Ch. 102(5), 659A.805

Stats. Implemented: OL 2010, Ch. 102

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10

839-005-0080

Substantially Job-Related

(1) The determination of whether credit history information is substantially job-related must be evaluated with respect to the position for which the individual is being considered or holds.

(2) Credit history information of an applicant or employee is substantially job-related if:

(3) An essential function of the position at issue requires access to financial information not customarily provided in a retail transaction that is not a loan or extension of credit;

(a) Financial information customarily provided in a retail transaction includes information related to the exchange of cash, checks and credit or debit card numbers; or

(b) The position at issue is one for which an employer is required to obtain credit history as a condition of obtaining insurance or a surety or fidelity bond.

Stat. Auth.: OL 2010, Ch. 102(5), 659A.805

Stats. Implemented: OL 2010, Ch. 102

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10

839-005-0085

Enforcement & Retaliation

(1) An employer's duties and obligations under OL 2010, Ch. 102 extend to an employer that is a successor in interest as defined in OAR 839-005-0014.

(2) An applicant or employee claiming a violation of OL 2010, Ch. 102 or these rules may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.

(3) An applicant or employee claiming a violation of OL 2010, Ch. 102 may bring a civil action under ORS 659A.885.

(4) Pursuant to ORS 659A.030(1)(f), it is an unlawful employment practice for an employer to discharge, expel or otherwise discriminate against any person because the person has filed a complaint, testified or

ADMINISTRATIVE RULES

assisted in any proceeding in connection with OL 2010, Ch. 102.

(5) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of OL 2010, Ch. 102, or to attempt to do so.

Stat. Auth.: OL 2010, Ch. 102(5), 659A.805
Stats. Implemented: OL 2010, Ch. 102
Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10

Construction Contractors Board
Chapter 812

Rule Caption: Definition of “key employee” relating to commercial contractors.

Adm. Order No.: CCB 9-2010(Temp)

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-18-10 thru 11-12-10

Notice Publication Date:

Rules Adopted: 812-002-0390

Rules Amended: 812-020-0055

Subject: 812-002-0390 is adopted to add a general definition for the term “key employee” to the definition section of the rules in Division 2.

812-020-0055 is amended to remove the definition of “key employee” from 812-020-0055; the chapter on commercial contractor continuing education. The definition should be inclusive for all laws and rules relating to commercial contractor key employees and added to Division 2.

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-002-0390

Key Employee

“Key employee” means an employee or owner of a contractor who is a corporate officer, manager, superintendent, foreperson, lead person or any other person who exercises management or supervisory authority over the construction activities of the business.

Stat. Auth.: ORS 670.310, 701.124 & 701.235
Stats. Implemented: 701.124
Hist.: CCB 9-2010(Temp), f. & cert. ef. 5-18-10 thru 11-12-10

812-020-0055

Definitions — Continuing Education for Commercial Contractors

The following definitions apply to OAR 812-020-0050 to 812-020-0073:

(1) “Building code” means a specialty code as defined in ORS 455.010(7).

(2) “Commercial contractor” means a licensed contractor as defined under ORS 701.005(2).

(3) “Inactive commercial contractor” means a commercial contractor that has voluntarily placed its license in inactive status in accordance with OAR 812-003-0330 to 812-003-0370 and has not converted the license back to active status in accordance with ORS 812-003-0380.

(4) “Lapse in license” has the meaning given that term by OAR 812-002-0420.

(5) “License period” means the two-year period from the date a contractor’s license is first issued or last renewed until the date the license is next scheduled to expire.

Stat. Auth.: ORS 670.310, 701.124 & 701.235
Stats. Implemented: 701.124
Hist.: CCB 21-2008, f. & cert. ef. 11-20-08; CCB 9-2010(Temp), f. & cert. ef. 5-18-10 thru 11-12-10

Rule Caption: Recognize lead-based paint training programs and correct an error in definition of “child-occupied facility.”

Adm. Order No.: CCB 10-2010(Temp)

Filed with Sec. of State: 6-1-2010

Certified to be Effective: 6-1-10 thru 9-3-10

Notice Publication Date:

Rules Amended: 812-007-0020

Rules Suspended: 812-007-0020(T)

Subject: This filing is to correct the text of the temporary rule that was filed on March 11, 2010. The temporary rule filed on March 11,

2010 is being suspended and this temporary rule is replacing that filing.

OAR 812-007-0020(2) is amended to separate the treatment of training providers for LBP activities from those for LBP renovation. The former are limited to providers accredited by the Health Division. The latter may include those accredited by the EPA.

OAR 812-007-0020(5) is amended to correct an error. Child-occupied facilities are those used by children “under age six” not “six years of age or under.” The correct standard is taken from the federal regulation, 40 CFR §745.83, and is used in the Oregon Health Division’s definition rule, OAR 333-070-0085(9). The correct language is also used in other parts of CCB’s own rules (e.g., the remainder of the definition contains the language “under age six.”)

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-007-0020

Definitions

The following definitions apply to division 7 of OAR chapter 812.

(1) “Abatement” means any measure or set of measures designed to permanently eliminate LBP hazards.

(2) “Accredited training program” means a training program provisionally accredited or accredited by the Department, either directly or by reciprocity, to provide training for individuals engaged in LBP activities. For all other purposes, “accredited training program” means a training program provisionally accredited or accredited by the Environmental Protection Agency or the Department, either directly or by reciprocity.

(3) “Certified” means certified by the Department to perform LBP activities.

(4) “Certified lead-based paint renovation contractor” means a construction contractor that is licensed by the board to conduct LBP renovation under ORS 701.515.

(5) “Child-occupied facility” means a building, or portion of a building, constructed before 1978 and visited regularly by the same child, under age six, on at least two different days within any week (Sunday through Saturday), provided that each day’s visit lasts at least 3 hours and the combined weekly visit lasts at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as restrooms and cafeterias. Common areas that children under age six only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.

(6) “Course completion certificate” means documentation issued by an accredited training program to an individual as proof of successful completion of an accredited renovator training program (initial or refresher).

(7) “Department” means the Oregon Department of Human Services.

(8) “Deteriorated lead-based paint (LBP)” means any interior or exterior paint or other covering that is peeling, chipping, chalking, cracking, flaking or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

(9) “Dust-lead hazard” means surface dust that contains a mass-per-area concentration of lead equal to or exceeding 40 $\mu\text{g}/\text{ft}^2$ on floors or 250 $\mu\text{g}/\text{ft}^2$ on interior windows or 400 $\mu\text{g}/\text{ft}^2$ in troughs based on wipe samples.

(10) “Inspection” means a surface-to-surface investigation to determine the presence of LBP and an accompanying report explaining the results of the investigation.

(11) “Lead abatement contractor” means a construction contractor that is licensed by the board to perform abatement.

(12) “Lead assessor” or “risk assessor” means an individual who has been trained by an accredited training program and certified by the Department to conduct risk assessments.

(13) “Lead-based paint” or “LBP” means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

(14) “Lead-based paint activities” means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.

ADMINISTRATIVE RULES

(15) "Lead-based paint (LBP) hazard" means deteriorated LBP, dust-lead hazard or soil-lead hazard.

(16) "Lead inspection contractor" means a construction contractor that is licensed by the board to perform inspections or risk assessments.

(17) "Lead inspector" means an individual who has been trained by an accredited training program and certified by the Department to conduct inspections.

(18) "Lead supervisor" means an individual who has been trained by an accredited training program and certified by the Department to supervise and conduct abatements and prepare abatement reports.

(19) "Lead worker" or "lead abatement worker" means an individual who has been trained by an accredited training program and certified by the Department to perform abatements.

(20) "Minor repair and maintenance" means activities, (including minor heating, ventilation, air conditioning work, electrical work, or plumbing) that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities, that do not involve prohibited or restricted work activities and do not involve window replacement or painted surface demolition. Jobs, other than emergency renovations, performed within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

(21) "Prohibited or restricted work activities" include:

(a) Open flame burning or torching;

(b) Machines to remove paint through high-speed operation without HEPA exhaust control; and

(c) Operating a heat gun at temperatures at or above 750 degrees Fahrenheit.

(22) "Renovation" means the modification of any existing structure, or portion thereof, which results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement. The term renovation includes, but is not limited to:

(a) Removal, modification or repair of painted surfaces or painted components, such as modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping or other such activities that may generate paint dust);

(b) The removal of building components, such as walls, ceilings, plumbing and windows;

(c) Window replacement;

(d) Weatherization projects, such as cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, or planing thresholds to install weather-stripping;

(e) Interim controls that disturb painted surfaces. A renovation for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation. The term "renovation" does not include minor repair and maintenance.

(23) "Renovation Right Pamphlet" means the pamphlet entitled *Renovate Right: Important Lead Hazard Information* for Families, Child Care Providers and Schools or any pamphlet approved by the Environmental Protection Agency (EPA) for the same purpose.

(24) "Risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of a LBP hazard and an accompanying report explaining the results of the investigation and options for reducing LBP hazards.

(25) "Soil lead hazard" means 400 ppm of lead in child play areas or 1200 ppm in non-child play areas.

(26) "Target housing" means any housing constructed before 1978, except housing for the elderly or persons with disabilities or any housing with no bedrooms.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.505 - 701.520

Hist.: CCB 6-1996(Temp), f. & cert. ef. 11-26-96; Administrative Renumber from 812-007-0015, 5-19-97; CCB 1-1997, f. & cert. ef. 5-15-97; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 2-2010, f. & cert. ef. 2-1-10; CCB 5-2010(Temp), f. & cert. ef. 3-11-10 thru 9-3-10; CCB 10-2010(Temp), f. & cert. ef. 6-1-10 thru 9-3-10

.....

Rule Caption: Recognize lead-based paint training programs and correct an error in definition of "child-occupied facility".

Adm. Order No.: CCB 11-2010(Temp)

Filed with Sec. of State: 6-4-2010

Certified to be Effective: 6-4-10 thru 11-30-10

Notice Publication Date:

Rules Amended: 812-003-0290, 812-003-0330

Subject: This filing is to correct the text of the temporary rule that was filed on March 11, 2010. The temporary rule filed on March 11, 2010 is being suspended and this temporary rule is replacing that filing.

OAR 812-007-0020(2) is amended to separate the treatment of training providers for LBP activities from those for LBP renovation. The former are limited to providers accredited by the Health Division. The latter may include those accredited by the EPA.

OAR 812-007-0020(5) is amended to correct an error. Child-occupied facilities are those used by children "under age six" not "six years of age or under." The correct standard is taken from the federal regulation, 40 CFR §745.83, and is used in the Oregon Health Division's definition rule, OAR 333-070-0085(9). The correct language is also used in other parts of CCB's own rules (e.g., the remainder of the definition contains the language "under age six.")

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-003-0290

Effective Dates of Renewal or Reissue of License, License Term

(1) Except as provided in section (2) of this rule, a completed renewal or reissue application required under OAR 812-003-0260 shall be on file with the agency before a license may be renewed or reissued.

(2) The effective date of a license may be prior to the date of receipt of all documents and fees required by law and by these rules if the agency determines that delays in receipt of required documents or fees were caused by agency error.

(3) The effective date of renewal shall be the previous license expiration date when:

(a) All requirements for renewal are met prior to the previous license expiration date; or

(b) All requirements for renewal are met after the previous expiration date, including but not limited to, proof of insurance coverage and a commercial and/or residential bond or letter of credit or cash deposit coverage during the period of lapse, providing the contractor applies for renewal not more than two years after the license lapses.

(4) If the contractor applies for renewal less than two years after the license lapses and does not have proof of insurance coverage and a commercial and/or residential bond or letter of credit or cash deposit coverage during the period of lapse, the effective date of reissue shall be the date all requirements for licensing have been met, including, but not limited to, submission of a renewal form, payment of the fee, a newly issued continuous until canceled bond, or reinstatement of an existing continuous until canceled bond, or letter of credit, or cash deposit, and certification of insurance coverage.

(5) If the contractor applies for renewal more than two years after the license lapses, the effective date of reissue shall be the date all requirements for licensing have been met, including, but not limited to, submission of a new application form, payment of the fee, a newly issued continuous until canceled bond, or reinstatement of an existing continuous until canceled bond, or letter of credit, or cash deposit, and certification of insurance coverage.

(6) Notwithstanding sections (2) through (5) of this section, licenses that expire before July 1, 2008, may not renew on or after July 1, 2008, except by complying with the renewal requirements set forth in OAR 812-003-0280 and with the bond and insurance requirements set forth in OAR 812-003-0152, 812-003-0153, 812-003-0171, and 812-003-0221. The effective date of the renewal will be the date upon which all requirements for renewal are met, including but not limited to, proof of insurance coverage and bond or letter of credit or cash deposit. Such licenses will not be backdated to the previous expiration date.

(7) Licenses will be reissued or renewed for a period of two years.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.063

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04, CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 11-2010(Temp), f. & cert. ef. 6-4-10 thru 11-30-10

812-003-0330

Inactive Status Generally

(1) A licensee may not convert a license to an inactive status if the licensee is engaged in work as a contractor.

(2)(a) A licensee may not offer to undertake work, advertise work as a contractor, submit a bid for construction work, obtain a building permit or perform construction work while in an inactive status.

ADMINISTRATIVE RULES

(b) Subsection (a) of this section does not apply to members of the United States armed forces serving on active duty provided that they perform work as a contractor only as part of their military duties.

(3) A licensee shall notify the agency of any change of address while in an inactive status. During the period when the status of a license is inactive, the agency shall send notices and any other communications to the licensee at the last known address of record of the licensee.

(4) To convert to an inactive status a license must have:

- (a) A current active license;
- (b) A current suspended license; or
- (c) A license that has expired no more than two years.

(5) If the licensee was subject to discipline by the agency, the licensee must satisfy any conditions imposed by the agency as a result of the discipline in order to be eligible for the inactive status.

(6) The licensee must submit a request to convert to inactive status on forms provided by the agency; and

(7) The licensee must comply with OAR 812-003-0340, 812-003-0350, and 812-003-0360.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.056 & 701.063

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 3-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 6-2009, f. & cert. ef. 9-1-09; CCB 11-2010(Temp), f. & cert. ef. 6-4-10 thru 11-30-10

Department of Administrative Services, Human Resource Services Division Chapter 105

Rule Caption: Establishes processes for individuals to apply for state employment and agencies to fill positions.

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

Filed with Sec. of State: 5-27-2010

Certified to be Effective: 6-1-10 thru 11-27-10

Notice Publication Date:

Rules Amended: 105-040-0010, 105-040-0020, 105-040-0030, 105-040-0060

Subject: These rules describe how individuals apply for positions in the classified and management service of the state. The rules establish how state agencies conduct the process to fill positions.

The current permanent rules currently are based on a paper-based and largely manually graded process. The state's previous system to maintain applicant names and pull lists had limited functionality and did not allow for the public to apply for positions electronically.

On April 1, 2010, the state adopted a web-based job posting and applicant management system. This system allows applicants to apply for positions on-line and more quickly. The system allows agencies to select applicants for interviews in rank order based on desired attributes rather than a "score" generated by a traditional civil service "test." Additionally, the current rules outline the process to use random lists of qualified applicants.

Changes to these rules allow state agencies and the public to use the E-Recruit system in a manner consistent with applicable OAR's. Technical and procedural changes necessary to accomplish compliance include but are not limited to:

105-040-0010 Recruitment and Selection Process

- Change reference to "PD 100" form since the new system does not utilize it and the form no longer exists.
- Remove reference to veteran's preference process as it is covered in OAR 105-040-015

Remove reference to the "Hire Program" since it no longer exists.

- Reduce requirement to post openings for a minimum of seven calendar days rather than a minimum two weeks.
- Remove sections 5 and 6 because the Division is permanently delegating agencies the authority to develop and implement the recruitment process in accordance with these rules.

105-040-0020 Types and Order of Applicant Lists:

- Clarify use of priority lists (injured worker, agency layoff list) prior to proceeding to discretionary lists (promotion, transfer, open-competitive).

- Provide that a laid off employee may remain on the agency layoff list if he or she accepts a limited duration appointment.

- Allow agencies to use promotion, transfer and open-competitive lists in conjunction with the statewide layoff list even where there are five or more individuals on the statewide layoff list (allows selection of best qualified applicant rather than unnecessarily limiting applicant pools).

- Removes requirement for current state employees to hold regular status in their current position before applying to an open competitive job posting.

105-040-0030 Use of Applicant Lists:

- Defined "Referral" and "Eligible" lists.

Allow agencies to place a limited number of qualified applicants on a referral list based on ranking.

- Removed description of process to randomly select qualified applicants for consideration for appointment.

- Removed sections (4) and (5) defining protected class candidates and affirmative action goals as it is addressed in 105-040-0001. Note: removal of these sections does not diminish the state's obligation or commitment to equal employment opportunity.

105-040-0060 Limited Competitive and Noncompetitive Appointments:

- In lieu of a centrally administered program, allows hiring agencies to administer a program to make limited and noncompetitive appointments to eligible individuals to certain classifications.

- Updates list of Limited-Competitive and Noncompetitive Appointment Classifications by removing abolished classifications and adds additional appropriate classifications.

Rules Coordinator: Yvonne Hanna—(503) 378-2349, ext. 325

105-040-0010

Recruitment and Selection Process

Applicability: Classified unrepresented and management service positions, and initial appointment to all classified positions. It is the policy of the State of Oregon to base hiring and promotion decisions on an applicant's relative knowledge, experience, and skills, determined by competition without regard to an individual's race, color, religion, sex, marital status, national origin, political affiliation, age, disability, or other non-job-related factors, with proper regard for an individual's privacy.

(1) An applicant shall complete and submit an official State of Oregon application and follow the instructions to apply within the designated time-period.

(2) Hiring agencies provide a minimum seven calendar days notice of employment opportunities when filling vacancies, other than agency promotions, by using the State's Jobs page on the internet. Accordingly:

(a) Job postings shall include job requirements, minimum qualifications from classification specifications, any special qualifications, salary, selection process to be used, application deadline, and any supplemental questions or additional application requirements.

(b) Any recruitment and selection process shall be competitive, unbiased and of such content as to assist in determining an applicant's qualifications to perform the work.

(3) Hiring agencies have the authority to verify a statement contained in an application or a statement made in an interview and secure further information concerning the applicant's qualifications. An adjustment may be made to the applicant's rating if information obtained materially affects the applicant's rating of experience, education, training, or suitability.

(4) Applicants may:

(a) Obtain information regarding employment opportunities by accessing the State's Jobs page on the internet;

(b) Request a review of disqualification within 10 calendar days from the date of disqualification notice for not meeting minimum qualifications as stated in the job posting. Any changes due to a disqualification review shall not affect the previous selection decision(s) concerning other applicants;

(c) A person can reapply to a specific job posting. The most recent application submitted determines a qualified applicant's placement on the eligible list. A hiring agency may determine the time-period before reapplication.

(5) Documentation retention requirements are outlined under State Human Resources Policy 40.010.01 Recruitment and Selection Records Retention.

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

Stat. Auth.: ORS 184.340 & 240.145(3)

Stats. Implemented: ORS 240.250, 240.306, 240.321 & 240.391

ADMINISTRATIVE RULES

Hist.: PD 2-1994, f. & cert. ef. 8-1-94; PD 3-1995, f. & cert. ef. 11-3-95; HRSD 1-1999, f. & cert. ef. 9-1-99; HRSD 12-2003, f. 7-15-03, cert. ef. 7-21-03; HRSD 1-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 11-27-10

1-2007, f. 4-24-07, cert. ef. 5-1-07; HRSD 1-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 11-27-10

105-040-0020

Types and Order of Applicant Lists

Applicability: Classified unrepresented, management service, and classified positions, except, where in conflict with a collective bargaining agreement.

(1) The State of Oregon uses the following eligible lists (some of which have an established order of use) in priority order listed below to facilitate the recruitment and selection process:

(a) First priority: Injured Worker List. This list shall consist of employees with compensable work-related injuries or illnesses that occurred while employed with a state agency in the Executive Branch. The employee must not have waived reemployment rights in accordance with state workers' compensation laws, an applicable collective bargaining agreement or, State HR Policy 50.020.03 Reinstatement and Reemployment of Injured Workers.

(b) Second priority: Agency Layoff Lists. These lists shall consist of permanent (full or part-time) and seasonal employees who completed initial trial service with the State and separated from the service in good standing due to layoff or demotion in lieu of layoff.

(A) Agency Layoff Lists are established by individual agencies. Eligible employees are placed on the list by the classification at separation or demotion within the category of service specified in ORS 240.195. The term of eligibility on the list is two years from date of layoff or demotion. An individual shall be removed from the list upon the second refusal of a job offer unless an agency layoff plan allows for additional refusals or when the employee is returned to an equivalent position from which laid off (other than temporary or limited duration work).

(B) Agency Layoff Lists shall be used according to State HR Policy 50.025.01 Layoff/Removal or an applicable collective bargaining agreement.

(c) Third priority: Statewide Layoff, Agency Promotion, Statewide Promotion, Transfer, and Open Competitive Lists. The use of these lists shall follow the exhaustion of first and second priority lists.

(i) The Statewide Layoff List shall consist of permanent (full or part-time) employees in either the management or classified unrepresented service who separated due to a layoff or unclassified executive service employees terminated from state service due to reduction in force. Employees on the Statewide Layoff List must have completed initial trial service. Agency Promotion, Statewide Promotion, Transfer Lists, and Open Competitive Lists may be used in any combination or order to supplement the Statewide Layoff List.

(ii) A hiring agency may use the Agency Promotion, Statewide Promotion, Transfer, and Open Competitive Lists in any order or combination at the hiring agency's discretion.

(A) Agency Promotion Lists shall consist of agency employees who apply for and meet the qualifications of the position.

(B) Statewide Promotion Lists shall consist of eligible state employees who apply for meet the qualifications of the position. Eligible state employees are current employees in an:

(i) Agency covered by ORS 240; or

(ii) Agency covered by an inter-agency agreement with HRSD that stipulates that the employees are eligible to apply to the statewide promotion list.

(C) Transfer Lists shall include eligible state employees who apply for and meet the qualifications of a position of the same classification, or same, equal, or lower salary range number. Employees may request placement on transfer lists via their agency's human resources office. If an employee wishes to transfer to another agency, he or she must contact that agency's human resources office for placement on the list. Eligible state employees are current employees in an:

(i) Agency covered by ORS 240; or

(ii) Agency covered by an inter-agency agreement with HRSD that stipulates that the employees are eligible to apply to the statewide transfer list.)

(D) Open Competitive Lists shall include persons seeking employment with the state who meet the qualifications of the position.

(2) Documentation retention requirements are outlined under State HR Policy 40.010.01 Recruitment and Selection Record Retention.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.340, 240.145 & 240.250

Stats. Implemented: ORS 240.306, 659A.052, 659A.043 & 659A.046

Hist.: PD 2-1994, f. & cert. ef. 8-1-94; HRSD 1-2003(Temp), f. & cert. ef. 1-13-03 thru 7-12-03; HRSD 3-2003, f. & cert. ef. 4-30-03; HRSD 13-2003, f. 7-15-03, cert. ef. 7-21-03; HRSD

105-040-0030

Use of Applicant Lists

Definitions:

Applicability: Classified unrepresented and management service positions, and initial appointment to all classified positions. Not applicable to represented positions where in conflict with a collective bargaining agreement.

(1) Definitions: (see also HRSD Rule 105-010-0000 Definitions Applicable Generally to Personnel Rules and Policies).

(a) Inactivation Reason: An inactivation reason is a standardized code assigned by a hiring agency to indicate an applicant is no longer active on a list of eligibles or a referral list.

(b) List of eligibles: A list of applicants who meet minimum and special qualifications for a job posting.

(c) Referral List: A referral list is a list of applicants referred to a job posting, meeting the minimum and special qualifications for a job posting.

(d) Special Qualifications: Qualifications added to minimum qualifications necessary at the time of appointment based on specific duties of the position to be filled. Special qualifications may include, but are not limited to bilingual skills or, licenses, permits and certifications required by law.

(2) The State of Oregon establishes and maintains lists of qualified applicants to facilitate selection processes based upon required knowledge, skills, training and, education.

(a) The order in which applicant lists are to be used shall be in accordance with Administrative Rule 105-040-0020, Types and Order of Applicant Lists, or as specified in collective bargaining agreements.

(b) Lists of eligibles shall be established and maintained on the state's recruitment system.

(c) When a vacant position is to be filled, an agency, when appropriate, shall create a list of eligibles and a referral list prior to conducting interviews.

(d) The referral list shall be in one of the following formats, whichever is applicable:

(A) All applicants who meet the minimum qualifications for the position; or

(B) All applicants listed in order from the highest to lowest score based on selection criteria; or

(C) A limited number of applicants on the list of eligibles for the position selected in ranked order based on selection criteria.

(e) Selection of applicants for interview from the referral list formats listed in (2)(d)(A-C) shall include all qualified applicants unless the hiring agency develops and documents a valid screening process to select only the most qualified applicants.

(f) When a referral list contains tied rankings, all applicants with that ranking shall be offered an interview if any of the applicants with that score are offered an interview, unless the hiring agency develops and documents a valid screening process to select only the most qualified applicants for interview.

(g) Regardless of the selection process being used to evaluate applicants, veterans' preference shall be given in accordance with OAR 105-040-0015.

(h) After exhaustion of the priority lists specified in OAR 105-040-0020, a related applicant list of a classification having the same minimum and special qualifications and salary may be used.

(i) When an applicant is appointed to a position from a referral list, the applicant is inactivated from that referral or eligible list, except when an applicant retains rights to remain on specific priority lists such as the Injured Worker List and Agency Layoff List.

(j) Except for the expiration of the term of eligibility on an applicant list, any person whose name is removed from a list shall be promptly notified by the hiring agency. The hiring agency may remove an applicant from an eligible or referral list for reasons including, but not limited to the following:

(A) Failure to respond within a reasonable time-period to any inquiry regarding availability for appointment;

(B) Expiration of the term of eligibility on the list;

(C) Willful violation of relevant rules, or policies, or provisions of the law;

(D) Falsifying statements on the application;

(E) Failure to pass required pre-employment checks or tests including but not limited to criminal record, drug test, or driving record checks;

(F) Cancellation of a list;

(G) Appointment made from a lay-off list to any classification;

ADMINISTRATIVE RULES

(k) An inactivation reason shall be reported for each candidate appearing on the referral list who was invited to interview and not appointed to a position.

Stat. Auth.: ORS 184.340 & 240.145
Stats. Implemented: ORS 240.010 & 240.306
Hist.: PD 2-1994, f. & cert. ef. 8-1-94; PD 3-1995, f. & cert. ef. 11-3-95; HRSD 1-2000, f. 1-28-00 cert. ef. 2-1-00; HRSD 14-2003, f. 7-15-03, cert. ef. 7-21-03; HSRD 21-2003(Temp), f. & cert. ef. 9-23-03 thru 12-19-03; HRSD 23-2003(Temp), f. 12-19-03, cert. ef. 12-20-03 thru 3-20-04; HRSD 1-2004, f. & cert. ef. 3-5-04; HRSD 1-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 11-27-10

105-040-0060

Limited-Competitive and Noncompetitive Appointments

Applicability: Classified unrepresented and management service positions and initial appointment to all classified positions.

(1) It is the policy of the State of Oregon to facilitate the employment of persons who are disabled (as defined by ORS 174.107), economically disadvantaged or unskilled or semi-skilled through a limited-competitive or non-competitive appointment process:

(a) Recruitment for positions using employment programs serving people with disabilities administered by hiring agencies is not limited to the Limited-Competitive and Non-Competitive Classification list. A limited-competitive selection process through such employment programs administered by hiring agencies may be used to facilitate employment of persons with a disability;

(b) Recruitment for the economically disadvantaged and non-competitive appointments is limited to those classifications listed in this rule (Limited-Competitive and Non-Competitive Appointment Classifications List) unless otherwise authorized by the Division. When a hiring agency chooses to make an appointment using limited-competitive or non-competitive selection and appointment procedures, the hiring agency shall:

(A) Open a job listing with the field office of the Employment Department nearest the location of the vacancy when the recruitment is open to the public;

(B) Provide the Employment Department field office with a brief description of any job reported to that office; and

(C) Make affirmative efforts to supplement referrals to create a diverse pool of candidates.

(c) A limited-competitive selection process may be used for economically disadvantaged persons who meet the following criteria:

(A) Clients of the Department of Human Services programs;

(B) Clients of the Juvenile Justice Division programs funded by the state.

(d) The Division shall use the following criteria when reviewing appointing authority or designee requests for additions to the Limited-Competitive and Non-competitive Appointment Classifications List:

(A) The classification requires minimal or no requisite knowledge or skills;

(B) It is impractical to develop an examination; and

(C) It is impractical to follow the normal recruiting process.

(2) A non-competitive appointment is made to designated classifications comprised of unskilled or semi-skilled positions for which there are minimal or no qualifying knowledge or skills, no screening and no ranking. Where more than one candidate is referred, the hiring manager may use a limited-competitive process to select the most qualified.

(3) Limited-competitive appointment may also be used to limit the competition for appointment to non-competitive classes to those persons who meet the criteria outlined in (1)(b)(A) above.

(4) Following is a list of Limited-Competitive and Non-competitive Appointment Classifications:

(a) 0001, Supported Employment Worker;

(b) 0100, Student Office Worker;

(c) 0101, Office Assistant 1;

(d) 0150, Student Professional/Technical Worker;

(e) 0321, Public Service Representative 1

(f) 0405, Mail Services Assistant;

(g) 1105, Traffic Survey Interviewer;

(h) 3769, Experimental Biology Aide;

(i) 4101, Custodian;

(j) 4116 Laborer/Student Worker

(k) 4125, Litter Patrol Worker;

(l) 4137, Liquor Distribution Worker 1;

(m) 4403, Transporter;

(n) 6605, Human Service Assistant 1;

(o) 6701, Student Human Services Worker;

(p) 6725, Habilitative Training Technician 1;

(q) 6750, Group Life Coordinator 1;

(r) 8125, Agricultural Worker;

(s) 8201, Forest Nursery Worker 1;

(t) 8202, Forest Nursery Worker 2;

(u) 8235, Student/Professional Forester Worker;

(v) 8253, Forest Lookout;

(w) 8263 Wildlife Fire Dispatcher Entry

(x) 8340 Fish & Wildlife Technician (Entry);

(y) 9100, Food Service Worker 1

Stat. Auth.: ORS 184.340, 240.145(3) & 240.250

Stats Implemented: ORS 240.306, 240.321 & 657.710

Hist.: PD 2-1994, f. & cert. ef. 8-1-94; HRMD 2-1996, f. 3-28-96, cert. ef. 4-1-96; HRSD 17-2003, f. 7-15-03, cert. ef. 7-21-03; HRSD 1-2007, f. 4-24-07, cert. ef. 5-1-07; HRSD 1-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 11-27-10

Department of Administrative Services, Public Employees' Benefit Board Chapter 101

Rule Caption: Amends Division 10 and 15, Definitions and Eligibility; adopts Division 15, Eligibility, Dependent Child.

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

Filed with Sec. of State: 6-1-2010

Certified to be Effective: 6-1-10 thru 11-28-10

Notice Publication Date:

Rules Adopted: 101-015-0012

Rules Amended: 101-010-0005, 101-015-0011

Subject: Amends OAR 101-010-0005(3) and (10), Definitions, and OAR 101-015-0011(4), Dependent Child, and adopts OAR 101-015-0012, required by the Board's May 18, 2010 public meeting decision regarding plan compliance with new federal law and extension of coverage to dependents to age 26 [Patient Protection and Affordable Care Act (PPACA, Public Law 111-148), the Health Care and Education Reconciliation Act (HCERA, H.R. 4872)].

The rules applies the new coverage and regulation to PEBB dependent children enrolled and receiving coverage as of June 1, 2010, extending through Dec. 31, 2010, and allows employees to follow the new eligibility enrollment regulations that will be in effect for Jan. 1, 2011 during Open Enrollment, scheduled for completion in Oct. 2010.

PEBB's current dependent rule, OAR 101-015-0011, must remain in effect for all newly eligible dependent enrollments through Dec. 31, 2010. The rules will be amended for Jan. 1, 2011.

Rules Coordinator: Cherie M. Taylor—(503) 378-6296

101-010-0005

Definitions

Unless the context indicates otherwise, as used in OAR Chapter 101, Divisions 1 through 60, the following definitions will apply:

(1) "Actively at work" for medical and dental insurance coverage means an active eligible employee at work, in paid regular status and scheduled for work during the month of requested insurance coverage, or using accrued leave on the effective date of coverage. Reference optional insurance policies or certificates for plan specific "actively at work" criteria.

(2) "Active Participation" in reference to a Flexible Spending Account (FSA) means an eligible employee currently enrolled and who contributes each month to the account.

(3) "Affidavit of Dependency" means a notarized document that attests a dependent child meets the criteria for a dependent child under these rules.

(4) "Affidavit of Domestic Partnership" means a notarized document that attests the eligible employee and one other individual meet the criteria in OAR 101-015-0025(2).

(5) "Benefit amount" means the amount of money paid by a PEBB participating organization on behalf of active eligible employees for the purchase of benefit plans.

(6) "CBIW" means Continuation of Benefits for Injured Workers.

(7) "Certificate of Registered Domestic Partnership" means the certificate issued by an Oregon county clerk to two individuals of the same sex after they file a Declaration of Domestic Partnership with the county clerk.

(8) "COBRA" means the federal Consolidated Omnibus Reconciliation Act.

(9) "Dependent Care Flexible Spending Account (FSA)" means the dependent care assistance program.

ADMINISTRATIVE RULES

(10) "Dependent child" means a child that satisfies the conditions of OAR 101-015-0011 or 101-015-0012, as applicable.

(11) "Domestic partner" means an eligible employee's partner in a registered domestic partnership under Chapter 99 Oregon Laws 2007 or unmarried partner of the same or opposite sex that meets the requirements as outlined in OAR 101-015-0025(2).

(12) "Eligible employee" means and includes:

(a) "Active eligible employee" means an employee of a PEBB participating organization, including state officials, in exempt, unclassified, classified and management service positions who are expected to work at least 90 days; and who work at least half-time or are in a position classified as job share.

(b) "Retired eligible employee" means a previously active eligible employee, who meets retiree eligibility as defined in OAR 101-050-0005. A retired eligible employee is eligible only for those benefit plans established in division 50 of this chapter.

(c) "Other eligible employees" means individuals of self-pay groups as established by ORS 243.140 and 243.200. This group is eligible only for medical or dental benefits as approved by PEBB.

(13) "Family member" means a spouse or dependent child.

(14) "FMLA" means the federal Family Medical Leave Act.

(15) "FTE" means full time equivalent job position.

(16) "Half-time" means an eligible employee who works less than full time but at least:

(a) Eighty paid regular hours per month; or

(b) Eighty paid regular hours per month or .5 FTE for OUS employees; or

(c) Eighty paid regular hours per month and is in a .5 FTE position for the Oregon Judicial Department; or

(d) As defined by collective bargaining.

(17) "Health Flexible Spending Account (FSA)" means the health flexible spending arrangement.

(18) "Imputed value" means a dollar amount established yearly for an insurance premium at fair market value. The IRS views the imputed value as taxable income. The imputed value dollar amount is added to the eligible employee's taxable wages.

(19) "Ineligible individual" means an individual who does not meet the definition of an eligible employee, spouse, domestic partner, or dependent child.

(20) "Job share" means two eligible employees sharing one full time equivalent position. Each eligible employee's percentage of the total position determines the benefit amount the employee receives. The monthly benefit percentage amount remains the same regardless of individual hours worked per month. Job share employees may not donate their portion of the benefit amount to the job share co-worker.

Example 1: John and Jill share one full time equivalent position. When they were hired into the position in July, John's percentage of the total position was 40 percent; Jill's percentage was 60 percent. John worked 70 percent of the available hours in September. John's benefit amount percentage for September remains at 40 percent. Jill's benefit amount percentage remains at 60 percent.

(21) "OFLA" means the Oregon Family Leave Act.

(22) "OSPS" means the Oregon State Payroll System.

(23) "OUS" means the Oregon University System.

(24) "Open enrollment period" means an annual period chosen by PEBB when both active and other eligible employees and COBRA participants can make benefit plan changes or elections for the next plan year.

(25) "Optional insurances" means, but is not limited to:

(a) Dependent life insurance;

(b) Employee, spouse, or domestic partner life insurance;

(c) Accidental Death & Dismemberment (AD&D) insurance;

(d) Short Term Disability insurance;

(e) Long Term Disability insurance;

(f) Flexible Spending Accounts (Health and Dependent Care); and

(g) Long Term Care insurance.

(26) "Paid regular" means in current payroll status, and receiving payment for work time including vacation, sick, holiday or personal leave and compensatory time.

(27) "Pebb.benefits" means the electronic benefit management system sponsored by PEBB. The system allows electronic enrollment and termination of the eligible individual's benefit plans, personal information updates, and the transmittal of data to plans, payroll centers, and third party administrators.

(28) "PEBB participating organization" means a state agency, board, commission, university, or other entity that receives approval to participate in PEBB benefit plans.

(29) "Plan change period" means a period chosen by PEBB when retirees can make limited benefit plan changes.

(30) "Plan year" means a period of twelve consecutive months.

(31) "Qualified status change" (QSC) means a change in family or work status that allows limited mid-year changes to benefit plans consistent with the individual event.

(32) "Reinstate" means to reactivate previous benefits and enrollments, if available, to an eligible employee returning to eligible status within a specific time frame. Reinstated enrollment does not include FSA or Long Term Care.

(32) "Spouse" means a person of the opposite sex who is a husband or wife. A relationship recognized as a marriage in another state between two opposite sex partners will be recognized in Oregon even though such a relationship would not be a marriage if the same facts had been relied upon to create a marriage in Oregon. The definition of spouse does not include a former spouse and a former spouse does not qualify as a dependent.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 302, 659A.060 - 069, 743.600 - 602, 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 3-2005, f. 8-31-05, cert. ef. 9-1-05; PEBB 2-2006(Temp), f. & cert. ef. 12-14-06 thru 6-12-07; PEBB 1-2007(Temp), f. & cert. ef. 6-11-07 thru 12-8-07; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 1-2008(Temp), f. & cert. ef. 2-4-08 thru 8-1-08; PEBB 2-2008, f. & cert. ef. 8-1-08; PEBB 3-2009, f. 9-29-09 cert. ef. 10-1-09; HLA 4-2010, f. & cert. ef. 5-18-10; PEBB 1-2010(Temp), f. & cert. ef. 6-1-10 thru 11-28-10

101-015-0011

Dependent Child

(1) In defining dependent child eligibility, PEBB uses the Internal Revenue Code (IRC) 152 as revised by the Working Families Tax Relief Act of 2004. A dependent child must meet the following PEBB eligibility requirements:

(a) The child is an eligible employee's, spouse's, or domestic partner's:

(A) Biological, adopted, or a placed for adoption child; or

(B) Child by Affidavit. A Child by Affidavit includes, but is not limited to, a foster child, a ward of the court, a child under legal guardianship, or the child of a dependent. The child must meet PEBB eligibility requirements. The eligible employee must complete and return to the agency a notarized PEBB Affidavit of Dependency form within five business days of the child's electronic enrollment date or the date the agency receives the enrollment forms. PEBB terminates the child's coverage retroactive to the effective date if the notarized affidavit is not received within the specified time.

(b) The dependent child is not married, does not have a domestic partner, is not in the military and is a member of the eligible employee's household.

(c) Regarding age, the dependent child is:

(A) Under the age of 19 at the end of the calendar plan year.

(B) Between the ages of 19 and up to age 24 during the plan year, and is a full time student who has not attained the age of 24.

(i) Student means an individual who during each of five calendar months during the calendar year is a full-time student at an education organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on.

(ii) To be full-time, the student must be enrolled for the number of hours or courses the school considers full-time attendance. The term school includes elementary schools, junior and senior high schools, colleges, universities, and technical, trade, and mechanical schools. It does not include on-the-job training courses, correspondence schools, or schools offering courses only through the internet. People who work "co-op" jobs in private industry as part of a school's regular course of classroom and practical training are full-time students.

(iii) Beginning in 2010, seriously ill or injured full time student dependents covered under an eligible employee's plan immediately before the first day of a medically necessary leave of absence, or change in enrollment such as full-time to part-time, may continue coverage for up to one year while on a medically necessary leave of absence. "Medically necessary leave of absence" means a leave of absence from a post-secondary educational institution, or any other change in enrollment at the institution that starts while the child is suffering from a serious illness or injury, is medically necessary, and causes the child to lose student status for purposes of PEBB eligibility. A physician of the dependent must provide a written cer-

ADMINISTRATIVE RULES

tification to PEBB stating that the child is suffering from a serious illness or injury and that the leave of absence (or change in enrollment) is medically necessary. The extension of coverage continues until the earlier of one year after the first day of the leave or the date that coverage would otherwise terminate, (e.g., due to an age limitation).

(C) Between the ages of 19 and up to age 24, lives in the eligible employee's household over six months of the calendar year, and the eligible employee provides over half the child's yearly support.

(d) There is no age limit for a dependent child who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability.

(A) The attending physician must submit documentation of the disability to the eligible employee's PEBB medical insurance plan for eligibility approval. Once approved, the medical plan may review the dependent's health status at any time to determine the child's continued PEBB eligibility.

(B) When the dependent child is 24 years of age or older, the disability must have existed before attaining age 24. The child must have had continuous medical insurance coverage, group or individual, prior to attaining age 24 and the insurance must continue until the PEBB insurance effective date.

(C) If the child terminates from PEBB insurance coverage after age 24, the child is ineligible for future enrollment as a dependent child under PEBB coverage.

(e) The child must be a U.S. citizen, national or resident of the U.S. or a resident of Canada or Mexico. When an adopted child or child placed for adoption fails this requirement, they can still be the employees' dependent child if the child has the employee's home as his principal home and is a member of the employees' household, and the employee is a citizen or national of the U.S. Foreign students are not eligible for PEBB coverage.

(f) The child must not qualify as any other person's dependent child, except that a child of divorced or separated parents meeting conditions under IRC 152(e) can be treated as dependent of both parents for the purpose of health insurance coverage.

(2) Eligible employees who want to provide insurance coverage to dependent children that will be between the ages of 19 and up to age 24 must certify during the open enrollment period the dependent's continued eligibility for the following plan year. Dependents not certified during open enrollment will lose coverage the last day of the current plan year. The yearly dependent certification excludes children approved by the insurance plan as incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability.

(3) PEBB terminates all insurance coverage for dependent children the last day of the month in which the child reaches age 24. PEBB will not terminate coverage for children age 24 or older when approved by the insurance plan as incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability.

(4) This rule shall not apply to health plan coverage after December 31, 2010.

Stat. Auth.: ORS 243.125

Stats. Implemented: ORS 183, 192 & 243

Hist.: PEBB 3-2009, f. 9-29-09 cert. ef. 10-1-09; PEBB 1-2010(Temp), f. & cert. ef. 6-1-10 thru 11-28-10

101-015-0012

Dependent Child

(1) Beginning June 1, 2010 and extending through December 31, 2010;

(a) Dependent children that are enrolled and receiving PEBB health plan coverage that would otherwise lose coverage under OAR 101-015-0011 during this period will continue to receive coverage, provided the child meets the following requirements:

(A) The child is an eligible employee's, employee's spouse's, or domestic partner's son, daughter, stepson, stepdaughter, adopted child or child placed for adoption, foster child or other legally-placed child.

(B) The child cannot be older than age 26 on the last day of the plan year. The exception is a child who meets all the requirements of section (4) of this rule.

(b) Newly eligible employees or eligible employees with a qualified mid-year plan change event may enroll only those children who meet the dependent eligibility of OAR 101-015-0011 during this period.

(2) Beginning January 1, 2011 a dependent child must meet the following PEBB eligibility to receive PEBB insurance coverage:

(a) The child is an eligible employee's, spouse, or domestic partner's son, daughter, stepson, stepdaughter, adopted child or child placed for adoption, foster child or other legally placed child.

(b) The child is a biological child of an eligible dependent child and meets one of the following criteria:

(A) The child's parent will not be older than age 26 on the last day of the plan year, is unmarried and without a domestic partner, both the parent and the child live in the household of the eligible employee, and both receive over half of their financial support from the employee; or;

(B) The child lives with the eligible employee and the employee is legally responsible for the welfare of the grandchild. The employee must be able to provide legal documentation of guardianship, conservatorship, or other custody documents.

(c) A child receiving PEBB insurance coverage cannot be older than age 26 on the last day of the plan year. The exception is a child who meets all the requirements of section (4) of this rule.

(3) An employee must complete and submit the appropriate PEBB affidavit and any required legal documents in order to provide coverage to the following children, a foster child, a child placed for adoption, a ward of the court, a child under legal guardianship or other court order, or an eligible grandchild. The employee must complete and return to the agency the notarized affidavit and any required evidence of legal responsibility within five business days of the child's electronic enrollment date or the date the agency receives the enrollment forms. PEBB or the agency will terminate the child's coverage retroactive to the effective date if the affidavit or required documents are not received within the specified time.

(4) There is no age limit for a dependent child who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. When the dependent child is 26 years of age or older all the following requirements must be met:

(a) The disability must have existed before attaining age 26.

(b) The employee must provide evidence to the agency or PEBB that the child had continuous medical insurance coverage, group or individual, prior to attaining age 26. The insurance must continue until the PEBB insurance effective date.

(c) The child's attending physician must submit documentation of the disability to the eligible employee's PEBB medical insurance plan for review and approval. If the child receives medical plan approval, the medical plan may review the child's health status at any time to determine continued PEBB coverage eligibility.

(d) If the child terminates from PEBB insurance coverage after the age of 26, the child is ineligible for future enrollment as a dependent child under PEBB coverage.

(5) PEBB terminates all insurance coverage for dependent children the last day of the last month in the plan year in which a dependent child reaches age 26. PEBB will not terminate coverage for children age 26 or older when approved by the insurance plan as incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability.

Stat. Auth.: ORS 243

Stats. Implemented: ORS 183, 192, 243, 292, 302, 659 & 743

Hist.: PEBB 1-2010(Temp), f. & cert. ef. 6-1-10 thru 11-28-10

Rule Caption: Amends Division 15, Eligibility, Dependent Child.

Adm. Order No.: PEBB 2-2010(Temp)

Filed with Sec. of State: 6-3-2010

Certified to be Effective: 6-3-10 thru 11-28-10

Notice Publication Date:

Rules Adopted: 101-015-0012

Rules Suspended: 101-015-0012(T)

Subject: Amends OAR 101-015-0012(5), clarifying health plan coverage termination for dependent children reaching age 26.

Rules Coordinator: Cherie M. Taylor—(503) 378-6296

101-015-0012

Dependent Child

(1) Beginning June 1, 2010 and extending through December 31, 2010.

(a) Dependent children that are enrolled and receiving PEBB health plan coverage that would otherwise lose coverage under OAR 101-015-0011 during this period will continue to receive coverage, provided the child meets the following requirements:

(A) The child is an eligible employee's, spouse's, or domestic partner's son, daughter, stepson, stepdaughter, adopted child or child placed for adoption, foster child or other legally placed child, and;

(B) The child will not have attained age 27 by December 31, 2010, except as provided in section (4) of this rule.

ADMINISTRATIVE RULES

(b) Newly eligible employees or eligible employees with a qualified mid-year plan change event may enroll only those children who meet the dependent eligibility conditions of OAR 101-015-0011 during this period.

(2) Beginning January 1, 2011 a dependent child must meet the following eligibility conditions to receive PEBB health plan coverage:

(a) The child is:

(A) An eligible employee's, spouse's, or domestic partner's son, daughter, stepson, stepdaughter, adopted child or child placed for adoption, foster child or other legally placed child, or;

(B) The biological child of an eligible dependent child and meets one of the following criteria:

(i) The child's parent will not be older than age 26 on the last day of the plan year, is unmarried and without a domestic partner, both the parent and the child live in the household of the eligible employee, and both receive over half of their financial support from the employee; or;

(ii) The child lives with the eligible employee and the employee is legally responsible for the welfare of the grandchild. The employee must be able to provide legal documentation of guardianship, conservatorship, or other custody documents.

(b) The child will not have attained age 27 as of December 31 of the plan year. The exception is a child who meets all the requirements of section (4) of this rule.

(3) An employee must complete and submit the appropriate PEBB affidavit and any required legal documents in order to provide coverage to the following children: a foster child, a child placed for adoption, a ward of the court, a child under legal guardianship or other court order, or an eligible grandchild. The employee must complete and return to the agency the notarized affidavit and any required evidence of legal responsibility within five business days of the child's electronic enrollment date or the date the agency receives the enrollment forms. PEBB or the agency will terminate the child's coverage retroactive to the effective date if the affidavit or required documents are not received within the specified time.

(4) There is no age limit for a dependent child who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. When the dependent child is 26 years of age or older all the following requirements must be met:

(a) The disability must have existed before attaining age 26.

(b) The employee must provide evidence to the agency or PEBB that the child had continuous health plan coverage, group or individual, prior to attaining age 26, which continued until the PEBB health plan effective date.

(c) The child's attending physician must submit documentation of the disability to the eligible employee's PEBB health plan insurance plan for review and approval. If the child receives health plan approval, the health plan may review the child's health status at any time to determine continued PEBB coverage eligibility.

(d) If the child terminates from PEBB health plan coverage after the age of 26, the child is ineligible for future enrollment as a dependent child under PEBB coverage.

(5) PEBB terminates all health plan coverage at midnight on December 31 for dependent children who have reached age 26 during the calendar year. PEBB will not terminate coverage for children age 26 or older when approved by the health plan as incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability pursuant to section (4) of this rule.

Stat. Auth.: ORS 243

Stats. Implemented: ORS 183, 192, 243, 292, 302, 659 & 743

Hist.: PEBB 1-2010(Temp), f. & cert. ef. 6-1-10 thru 11-28-10; PEBB 2-2010(Temp), f. & cert. ef. 6-3-10 thru 11-28-10

Department of Agriculture, Oregon Dairy Products Commission Chapter 617

Rule Caption: Amend per diem rate for Oregon dairy Products Commission Commissioners from \$30.00 to \$100.00.

Adm. Order No.: ODDC 1-2010

Filed with Sec. of State: 5-21-2010

Certified to be Effective: 5-21-10

Notice Publication Date: 4-1-2010

Rules Amended: 617-040-0010

Subject: Sets per diem for commissioners at \$100. 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: Pete Kent—(503) 229-5033

617-040-0010

PerDiem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Dairy Products Commission must pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.

(2) The rate of compensation is limited to \$100 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Dairy Products Commission a written claim for compensation by the 15th day of the calendar month following the month for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 576.304

Stats. Implemented: ORS 292.495, 576.206 & 576.416

Hist.: ODDC 1-2007, f. & cert. ef. 8-7-07; ODDC 1-2010, f. & cert. ef. 5-21-10

Department of Agriculture, Oregon Highland Bentgrass Commission Chapter 641

Rule Caption: Increases the assessment rate for Highland Bentgrass seed produced in Oregon.

Adm. Order No.: OHBC 1-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 6-1-2010

Rules Amended: 641-010-0005

Subject: 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—(503) 364-2944

641-010-0005

Assessments

Any person who is a first purchaser, as defined in ORS Chapter 576, shall deduct and withhold an assessment of \$1.75 for each 100 pounds on a cleaned seed basis, from the price paid to the producer thereof, on and after July 1, 2010, for Highland Bentgrass seed or any commodity or mixture which contains more than 50 percent of such Highland Bentgrass seed.

Stat. Auth.: ORS 576.325 - 576.365

Stats. Implemented: ORS 576.325 - 576.365

Hist.: HBC 3, f. 6-16-60; HBC 6, f. 6-21-65, ef. 7-1-65; HBC 7, f. 6-30-67, ef. 7-1-67; HBC 8, f. 9-15-69, ef. 9-15-69; HBC 9, f. 7-14-70, ef. 7-1-70; HBC 1-1979, f. & ef. 7-2-79; HBC 1-1989, f. 6-13-89, cert. ef. 7-1-89; HBC 1-1989, f. 6-13-89, cert. ef. 7-1-89; HBC 1-1990, f. 6-13-90, cert. ef. 7-1-90; HBC 2-1995, f. 6-29-95, cert. ef. 7-1-95; OHBC 1-2010, f. 6-15-10, cert. ef. 7-1-10

Department of Agriculture, Oregon Invasive Species Council Chapter 609

Rule Caption: Establishes protocol for declaration of invasive species emergency to release Invasive Species Control Account Fund.

Adm. Order No.: OISC 1-2010

Filed with Sec. of State: 5-28-2010

Certified to be Effective: 5-28-10

Notice Publication Date: 4-1-2010

Rules Adopted: 609-010-0100, 609-010-0110, 609-010-0120, 609-010-0130, 609-010-0140

Subject: The proposed rule would establish a protocol to guide the Oregon Invasive Species Council in determining eligibility for release of funds from the Oregon Invasive Species Control Account for the purposes of eradicating or controlling new infestations or infections of invasive species in Oregon. Requests for funds must be in writing and include a response plan including a risk assessment, budget, timeline, and evaluation of success. The Council may release funds only after declaring an Invasive Species Emergency. The Council may enter an agreement with a person, state or local government,

ADMINISTRATIVE RULES

Indian tribe or federal government that will be responsible for implementing a portion or all of the response plan.

Rules Coordinator: Sue Gooch—(503) 986-4583

609-010-0100

Definitions

As used in this division of administrative rules, unless the context requires otherwise:

(1) "Agreement" means a document describing an understanding between the Council and a recipient of Funds, including but not limited to a grant, loan, or memorandum of understanding.

(2) "Council" means the Oregon Invasive Species Council.

(3) "Emergency" means that one or more Invasive Species that is new to the state, or that exhibits a substantial range expansion within the state, threatens the health and integrity of Oregon's native flora and fauna.

(4) "Funds" means money in or disbursed from the Invasive Species Control Account.

(5) "Invasive Species" has the meaning given that term in ORS 570.755.

(6) "Invasive Species Emergency" means a declaration by the Council that an Emergency exists or is imminent, and that the Emergency is of such magnitude that Funds are needed to terminate or lessen the threat.

Stat. Auth.: ORS 570.800

Stats. Implemented: ORS 570.800 & 570.810

Hist.: OISC 1-2010, f. & cert. ef. 5-28-10

609-010-0110

Purpose

The purpose of this division of rules is to provide criteria and procedures for administration of the Oregon Invasive Species Control Account.

Stat. Auth.: ORS 570.800

Stats. Implemented: ORS 570.800 & 570.810

Hist.: OISC 1-2010, f. & cert. ef. 5-28-10

609-010-0120

Eligible Applicants

(1) A person, state or local government, unit of state or local government, an Indian tribe, or a unit of the federal government, may request that the Council declare an Invasive Species Emergency and release Funds.

(2) The request must be sent to the Council in writing and include a response plan with the following elements:

(a) A risk assessment for the Invasive Species;

(b) Information about efforts implemented to control or eradicate the Invasive Species in other locales;

(c) Methodology proposed to eradicate or control the infestation;

(d) Budget to respond to the infestation;

(e) Timeline for activities associated with response to the infestation; and

(f) Methods to evaluate control or eradication success.

(3) Requests not meeting review standards may be returned for correction or completion, or may be denied further consideration.

Stat. Auth.: ORS 570.800

Stats. Implemented: ORS 570.800 & 570.810

Hist.: OISC 1-2010, f. & cert. ef. 5-28-10

609-010-0130

Standards to Determine Eligibility for Release of Funds

(1) The Council may release Funds only after declaring an Invasive Species Emergency and determining that the action items that are described in the response plan:

(a) Are economically, scientifically, and environmentally defensible and sound;

(b) Contribute to the effective control or eradication of Invasive Species populations or infections;

(c) Achieve a favorable cost/benefit ratio relative to other options considered; and

(d) Respond to an Invasive Species that the Council has deemed to be a high risk to Oregon's economy and environment.

(2) The following expenditures are not eligible for funding through the Oregon Invasive Species Control Account:

(a) Operational costs of managing Invasive Species that are widely established in Oregon; and

(b) Any cost that the Council deems is not necessary to respond to an Emergency.

(3) Outreach, education, and research related to Invasive Species are not generally eligible, but in a specific Emergency they might be part of an appropriate response plan and may be approved by the Council.

Stat. Auth.: ORS 570.800

Stats. Implemented: ORS 570.800 & 570.810

Hist.: OISC 1-2010, f. & cert. ef. 5-28-10

609-010-0140

Process for Declaration and Release of Funds

(1) Council members will review the request to declare an Invasive Species Emergency.

(2) During the review process, the Council may consider technical and other information obtained from sources other than the applicant, including, but not limited to, the Governor's Natural Resources Cabinet.

(3) If the Council declares an Invasive Species Emergency, the Council may enter an agreement with a person, state or local government, unit of state or local government, Indian tribe, or federal government that will be responsible for implementing a portion or all of the response plan. The agreement must include all terms required by law and include provisions for the following:

(a) Incorporation of the response plan.

(b) The maximum amount of Funds to be disbursed.

(c) Disbursement of the Funds according to a payment schedule that is incorporated as an integral part of the agreement.

(d) The recipient of Funds shall submit one or more interim reports for evaluation by the Council. The recipient of Funds shall submit the reports either on a schedule that is incorporated into the agreement or upon the request of the Council. Each report must include:

(A) Documentation of project results to date;

(B) Projections of short-range and long-range results;

(C) Any modifications to the response plan;

(D) Budget status; and

(E) An update on the likelihood of successful eradication.

(e) In the event an interim report is deemed unsatisfactory by the Council, the Council reserves the right to cancel the agreement and stop payments.

(f) Within six months of the official close of the action items designated in the agreement, the Fund recipient shall submit a final report to the Council. This report will provide the most current and detailed information on project benefits as compared with the original criteria.

(g) In the event that a Fund recipient cannot complete any project within the agreement timelines, the Fund recipient shall inform the Council and request a formal extension for use of the Funds.

(h) The Fund recipient shall return all unexpended Funds to the Council for deposit in the Invasive Species Control Account.

Stat. Auth.: ORS 570.800

Stats. Implemented: ORS 570.800 & 570.810

Hist.: OISC 1-2010, f. & cert. ef. 5-28-10

.....
**Department of Agriculture,
Oregon Mint Commission
Chapter 642**

Rule Caption: Increases the assessment rate for all mint oil produced in Oregon.

Adm. Order No.: OMC 1-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 642-010-0010

Subject: Increases the assessment for all mint oil produced in Oregon from 6 cents (\$.06) per pound to 10 cents (\$.10) per pound beginning July 1, 2010.

Rules Coordinator: Lisa Ostlund—(503) 364-2944

642-010-0010

Assessments

Any first purchaser shall deduct and withhold an assessment of ten cents (\$.10) per pound for all oil purchased after June 30, 2010. All mint oil produced in the State of Oregon is to be included.

Stat. Auth.: ORS 576.325 - 576.365

Stats. Implemented: ORS 576.325 - 576.365

Hist.: OMC 1-1984, f. & ef. 6-18-84; MC 1-1989, f. 4-19-89, cert. ef. 7-1-89; MC 1-1993, f. 6-10-93, cert. ef. 7-1-93; OMC 1-2010, f. 6-15-10, cert. ef. 7-1-10

ADMINISTRATIVE RULES

Department of Agriculture, Oregon Tall Fescue Commission Chapter 607

Rule Caption: Increases the assessment rate for all tall fescue seed produced in Oregon.

Adm. Order No.: OTFC 1-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 607-010-0020

Subject: Increases the assessment for all tall fescue seed produced in Oregon from two and one-half tenths of one percent (0.25%) to three and one-half tenths of one percent (0.35%) of the purchase price per pound, clean seed basis beginning July 1, 2010.

Rules Coordinator: Lisa Ostlund—(503) 364-2944

607-010-0020

Assessments

(1) Any first purchaser shall deduct and withhold an assessment of three and one-half tenths of one percent (0.35%) of the purchase price per pound, clean seed basis, from the price paid to the producer thereof, on and after July 1, 2010, for Tall Fescue Seed grown in Oregon. As per OAR 607-010-0015(7), the varieties Alta and Goar are to be excluded from these assessment collections.

(2) All casual sales of Tall Fescue Seed shall be exempt from the assessment.

(3) The assessment shall be levied only against any commodity or mixture which contains more than 50 percent Tall Fescue Seed.

Stat. Auth.: ORS 576.325

Stats. Implemented: ORS 576

Hist.: TF 3, f. & ef. 9-9-69; TF 4, f. 6-20-72, ef. 7-1-72; TF 1-1989, f. 5-31-89, cert. ef. 7-1-89; TF 1-1990, f. & cert. ef. 9-5-90; TF 1-1992, f. & cert. ef. 7-13-92; TF 1-1994, f. & cert. ef. 11-8-94; TF 2-1994(Temp), f. 12-22-94, cert. ef. 1-1-95; TF 1-1997, f. 6-30-97, cert. ef. 7-1-97; OTFC 2-2001, f. 8-9-01, cert. ef. 8-15-01; OTFC 1-2005, f. 7-15-05, cert. ef. 8-1-05; OTFC 1-2010, f. 6-15-10, cert. ef. 7-1-10

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

Rule Caption: Clarifies licensing requirements for solar photovoltaic installations.

Adm. Order No.: BCD 7-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 5-1-2010

Rules Adopted: 918-282-0400

Subject: The rule clarifies the licensing requirements for installing photovoltaic (PV) systems. In general, the proposed rule restates the scope of work allowed under ORS 479.630 with regard to the limited renewable energy technician's license. The rule also clarifies that an electrical license is not required for installation of purely structural components of a PV system.

Rules Coordinator: Dolores Wagner—(503) 373-1258

918-282-0400

Solar Licensing

The purpose of this rule is to clarify the scope of work for solar installations. It does not affect the scope of licenses established in ORS 479.630.

(1) For the purposes of this rule the following definitions apply:

(a) "Building Integrated" means photovoltaic (PV) cells, devices, modules, or modular materials that are integrated into the outer surface or structure of a building and serve as the outer protective surface of that building or structure, such as the roof, skylights, windows or facades.

(b) "Module" means a complete, environmentally protected unit consisting of solar cells, optics, and other components, exclusive of tracker, designed to generate dc power when exposed to sunlight.

(c) "Racking" means the material, supports, attachment, frame, skeleton used to attach a solar system or module to a building, structure, or ground mounting.

(d) "Rack mounted PV module" means a PV module that is attached to racking.

(2) Persons placing or installing structural elements, including footings, roofs, carports, racking, and building integrated PV modules are not required to possess an electrical license.

(3) The following licensing requirements apply to PV system installations:

(a) For PV systems not exceeding 25KW a Limited Renewable Energy Technician, General Journeyman Electrician, General Supervising Electrician or Limited Residential Electrician license is required to perform the following:

(A) Installation or attachment of PV modules to racking.

(B) Making electrical connections between modules, including installation of all conductors that connect to and/or interconnect all PV modules regardless of the type of electrical connection including plug-type interconnections.

(C) Making electrical connections to combiner boxes and inverter(s), including installation of all conductors between arrays and combiner boxes, up to the load side of the inverter.

(D) All elements of system grounding utilizing wire-type conductors on the DC side of the inverter.

(b) For PV systems exceeding 25KW a General Journeyman Electrician, General Supervising Electrician or Limited Residential Electrician license is required to perform the following:

(A) Installation or attachment of PV modules to racking.

(B) Making electrical connections between modules, including installation of all conductors that connect to and/or interconnect all PV modules regardless of the type of electrical connection including plug-type interconnections.

(C) Making electrical connections to combiner boxes and inverter(s), including installation of all conductors between arrays and combiner boxes, up to the load side of the inverter.

(D) All elements of system grounding utilizing wire-type conductors.

(E) Electrical connections to building electrical system including all AC connections on the line side of the inverter(s).

Stat. Auth.: ORS 455.117 & 479.730

Stats.: Implemented: ORS 479.630 & 479.730

Hist.: BCD 7-2010, f. 6-15-10, cert. ef. 7-1-10

Rule Caption: Allows a minor label permit for the installation of electric vehicle charging units in residences.

Adm. Order No.: BCD 8-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 918-311-0065

Subject: The rule allows the use of an electrical minor label for the installation of electric vehicle supply equipment (EVSE) units in the garages of one and two family dwellings, reducing the number of required inspections to one in ten in certain specified installations. The rule streamlines the process for installation of the units during the influx of these devices to Oregon and shows Oregon is taking steps to facilitate emerging technology.

Rules Coordinator: Dolores Wagner—(503) 373-1258

918-311-0065

Electric Vehicle Charging Station Statewide Permit and Inspection Protocol

To ensure a path for the emerging technology and enable the installation of charging stations for electric vehicles, the following permit and inspection protocols will apply throughout the state, notwithstanding contrary provisions contained in the **Oregon Electrical Specialty Code**.

(1) Building officials and inspectors shall permit and allow installation of an electric vehicle charging station that has a Building Codes Division's special deputy certification label without further testing or certification.

(2) Persons installing an electric vehicle charging station must obtain a permit for a feeder from the inspecting jurisdiction. No other state building code permit is required.

(3) The jurisdiction may perform up to two (2) inspections under the permit issued in subsection (2) above.

(4) Inspection of the installation is limited to examining the feeder for compliance with the following **Oregon Electrical Specialty Code** provisions:

(a) Overcurrent protection, per articles 225 and 240;

(b) Physical protection of conductors, per article 300;

ADMINISTRATIVE RULES

(c) Separation and sizing of the grounding and neutral conductors, per article 250.20; and

(d) Provisions for locking out the breaker for maintenance, per chapter 4.

(5) For the purpose of this rule, the service, feeder, and charging station pedestal will be considered a single structure as defined by the **Oregon Electrical Specialty Code**. The structure's owner may opt to install a grounding electrode system to supplement lightning protection, but cannot be required to do so.

(6) An electrical contractor employing a general supervising electrician in accordance with OAR 918-282-0010 is authorized to use a minor installation label to install a new branch circuit limited to 40 amps 240 volts for the purpose of installing a wall mounted Electric Vehicle Supply Equipment (EVSE) unit in the garage of one and two family dwellings, and connect a listed wall mounted EVSE unit to that branch circuit. The electrical panel where the circuit originates must be in the garage within sight from the EVSE unit. This provision does not apply to installations in wet or damp locations.

Stat. Auth.: ORS 455.065

Stat. Implemented: ORS 455.065

Hist.: BCD 16-2008(Temp), f. & cert. ef. 9-26-08 thru 3-25-09; BCD 30-2008, f. 12-31-08, cert. ef. 1-1-09; BCD 8-2010, f. 6-15-10, cert. ef. 7-1-10

Department of Consumer and Business Services, Division of Finance and Corporate Securities Chapter 441

Rule Caption: Revise rules to remove references to payday and title lending from consumer finance rules.

Adm. Order No.: FCS 6-2010

Filed with Sec. of State: 6-4-2010

Certified to be Effective: 6-4-10

Notice Publication Date: 5-1-2010

Rules Amended: 441-730-0000, 441-730-0010, 441-730-0015, 441-730-0025, 441-730-0030, 441-730-0050, 441-730-0070, 441-730-0080, 441-730-0100, 441-730-0110, 441-730-0120, 441-730-0130, 441-730-0140, 441-730-0160, 441-730-0170, 441-730-0180, 441-730-0200, 441-730-0205, 441-730-0246, 441-730-0255, 441-730-0260, 441-730-0280, 441-730-0320

Rules Repealed: 441-730-0165, 441-730-0271, 441-730-0272, 441-730-0275, 441-730-0310

Subject: These proposed rules remove rules related to payday and title lending from OAR 441-730, leaving only rules that apply to consumer finance lenders. They are proposed in response to SB 993 (2010) which moves statutes related to payday and title lending ORS 725, to a different, as yet unassigned, statute.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-730-0000

Statutory Authority; Purpose

(1) OAR 441-730-0000 to 441-730-0320 is adopted pursuant to the rulemaking authority granted the director by ORS 725.320, and 725.505.

(2) The rules are considered necessary to assure the proper conduct of the business regulated, to enforce the Consumer Finance Act and to protect the public.

Stat. Auth.: ORS 725.320, 725.505

Stats. Implemented: ORS 725

Hist.: BB 14, f. & ef. 11-15-76; Renumbered from 805-075-0005; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 5-2006, f. & cert. ef. 12-21-06; FCS 2-2007(Temp), f. 6-29-07, cert. ef. 7-1-07 thru 12-27-07; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0010

Definitions

(1) "Annual percentage rate" or "APR" means the annual percentage rate that every licensee is required by Regulation Z of the Federal Truth in Lending Act (Title I of the Consumer Credit Protection Act) to disclose to each of its credit customers.

(2) "Borrower" means a natural person.

(3) "Charges" means any one or more of the fees, premiums or other charges described by ORS 725.340(2)(a), (3) and (4), and other items charged to a borrower's account; but the term does not include interest or deferral charges.

(4) "Deferral charges" means the additional charge assessed by a licensee made for deferring all unpaid installments as provided by ORS

725.340(2)(b). Deferral charges do not apply to loans with a single payment payback feature.

(5) "Director" means the Director of the Department of Consumer and Business Services.

(6) "Finance charge" means the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction.

(7) "Formalized grading system" means a formula or computer program that determines the creditworthiness of individual borrowers based on information regarding the borrower's financial condition, such as the borrower's income, assets, debts and financial obligations, and the nature and value of any collateral used to secure the loan.

(8) "Fully amortized" means characterized by periodic payments, that if made as scheduled, result in full repayment of the principal and interest owed on a loan by the end of the loan term.

(9) "License" means a consumer finance license issued under ORS 725.140.

(10) "Legally qualified in this state" means a business is qualified to conduct business in this state, having made the appropriate filings with the Secretary of State.

(11) "Licensee" means a person in the business of making loans for periods of more than 60 days that have periodic payments.

(12) "Loan" means a loan that is subject to the Oregon Consumer Finance Act.

(13) "Loan underwriting" means a written or otherwise documented evaluation of the assumption of risk preceding the granting of a loan to a specific borrower, and may be fulfilled through use of a formalized grading system. Loan underwriting may be based on one or more of the following:

(a) Credit information furnished by the borrower, such as employment history, income, and outstanding obligations;

(b) A financial statement that includes income, assets and debts;

(c) Publicly available information concerning the borrower, that may include the borrower's credit report;

(d) The borrower's credit needs and willingness and ability to pay, including the nature and value of any collateral used to secure the loan.

(14) "Periodic payments" means loan repayments scheduled for monthly or more frequent periods of time.

(15) "Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association, limited liability company, or cooperative.

Stat. Auth.: ORS 725.320 & 725.505

Stats. Implemented: ORS 725.110, 725.140, 725.340, & 725.360

Hist.: BB 14, f. & ef. 11-15-76; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0007; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 2-2000, f. & cert. ef. 2-15-00; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 6-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 12-25-01; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 2-2004, f. & cert. ef. 8-5-04; FCS 5-2006, f. & cert. ef. 12-21-06; FCS 2-2007(Temp), f. 6-29-07, cert. ef. 7-1-07 thru 12-27-07; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0015

Licensee Lending Characteristics and Practices

(1) A licensee, making loans under that license, must make a determination of the creditworthiness of a borrower based on the information about the borrower's financial condition, such as his or her income, assets, debts, and financial obligations, and the nature and value of any collateral used to secure the loan for the majority of loans made under a consumer finance license.

(2) A licensee must ensure that the majority of secured or unsecured loans made under a license have:

(a) Periodic payments;

(b) Terms longer than 60 days;

(c) Loan underwriting; and

(d) Full amortization.

(3) A licensee must not:

(a) Disguise any loan as an open-ended loan authorized under ORS 725.345 or 725.347 as a device or subterfuge to evade the requirements and prohibitions of this rule;

(b) Retain the title to the vehicle used as security on a loan for more than thirty business days before submitting the application to be recorded as a lien-holder on the title or taking other commercially reasonable steps to be added as a security interest holder of the vehicle;

(c) Unreasonably withhold documents on a loan secured by a borrower's vehicle for more than three business days if the loan is paid by certified or guaranteed funds; or

ADMINISTRATIVE RULES

(d) Require a borrower, as a condition of making a loan under its license, to provide a postdated check or debit authorization for one or more future payments. However, if permitted by the licensee and at the discretion of the borrower, one or more postdated checks or debit authorizations may be delivered to a licensee to facilitate timely future payments.

Stat. Auth.: ORS 725.505

Stats. Implemented: ORS 725.110, 725.140(1) & 725.330

Hist.: FCS 2-2000, f. & cert. ef. 2-15-00; Renumbered from 441-730-0005, FCS 5-2006, f. & cert. ef. 12-21-06; FCS 3-2007(Temp), f. & cert. ef. 8-10-07 thru 12-27-07; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0025

License Applications

(1) For purposes of the investigation described in ORS 725.140(1), an applicant for a license must submit the application form prescribed by the director, signed by an authorized owner or officer of the applicant.

(2)(a) An applicant, including a person that currently has a license, must provide the employment history for the proposed manager of the licensed office for the five years immediately preceding the date of the application. A licensee employing a new manager may be required to submit a resume to meet the requirements of this section.

(b) The employment history for a license applicant's proposed manager must demonstrate verifiable recent experience in traditional lending, including but not limited to, experience obtained in banking, consumer finance, or mortgage lending. For purposes of this rule, "recent" means no less than three years out of the five years immediately preceding the date of application. Short-term lending experience alone is not a sufficient substitute for the required experience.

(c) At the request of the applicant and in the sole discretion of the director, education, extensive training, or other business experience may be substituted for the three out of five years of traditional lending experience. Factors that the director may consider include relevance of the education, or the number, complexity and types of transactions handled in the substituted business experience. Short-term lending experience alone is not a sufficient substitute for the required experience.

(3) A person that is not currently licensed with the director to make loans must submit:

(a) The employment history for all executive officers, owners, directors, or managing partners. A resume may be required to meet this requirement. At least one-half of the executive officers, owners, directors, or managing partners must have verifiable recent lending experience in banking, consumer finance, or mortgage lending;

(b) A business plan, including but not limited to:

(A) Financial and operational history of the applicant, if any;

(B) Copies of any loan documents that proposed to be used;

(C) A description of the types of loans and the percentage of the different types of loans the applicant proposes to make, the length of the loans the applicant proposes to make, the interest rates or range of rates the applicant proposes to charge, and any other business activities the licensee will engage in at the location;

(D) The process by which the applicant will determine that loans to be made comply with requirements in OAR 441-730-0015(1); and

(E) Funding sources for the loans, including third-party financial institutions.

(4) For purposes of ORS 725.140 and this rule, the filing date of an application is the date the application is complete. An application must be deemed complete on the date:

(a) All required fees have been paid; and

(b) All fully completed documents that are part of an application or required to be submitted by this rule have been received.

(5) An application for licensing is deemed abandoned if:

(a) The director has had one or more incomplete documents as part of an application for a minimum of 60 days; and

(b) The applicant has not responded within 30 days following a written notice from the director requesting submission of all fees, documents, or information necessary to make the application complete.

(6) An applicant whose application has been abandoned may reapply by submitting a new application including new fees.

Stat. Auth.: ORS 725.505

Stats. Implemented: ORS 725.120 & 725.140

Hist.: FCS 5-2006, f. & cert. ef. 12-21-06; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0030

Fees, Charges Licensees Pay the Director

(1) The license fee for license applicants or licensees is:

(a) \$600 for an initial application for each location to be licensed; and

(b) \$600 for renewal for each licensed location, due and payable on January 1 of each calendar year;

(2) The rate of charge payable by a licensee is \$75 an hour per person payable by the licensee for the director and each examiner and other division employee used in an examination conducted under ORS 725.312 and for extra services provided a licensee under ORS 725.185(2).

(3) Notwithstanding the rate of charge fixed by section (2) of this rule:

(a) If an examiner from the division or the director is required to travel out of state to conduct the examination or provide extra services, the rate of charge payable by the licensee is \$75 an hour per person, plus actual cost of travel. Actual travel costs include air fare, lodging, food, car usage out of state, mileage to the Oregon airport and return, and travel time beginning from the departure time and ending at the departure time at the destination city;

(b) If the extra services or examination is performed by a consultant hired by contract for the particular service or examination, the charge payable by the licensee is the actual cost to the division of the contract consultant.

(4) As used in this rule, "extra services" means any attention other than an examination given under ORS 725.310.

(5) In addition to the charges fixed by sections (2) and (3) of this rule, the director will collect from a licensee any additional costs directly attributable to extra services given the licensee under ORS 725.185 or a special examination given the licensee under ORS 725.310.

(6) The director may by order reduce the fees assessed for any specific year.

Stat. Auth.: ORS 725.185

Stats. Implemented: ORS 725.185

Hist.: FID 8-1985, f. & ef. 12-31-85; FCS 2-1988, f. 1-29-88, cert. ef. 2-1-88; Renumbered from 805-075-0015; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 1-1989, f. 1-18-89, cert. ef. 2-1-89; FCS 1-2001, f. 1-22-01, cert. ef. 2-1-01; FCS 4-2003, f. 12-30-03 cert. ef. 1-1-04; FCS 4-2004, f. 11-1-04, cert. ef. 1-1-05; FCS 3-2005, f. & cert. ef. 9-6-05; FCS 1-2008, f. & cert. ef. 1-28-08; FCS 2-2009, f. & cert. ef. 2-3-09; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0050

Notes and Agreements

(1) All forms of notes and agreements pertaining to loans and security for loans used by a licensee must be so worded that they comply with all provisions of ORS Chapter 725 and these rules.

(2) Any forms or agreements required or authorized by federal statute or regulations and in compliance with those statutes or regulations are considered in compliance with and authorized by ORS Chapter 725.

Stat. Auth.: ORS 725.505

Stats. Implemented: ORS 725.120 & 725.320

Hist.: BB 14, f. & ef. 11-15-76; BB 3-1978, f. 5-16-78, ef. 7-1-78; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0030; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 5-2006, f. & cert. ef. 12-21-06; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0070

Advertising Regulations

(1) A licensee or other person must not, in any advertisement printed, displayed, published, distributed, or broadcasted, including on the Internet, by the licensee or on the licensee's behalf include any reference to the supervision of the business of the licensee by this state or any department or official of this state, except the phrase "licensed under the Oregon Consumer Finance Act" or "subject to state regulation" or both.

(2) A licensee or other person must not, in any advertisement printed, displayed, published, distributed, broadcast, including on the Internet, by the licensee or on the licensee's behalf, use any name other than the name under which the license is issued.

(3) A licensee must retain a copy of all advertising for the period beginning with the date of the last examination in a designated licensed office, or with the prior approval of the director, at another location until an examiner has reviewed the material.

(4) Notwithstanding the provisions of sections (1) and (2) of this rule:

(a) A licensee that makes and closes the majority of loans in a licensed location must prominently post their license in a manner conspicuous to the public; or

(b) If a licensee makes and closes the majority of loans electronically, they must prominently post their license on their website and at their licensed location in a manner conspicuous to the public.

(5) The posted license shall state that the business is licensed and regulated by the Department of Consumer and Business Services, and will include the Department's toll-free telephone number for public inquiries or complaints.

Stat. Auth.: ORS 725.505

Stats. Implemented: ORS 725.060

ADMINISTRATIVE RULES

Hist.: BB 14, f. & ef. 11-15-76; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0045; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 3-2010, f. 3-18-10, cert. ef. 3-22-10; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0080

Qualifications of Person in Charge of Licensed Office

(1) A loan licensee must not place any person in charge of a licensed office unless the person has a thorough understanding of ORS chapter 725 and these rules.

(2) A licensee must place the experienced person as described in OAR 441-730-0025(2) in its licensed office.

(3) Notwithstanding section (2) of this rule, if the licensee holds a license for more than one location or if the experienced person described in OAR 441-730-0025(2) is employed outside of Oregon, the licensee may place a qualified person with no less than one year's traditional lending experience in charge of each licensed office provided the experienced person described in OAR 441-730-0025(2) supervises the lending operations of each location.

(4) At the request of the applicant and in the sole discretion of the director, education, extensive training or other business experience may be substituted for the one year of relevant lending experience required in section (3) of this rule.

(5) Unless a licensee requires all loan underwriting decisions be forwarded to an experienced person at another location or uses a formalized grading system, a licensee must employ or place a qualified person as described in this rule at each licensed office to be in charge of and oversee the lending operations of the office. A licensee must provide the director with a current resume for any new manager employed or placed at a licensed office within 30 days of the date of their employment.

Stat. Auth.: ORS 725.505

Stats. Implemented: ORS 725.140, 725.310 & 725.330

Hist.: BB 14, f. & ef. 11-15-76; Renumbered from 805-075-0050; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 2-2004, f. & cert. ef. 8-5-04; FCS 5-2006, f. & cert. ef. 12-21-06; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0100

Licensee Officers and Directors

(1)(a) A licensee may add a new executive officer, owner, director, or managing partner at any time after the licensee has been granted a license if after the addition at least one-half of the executive officers, owners, directors, or managing partners can demonstrate verifiable recent lending experience in banking, consumer finance, or mortgage lending as required by OAR 441-730-0025.

(b) If a licensee adds a new executive officer, director, partial owner, or managing partner under this section, the licensee must provide a current resume for such new persons demonstrating verifiable recent lending experience in banking, consumer finance, or mortgage lending to the director within 30 days of their appointment or selection.

(2) If an existing or new executive officer, director, partial owner, or managing partner of the licensee gains a controlling interest in the company after the license has been granted, the licensee must notify the director within 30 days.

(3) An officer or director of a licensee addressed in an order issued by the director under ORS 725.315 or 725.317 may, within 30 days after the date the order is issued and served, request a hearing on the order as provided for contested cases by 183.310 to 183.500, and the rules of the director adopted pursuant thereto.

(4) A person who is suspended or removed under ORS 725.315 or 725.317 must not conduct any of the business of the licensee or have access to the books, records, or assets of the licensee either as an officer, director, partner, stockholder, or employee without receiving permission from the director:

- (a) During the period of the suspension; or
- (b) After the effective date of the removal.

(5) A licensee subject to an order of suspension under the provisions of ORS 725.230(2) may, within 90 days after the date the order is issued or served, request a hearing on the order as provided for contested cases by 183.310 to 183.500 and the rules of the director adopted pursuant thereto.

Stat. Auth.: ORS 725.505

Stats. Implemented: ORS 725.315 & 725.317

Hist.: BB 3-1978, f. 5-16-78, ef. 7-1-78; Renumbered from 805-075-0057; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 2-2004, f. & cert. ef. 8-5-04; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0110

Accounting Records of Licensee

(1) The accounting records of a licensee must reflect a complete segregation of the loan transactions from any other business in which the licensee may be engaged.

(2) The licensee must maintain separate control accounts or other acceptable records to reflect such segregation for:

- (a) Loans receivable;
- (b) Charges; and
- (c) Repossessed property and sales of repossessed property.

(3) The receipt and disbursement of all charges charged or collected must be fully accounted for.

(4) Each licensee must maintain a log of:

(a) Loans made, listing each loan in sequence by number or date of loan and showing:

- (A) The amount of the loan;
- (B) The type of security taken;
- (C) The rate of interest charged; and
- (D) The types of insurance for which premium charges have been made in connection with the loan and which are payable by the borrower.

(b) Loans prepaid in full by credit life insurance showing for each loan so paid;

- (A) The borrower's name and account number;
- (B) The date of death of the borrower;
- (C) The date proof of death was received by the licensee; and
- (D) The disposition of the insurance proceeds with substantiating documents.

(c) Any litigation initiated by the licensee showing for each proceeding:

- (A) The borrower's name and account number;
- (B) The court where the proceeding is filed;
- (C) The date of filing; and
- (D) When applicable, the date, and terms of any disposition of the matter.

(d) Information on files sent to a collection agency showing, for each file:

- (A) The borrower's name, the account number;
- (B) The original date of the loan, the due date of the loan, or last renewal or extension;
- (C) The date the loan was sent to the collection agency;
- (D) The name of the collection agency; and
- (E) The date and amount of monies received from the collection agency.

(f) A separate log of files sent to a collection agency need not be maintained provided the information is available in existing records at the time of examination.

(5) Any public or private sale of repossessed property by a licensee must be made in good faith and in a commercially reasonable manner. If there is no recognized market for the property, such as a motor vehicle auction house or similar sales process that is commonly used to sell property of the kind repossessed by the licensee, prior to a private sale of repossessed property, the licensee must obtain, from persons who are not directly or indirectly related to the licensee, sufficient written bids to establish market value. The written bid must contain sufficient information to identify the property being bid on.

(6) When a judgment is entered in a court proceeding initiated by a licensee on a loan, the licensee forthwith must place in the related loan file either:

- (a) A copy of the judgment entered in the proceeding; or
- (b) A statement verified by a representative of the licensee, detailing the essential provisions of the judgment.

Stat. Auth.: ORS 725.320 & 725.505

Stats. Implemented: ORS 725.330

Hist.: BB 14, f. & ef. 11-15-76; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0060; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 2-2000, f. & cert. ef. 2-15-00; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0120

Account Record to Be Maintained for Each Loan

(1) The licensee must maintain a separate individual account record for each loan made to any borrower showing:

- (a) The loan number;
- (b) The date of the loan;
- (c) The name and address of the borrower;
- (d) A brief description of the security, if any;

ADMINISTRATIVE RULES

(e) The agreed interest rate or rates and the amount of each charge, if any;

(f) The terms of repayment, including the expiration date of the loan, and any modifications of the terms.

(g) The amount of each payment made on the loan and in accordance with sections (2) and (3) of this rule, how the payment is allotted to principal, interest and charges;

(h) The date of the final entry when the loan is paid in full or otherwise finally settled or closed; and

(i) A clear, brief explanation of any other entries that result in the reduction or addition to the principal balance or interest.

(2) The account record for a daily interest loan must show, for each loan payment received:

(a) The amount, if any, applied to interest;

(b) The date to which the interest is paid;

(c) If payment is insufficient to pay interest to date, the dollar amount short;

(d) The amount applied to principal, if any; and

(e) The unpaid principal balance of the loan, if any.

(3) The account record for a precomputed-interest loan may comply with section (2) of this rule or it must show, for each loan payment received:

(a) The amount of the payment applied to installments, identifying which installments;

(b) The amount applied to any default charges; and

(c) The unpaid balance of the loan and charges, if any.

(4) When a licensee makes advances to perform covenants, the account record must specify:

(a) The amount of the advance which is added to the principal of the loan.

(b) A brief description of what the advance is paying; and

(c) When the advance is to purchase insurance coverage, the type and extent of coverage.

(5) All entries to the account record made by the licensee must be accurate and posted by close of business on the day the transaction occurred. If the licensee is unable to post a transaction as required by this section, the posting when made must reflect the actual date of the transaction.

Stat. Auth.: ORS 725.320 & 725.505

Stats. Implemented: ORS 725.330

Hist.: BB 14, f. & ef. 11-15-76; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0065; FCS 2-2000, f. & cert. ef. 2-15-00; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 5-2006, f. & cert. ef. 12-21-06; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0130

Maintaining Index of Obligors

A licensee must maintain in each of its licensed offices an alphabetical index or other index system approved by the director, of every person obligated, directly or contingently, on a loan serviced at that office.

Stat. Auth.: ORS 725

Stats. Implemented: ORS 725.330

Hist.: BB 14, f. & ef. 11-15-76; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0070; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0140

Records and Files Required to Be Kept at Servicing Office; Copies of Loans Transferred; Centralized Accounting Office Exception

(1) A licensee must maintain the accounting records and loan files for active loans at the licensed office where the loans are serviced.

(2) Whenever an active loan is for any reason transferred to another licensed office in this state, the licensee must retain in the transferring office an exact copy of the individual account record and supporting legal documents.

(3) Whenever an active loan is for any reason transferred to another licensed office, the licensee must retain in the transferring office an exact copy of the account record to which has been added the date of transfer and the name and address of the new location of the account. However, if a bulk sale or similar transfer of loans not in the ordinary course of business is made to another licensed office, the licensee may, with the prior approval of the director, make other provisions for the retention of copies of records and files and for the examination of accounts in the receiving office.

(4) Whenever a licensee sends an active loan to another licensed location, the licensee must retain the original record or an exact copy of the account record in the originating office.

(5) Notwithstanding sections (1) through (4) of this rule, a licensee may, with the prior approval of the director, maintain the accounting records and loan files for active loans at a location other than the servicing office if:

(a) The other location is established by the licensee to provide centralized accounting for one or more licensed offices;

(b) Off-site maintenance of the records and files will not hinder prompt servicing of the loans by the servicing offices;

(c) The director, and any duly appointed examiners or agents of the director, have the right of free access to the records and files of the licensee at the other location; and

(d) The other location provides adequate security for the licensee's records and files.

Stat. Auth.: ORS 725.320 & 725.505

Stats. Implemented: ORS 725.330

Hist.: BB 14, f. & ef. 11-15-76; BB 5-1982, f. 9-1-82, ef. 9-15-82; BB 1-1983, f. 3-29-83, ef. 4-1-83; Renumbered from 805-075-0075; FCS 2-2000, f. & cert. ef. 2-15-00; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0160

Daily-Interest Computation

(1) When interest on a loan is computed on a daily basis using a 360-day factor, the maximum charge for each day must be 1/30 of the monthly rate. In determining the elapsed time to compute interest on any such loan, each calendar month shall be treated as containing 30 days. However, when the period for which interest is computed includes the last day of the month:

(a) If the month has 31 days, the 31st day must be ignored;

(b) If the month is February, two days must be added to the period, except in leap year when only one day may be added.

(2) Interest on a loan may be computed on a daily basis using a 365-day factor or, in a leap year, a 366-day factor. In determining the elapsed time to compute interest or a refund of interest, on such a loan, the maximum charge for each day must be 1/365th of the annual rate, except in a leap year when the maximum charge for each day must be 1/366th of the annual rate.

Stat. Auth.: ORS 725.320 & 725.505

Stats. Implemented: ORS 725.340

Hist.: BB 14, f. & ef. 11-15-76; Renumbered from 805-075-0105; FCS 2-2000, f. & cert. ef. 2-15-00; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 2-2004, f. & cert. ef. 8-5-04; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0170

Precomputed Interest

(1) When a loan contract is repayable in substantially equal and consecutive monthly installments of principal and interest combined, interest may be precomputed and added to the principal. Interest may be precomputed even though the first installment period is more or less than one month.

(2) If the first installment period exceeds one month, the amount of the agreed monthly interest charge must be reduced for the first period by 1/30th of the amount for each extra day in the first period. If the first installment period is less than one month the amount of the agreed monthly interest charge must be reduced for the first period by 1/30th of the amount for each day that the first installment period is less than one month.

Stat. Auth.: ORS 725.320 & 725.505

Stats. Implemented: ORS 725.340

Hist.: BB 14, f. & ef. 11-15-76; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0110; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 2-2000, f. & cert. ef. 2-15-00; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0180

Deferred Payment on Precomputed Loan

(1) When unpaid installments are deferred as provided by ORS 725.340(2)(b), the licensee must give the borrower written evidence of the agreed deferral showing:

(a) The amount of the deferral charge;

(b) The new due date of the first deferred installment; and

(c) The new due date of the final deferred installment of the loan.

(2) The licensee must also note the due date of the final deferred installment and the amount of the deferral charge on the borrower's account record.

Stat. Auth.: ORS 725.505

Stats. Implemented: ORS 725.340(2)

Hist.: BB 14, f. & ef. 11-15-76; BB 3-1978, f. 5-16-78, ef. 7-1-78; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0120; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0200

Action on Precomputed Loan; Rebate Required

(1) When a licensee brings an action against a borrower on a precomputed loan, if the action comes to judgment prior to the due date of the final installment, the licensee must tender a rebate to the borrower of interest unearned as of the date of the judgment. The rebate must be computed in

ADMINISTRATIVE RULES

accordance with ORS 725.340(2)(c) as if the loan were prepaid in full on the date of the judgment.

(2) Rebate of any deferral charge must be determined on the US Actuarial Rule.

(3) Licensees may collect prejudgment interest awarded by the court, but may not estimate interest based upon an estimate of the judgment date.

Stat. Auth.: ORS 725.320 & 725.505
Stats. Implemented: ORS 725.340

Hist.: BB 14, f. & ef. 11-15-76; BB 3-1978, f. 5-16-78, ef. 7-1-78; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0130; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 2-2000, f. & cert. ef. 2-15-00; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0205

Limitation on Charging a Prepayment Penalty by Consumer Finance Licensees

A licensee may not charge a penalty for prepayment of all or part of the unpaid balance of a loan where:

(1) A licensee refinances a loan they own.

(2) The licensee has repossessed any collateral offered for the loan, sold the collateral and applied the proceeds of the sale towards the unpaid balance of the loan.

(3) The licensee forecloses on property and applies any proceeds realized from the foreclosure toward the unpaid balance of the loan.

(4) The licensee exercises an option contained in the loan agreement to require immediate repayment of all or part of the unpaid balance of the loan.

(5) All or part of the loan balance is repaid with insurance benefits resulting from the death of the borrower.

(6) The licensee demands repayment of all or part of the unpaid balance of the loan.

(7) The loan is a home equity line of credit or an unsecured line of credit.

Stat. Auth.: ORS 725.320 & 725.505
Stats. Implemented: ORS 725.360

Hist.: FCS 2-2000, f. & cert. ef. 2-15-00; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0246

Contents of Foreclosure Notices

The sender of a notice form required by ORS 86.737 must enter in the form and format adopted by this rule:

(1) The statewide telephone contact number for handling consumer queries as 800-SAFENET (800-723-3638);

(2) The telephone number of the Oregon State Bar's Lawyer Referral Service as 503-684-3763;

(3) The Oregon State Bar's Lawyer Referral Service toll-free number as 800-452-7636;

(4) The website address of the Oregon State Bar as: <http://www.osbar.org>;

(5) The website address for the organization providing more information and a directory of legal aid programs as <http://www.oregonlawhelp.org>

(6) The toll-free consumer mortgage foreclosure information number as 800-SAFENET (800-723-3638); and

(7) Information on federal loan modification programs as <http://www.makinghomeaffordable.gov/>.

Stat. Auth.: ORS 86.737

Stat. Implemented: ORS 86.737

Hist.: FCS 9-2008, f. 10-15-08, cert. ef. 10-16-08; FCS 6-2009(Temp), f. 8-21-09 thru 2-17-10; FCS 11-2009, f. 12-2-09, cert. ef. 12-7-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0255

Payoff Information to be Furnished to Borrower Upon Request

(1) When a borrower requests the payoff information on a loan and specifies a payoff date, the licensee must promptly, but in no case later than three business days, provide the requested information.

(2) When a borrower does not specify a payoff date, the licensee must calculate the payoff amount for a date no later than 10 days after the date of the request, and the amount must be provided within three business days of the borrower's request. When a licensee provides a payoff amount, it must also advise the borrower, verbally or in writing, that interest will continue to accrue past the payoff date if the loan is not paid in full.

Stat. Auth.: ORS 725.505

Stats. Implemented: ORS 725.360

Hist.: FCS 5-2006, f. & cert. ef. 12-21-06; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0260

Advances to Perform Covenants

(1) Within a reasonable time after advancing any sum pursuant to ORS 725.340(3), the licensee must furnish the borrower a written statement showing:

(a) The amount of the sums advanced and, any charges with respect to such sums advanced;

(b) Any revised payment schedule; and, if the duties of the borrower performed by the licensee pertain to insurance.

(c) A brief description of the types of insurance paid for the by licensee.

(2) The amount advanced by the licensee may be added to the unpaid balance of the loan and may bear interest not to exceed the rate permitted by ORS 725.340(3). However, a licensee may not advance any sums under ORS 725.340(3) or add any such advances to the unpaid balance of a loan unless the borrower's loan contract provides for such advances and additions.

Stat. Auth.: ORS 725

Stats. Implemented: ORS 725.340(3)

Hist.: BB 14, f. & ef. 11-15-76; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0180; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0280

Prohibited Provisions in Loan Contract Provisions

A licensee may not use a contract evidencing a loan that contains any of the following provisions:

(1) A hold harmless clause;

(2) A confession of judgment or other waiver of the right to notice and the opportunity to be heard in the event of suit or process;

(3) A provision in which the consumer agrees not to assert any claim or defense arising out of the contract against the licensee or any holder in due course.

(4) An executory waiver or a limitation of exemption from attachment, execution, or other process on real or personal property held, owned by, or due to the consumer, unless the waiver applies solely to property subject to a security interest executed in connection with the loan.

Stat. Auth.: ORS 725.505

Stats. Implemented: ORS 725.360

Hist.: FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 4-2001, f. & cert. ef. 3-27-01; FCS 6-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 12-25-01; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 6-2010, f. & cert. ef. 6-4-10

441-730-0320

Licensee Reporting

Licensees are required to file their annual report by June 30 for operations during calendar year 2009. Beginning in calendar year 2010 and thereafter, licensees are required to file their annual report by March 31 of each year. Licensees must also provide known information on any felony conviction, or any conviction involving theft or fraud, of any executive officer, director, managing partner, or the manager of any office location that occurred during the reporting period that had not already been reported to the director. This applies to :

(1) A new qualified person or office manager;

(2) A new experienced person;

(3) Material changes in business plan; or

(4) Any criminal conviction entered against any person named in the application.

Stat. Auth.: ORS 725.505, 86A.242

Stats. Implemented: ORS 725.190, 86A.239

Hist.: FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 5-2006, f. & cert. ef. 12-21-06; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 3-2010, f. 3-18-10, cert. ef. 3-22-10; FCS 6-2010, f. & cert. ef. 6-4-10

.....

Rule Caption: Adopt new rules for payday and title loans in compliance with SB 993.

Adm. Order No.: FCS 7-2010

Filed with Sec. of State: 6-4-2010

Certified to be Effective: 6-4-10

Notice Publication Date: 5-1-2010

Rules Adopted: 441-735-0000, 441-735-0010, 441-735-0015, 441-735-0025, 441-735-0030, 441-735-0050, 441-735-0060, 441-735-0070, 441-735-0080, 441-735-0100, 441-735-0110, 441-735-0120, 441-735-0130, 441-735-0140, 441-735-0160, 441-735-0165, 441-735-0205, 441-735-0240, 441-735-0250, 441-735-0255, 441-735-0271, 441-735-0272, 441-735-0275, 441-735-0280, 441-735-0310, 441-735-0320

ADMINISTRATIVE RULES

Subject: These proposed rules would create a new rule division for payday and title lending. The rules are in response to SB 993 (2010) which moves payday and title loan statutes out of ORS 725, to a different, as yet unassigned, statute. The rules are very similar to the rules that had been in OAR 441-730 that were applicable to payday and title lending.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-735-0000

Statutory Authority; Purpose

OAR 441-735-0000 to 441-735-0320 are adopted pursuant to the rulemaking authority granted the director by 2010 Or Laws ch. 23, §27. These rules are considered necessary to assure the proper conduct of the business regulated and to protect the public.

Stat. Auth.: 2010 Or Laws ch. 23 §27
Stats. Implemented: 2010 Or Laws ch. 23
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0010

Definitions

(1) “Annual percentage rate” or “APR” means the annual percentage rate that every licensee is required by Regulation Z of the Federal Truth in Lending Act (Title I of the Consumer Credit Protection Act) to disclose to each of its credit customers.

(2) “Borrower” means a natural person.

(3) “Charges” means any one or more of the fees, premiums or other charges described by 2010 Or Laws ch. 23, §§ 27 and 32, and other items charged to a borrower’s account; but the term does not include interest or deferral charges.

(4) “Director” means the Director of the Department of Consumer and Business Services.

(5) “Extension” has the same meaning as “renewal” as defined in section (9) of this rule.

(6) “Finance charge” means the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction.

(7) “License” means a payday loan license or title loan license issued under 2010 Or Laws ch. 23, §5.

(8) “Legally qualified in this state” means a business is qualified to conduct business in this state, having made the appropriate filings with the Secretary of State.

(9) “Licensee” means a person licensed to make payday loans or title loans under 2010 Or Laws ch. 23, §5.

(10) “Person” means a natural person or an organization, including a corporation, partnership, proprietorship, association, limited liability company or cooperative.

(11) “Renewal” of a loan means granting a borrower the right to postpone repayment of a payday loan or a title loan.

(12) “Roll-over” has the same meaning as “renewal” as defined in section (11) of this rule.

(13) “Same day transaction” means a payday loan or title loan made on the same day that a previous payday loan or title loan is paid-off and will be treated as a “renewal” defined in section (11) of this rule.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23 §§1, 5, 27, and 32
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0015

Title Loan Licensee Lending Practices

A title loan licensee may not:

(1) Retain the title to the vehicle used as security on a loan for more than thirty business days before submitting the application to be recorded as a lien-holder on the title or taking other commercially reasonable steps to be added as a security interest holder of the vehicle;

(2) Unreasonably withhold documents on a loan secured by a borrower’s vehicle for more than three business days if the loan is paid by certified or guaranteed funds.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §§5 & 15
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0025

License Applications

(1) For purposes of the investigation described in 2010 Or Laws ch. 23, §5 an applicant for a license must submit the application form pre-

scribed by the director, signed by an authorized owner or officer of the applicant.

(2) An applicant, including a person that currently has a payday loan license or title loan license, must provide the employment history for the proposed manager of the licensed office for the five years immediately preceding the date of the application. A licensee employing a new manager may be required to submit a resume to meet the requirements of this section.

(3) A person that is not currently licensed to make payday loans or title loans must submit:

(a) The employment history for all executive officers, owners, directors, or managing partners. A resume may be required to meet this requirement. At least one-half of the executive officers, owners, directors, or managing partners must have verifiable recent lending experience;

(b) A business plan, including but not limited to:

(A) Financial and operational history of the applicant, if any;

(B) Copies of any loan documents proposed to be used;

(C) A description of the types of loans and the percentage of the different types of loans the applicant proposes to make, the length of the loans the applicant proposes to make, the interest rates or range of rates the applicant proposes to charge, and any other business activities the licensee will engage in at the location; and

(D) Funding sources for the loans, including third-party financial institutions.

(4) For purposes of 2010 Or Laws ch. 23, §5 and this rule, the filing date of an application is the date the application is complete. An application will be deemed complete on the date that:

(a) All required fees have been paid; and

(b) All fully completed documents that are part of an application or required to be submitted by this rule have been received.

(5) An application for licensing is deemed abandoned if:

(a) The director has had one or more incomplete documents as part of an application for a minimum of 60 days; and

(b) The applicant has not responded within 30 days following a written notice from the director requesting submission of all fees, documents, or information necessary to make the application complete.

(6) An applicant whose application has been abandoned may reapply by submitting a new application including new fees.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §§4 & 5
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0030

Fees, Charges Licensees Pay the Director

(1) The license fees under 2010 Or Laws ch. 23, §7 are:

(a) \$750 for an initial application for each location to be licensed; and

(b) \$750 for renewal of each licensed location, due and payable on January 1 of each calendar year.

(2) The rate of charge payable by a licensee is \$75 an hour per person payable by the licensee for the director and each examiner and other division employee conducting an examination and for extra services provided to a licensee under 2010 Or Laws ch. 23, §14.

(3) Notwithstanding the rate of charge fixed by section (2) of this rule:

(a) If an examiner from the division or the director is required to travel out of state to conduct the examination or provide extra services, the rate of charge payable by the licensee is \$75 an hour per person, plus actual cost of travel. Actual travel costs include air fare, lodging, food, car usage out of state, mileage to the Oregon airport and return, and travel time beginning from the departure time and ending at the departure time at the destination city;

(b) If the extra services or examination are performed by a consultant hired for the particular service or examination, the licensee will be charged the actual costs to the division of the contract consultant.

(4) As used in this rule, “extra services” means any attention other than an examination.

(5) The director will collect any additional costs directly attributable to extra services to the licensee in addition to the charges in sections (2) and (3) of this rule.

(6) The director may by order reduce the fees assessed for any specific year.

Stat. Auth.: 2010 Or Laws ch. 23, §§4, 7, & 27
Stats. Implemented: 2010 Or Laws ch. 23,
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

ADMINISTRATIVE RULES

441-735-0050

Notes and Agreements

(1) All forms of notes and agreements pertaining to loans and security for loans used by a licensee must be so worded that they comply with all provisions of 2010 Or Laws ch. 23 and these rules.

(2) Any forms or agreements required or authorized by federal statute or regulation, and in compliance with those statutes or regulations are considered in compliance with and authorized by 2010 Or Laws ch. 23.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0060

Loans Not to Be Payable on Demand; Exception

(1) Except as provided by section (2) of this rule, a loan must not be made payable on demand.

(2) A loan may provide that, if there is a default under the note or collateral security agreement, the loan may become due and payable immediately or on demand.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §19
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0070

Advertising Regulations

(1) A licensee or other person must not, in any advertisement printed, displayed, published, distributed, or broadcasted, including on the Internet, by the licensee or on the licensee's behalf include any reference to the supervision of the business of the licensee by this state or any department or official of this state, except the phrase "subject to state regulation."

(2) A licensee or other person must not, in any advertisement printed, displayed, published, distributed, broadcast, including on the Internet, by the licensee or on the licensee's behalf, use any name other than the name under which the license is issued.

(3) A licensee must retain a copy of all advertising for the period beginning with the date of the last examination in a designated licensed office, or with the prior approval of the director, at another location until an examiner has reviewed the material.

(4) Notwithstanding the provisions of sections (1) and (2) of this rule:

(a) A licensee that makes and closes the majority of loans in a licensed location must prominently post their license in a manner conspicuous to the public; or

(b) If a licensee makes and closes the majority of loans electronically, they must prominently post their license on their website and at their licensed location in a manner conspicuous to the public.

(5) The posted license must state that the business is licensed and regulated by the Department of Consumer and Business Services, and will include the Department's toll-free telephone number for public inquiries or complaints.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §5
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0080

Qualifications of Person in Charge of Licensed Office

A licensee must not place any person in charge of a licensed office unless the person has a thorough understanding of 2010 Or Laws ch. 23 and these rules.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §5
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0100

Licensee Officers and Directors

(1)(a) A licensee may add a new executive officer, owner, director, or managing partner at any time after the licensee has been granted a license if after the addition at least one-half of the executive officers, owners, directors, or managing partners can demonstrate verifiable recent lending as required by 2010 Or Laws ch. 23, § 27.

(b) If a licensee adds a new executive officer, director, partial owner, or managing partner under this section, the licensee must provide a current resume for such new persons demonstrating verifiable recent lending experience to the director within 30 days of their appointment or selection.

(2) If an existing or new executive officer, director, partial owner, or managing partner of the licensee gains a controlling interest in the company after the license has been granted, the licensee must notify the director within 30 days.

(3) An officer or director of a licensee addressed in an order issued by the director under 2010 Or Laws ch. 23, §24 may request a hearing on the

order as provided for contested cases by 183.310 to 183.500, and the rules of the director adopted pursuant thereto, within 30 days after the date the order is issued and served.

(4) A person who is suspended or removed under 2010 Or Laws ch. 23, §24 may not conduct any of the business of the licensee or have access to the books, records, or assets of the licensee either as an officer, director, partner, stockholder, or employee without receiving permission from the director:

- (a) During the period of the suspension; or
- (b) After the effective date of the removal.

(5) A licensee subject to an order of suspension under the provisions of 2010 Or Laws ch. 23, §10 may, within 90 days after the date the order is issued or served, request a hearing on the order as provided for contested cases by 183.310 to 183.500 and the rules of the director adopted pursuant thereto.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §§6 & 24
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0110

Accounting Records of Licensee

(1) The accounting records of a licensee must reflect a complete segregation of the loan transactions from any other business in which the licensee may be engaged.

(2) The licensee must maintain separate control accounts or other acceptable records to reflect such segregation for:

- (a) Loans receivable;
- (b) Charges; and
- (c) Repossessed property and sales of repossessed property.

(3) The licensee must fully account for receipt and disbursement of all charges charged or collected.

(4) Each licensee must maintain a log of:

(a) Loans made, listing each loan in sequence by number or date of loan and showing:

- (A) The amount of the loan;
- (B) The type of security taken;
- (C) The rate of interest charged; and
- (D) The types of insurance for which premium charges have been made in connection with the loan and which are payable by the borrower.

(c) Any litigation initiated by the licensee showing for each proceeding:

- (A) The borrower's name and account number;
- (B) The court where the proceeding is filed;
- (C) The date of filing; and
- (D) When applicable, the date, and terms of any disposition of the matter.

(d) Information on files sent to a collection agency showing, for each file:

- (A) The borrower's name, the account number;
- (B) The original date of the loan, the due date of the loan, or last renewal or extension;
- (C) The date the loan was sent to the collection agency;
- (D) The name of the collection agency; and
- (E) The date and amount of monies received from the collection agency.

(F) A separate log of files sent to a collection agency need not be maintained provided the information is available in existing records at the time of examination.

(6) When a judgment is entered in a court proceeding initiated by a licensee on a loan, the licensee forthwith must place in the related loan file either:

- (a) A copy of the judgment entered in the proceeding; or
- (b) A statement verified by a representative of the licensee, detailing the essential provisions of the judgment.

(7) Licensees who make both title and payday loans must maintain separate logs for each type of loan.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §15
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0120

Account Record to Be Maintained for Each Loan

(1) The licensee must maintain a separate individual account record for each loan made to any borrower showing:

- (a) The loan number;
- (b) The date of the loan;
- (c) The name and address of the borrower;

ADMINISTRATIVE RULES

- (d) A brief description of the security, if any;
 - (e) The agreed interest rate or rates and the amount of each charge, if any;
 - (f) The terms of repayment, including the expiration date of the loan, and any modifications of the terms.
 - (g) The amount of each payment made on the loan and in accordance with sections (2) and (3) of this rule, how the payment is allotted to principal, interest and charges;
 - (h) The date of the final entry when the loan is paid in full or otherwise finally settled or closed; and
 - (i) A clear, brief explanation of any other entries that result in the reduction or addition to the principal balance or interest.
- (2) The account record for a daily interest loan must show, for each loan payment received:
- (a) The amount, if any, applied to interest;
 - (b) The date to which the interest is paid;
 - (c) If payment is insufficient to pay interest to date, the dollar amount short;
 - (d) The amount applied to principal, if any; and
 - (e) The unpaid principal balance of the loan, if any.
- (3) The account record for a payday loan or title loan must show the date each loan is renewed, the amount of the charge the borrower paid and the new due date of the loan.
- (4) All entries to the account record made by the licensee must be accurate and posted by close of business on the day the transaction occurred. If the licensee is unable to post a transaction as required by this section, the posting when made must reflect the actual date of the transaction.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §15
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0130

Index of Obligors to Be Maintained

A licensee must maintain an alphabetical index, or other system approved by the director, of every person obligated, directly or contingently, on a loan that is serviced at that office in each of its licensed offices.

Stat. Auth.: 2010 Or Laws ch. 23
Stats. Implemented: 2010 Or Laws ch. 23, §15
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0140

Records and Files Required to Be Kept at Servicing Office; Copies of Loans Transferred; Centralized Accounting Office Exception

- (1) A licensee must maintain the accounting records and loan files for active loans at the licensed office where the loans are serviced.
- (2) Whenever an active loan is for any reason transferred to another licensed office in this state, the licensee must retain in the transferring office an exact copy of the individual account record and supporting legal documents.
- (3) Whenever an active loan is for any reason transferred to another licensed office, the licensee must retain in the transferring office an exact copy of the account record to which has been added the date of transfer and the name and address of the new location of the account. However, if a bulk sale or similar transfer of loans not in the ordinary course of business is made to another licensed office, the licensee may, with the prior approval of the director, make other provisions for the retention of copies of records and files and for the examination of accounts in the receiving office.
- (4) Whenever the licensee sends an active loan to a collection agency, the licensee must retain in the originating office the original record or an exact copy of the account record.
- (5) Notwithstanding sections (1) through (4) of this rule, a licensee may, with the prior approval of the director, maintain the accounting records and loan files for active loans at a location other than the servicing office if:

- (a) The other location is established by the licensee to provide centralized accounting for one or more licensed offices;
- (b) Off-site maintenance of the records and files will not hinder prompt servicing of the loans by the servicing offices;
- (c) The director, and any duly appointed examiners or agents of the director, have the right of free access to the records and files of the licensee at the other location; and
- (d) The other location provides adequate security for the licensee's records and files.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §15
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0160

Daily-Interest Computation

Interest on a loan may be computed on a daily basis using a 365-day factor. In determining the elapsed time to compute interest or a refund of interest, on such a loan, the maximum charge for each day must be 1/365th of the annual rate.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §32
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0165

Unfair or Deceptive Practices

A licensee must not disguise the terms or provisions of any loan as a device or subterfuge to evade the requirements and fees and interest authorized by 2010 Or Laws ch. 23. Such conduct will be deemed a violation of 2010 Or Laws ch. 23, §§1 and 32, and dishonest, fraudulent, or illegal practices under 2010 Or Laws ch. 23, §6.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §§1, 6, & 32
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0205

Limitation on Charging a Prepayment Penalty

A licensee may not charge a penalty for prepayment of all or part of the unpaid balance of a loan where:

- (1) The licensee has repossessed any collateral offered for the loan, sold the collateral and applied the proceeds of the sale towards the unpaid balance of the loan;
- (2) The licensee exercises an option contained in the loan agreement to require immediate repayment of all or part of the unpaid balance of the loan; or
- (3) The licensee demands repayment of all or part of the unpaid balance of the loan.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §17
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0240

Statement of Loan

(1) In addition to the statement required by 2010 Or Laws ch. 23, §17, the licensee must deliver the following to the borrower at the time a loan is made:

- (a) A written statement that payment in any amount may be made in advance at any time and, if the loan contains a prepayment penalty, the statement must comply with the notice required by ORS 82.160(1).
- (b) A detailed schedule showing the manner in which the proceeds of the loan have been disbursed or are to be disbursed on behalf of the borrower, including:
 - (A) Amounts applied to payment of the balance of an existing loan with the licensee;
 - (B) Amounts paid to others as authorized and designated by the borrower;
 - (C) Amounts paid for other identifiable charges the borrower has approved in writing;
 - (D) Amounts retained for filing, releasing, recording, satisfaction, reconveyance, license, title transfer, and similar fees, itemizing the purpose of each fee; and
 - (E) Amounts remaining that will be paid to the borrower.
- (c) When requested by the borrower, a copy of the security agreement signed by the borrower, together with any attached schedule of property pledged by the borrower.

(2) When copies are requested by any other person obligated directly or contingently on the loan, the licensee must also deliver a copy of the statements and other documents required by 2010 Or Laws ch. 23, §17 and section (1) of this rule to such other person. This is required whether the person is obligated as a maker, co-maker guarantor, accommodation maker, endorser, or otherwise.

(3) The statement required by section (1) of this rule may include disclosures under applicable federal law that a licensee is required to make to the borrower at the time the loan is made.

(4) The licensee must retain a copy of the statement of loan delivered to the borrower for at least two years after making a final entry on the loan records.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §§15 & 17
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

ADMINISTRATIVE RULES

441-735-0250

Receipt to Be Furnished to Borrower Upon Request

(1) When the borrower requests a receipt for a payment on a loan for which interest is to be computed on a daily basis, the receipt must specify:

- (a) The amount applied to interest, if any;
- (b) The date to which the interest is paid, or the dollar amount short, if payment is insufficient to pay interest to date;
- (c) The amount applied to principal, if any; and
- (d) The unpaid principal of such loan, if any.

(2) When a borrower requests a receipt for a payment on a loan that is contracted for interest to be precomputed, the receipt must specify:

(a) The amount of the payment applied to the loan and any default charges; and

- (b) The amount of the unpaid balance of the loan and charges, if any.
- Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §17
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0255

Payoff Information to be Furnished to Borrower Upon Request

(1) When a borrower requests the payoff information on a loan and specifies a payoff date, the licensee must promptly, but in no case later than three business days, provide the requested information.

(2) When a borrower does not specify a payoff date, the licensee must calculate the payoff amount for a date no later than 10 days after the date of the request, and must provide the amount within three business days of the borrower's request. When a licensee provides a payoff amount, it must also advise the borrower, verbally or in writing, that interest will continue to accrue past the payoff date if the loan is not paid in full.

- Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §17
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0271

Requirements for Payday Loans and Title Loans

A license must comply with the following when making payday loans or title loans:

- (1) Interest may not be compounded.
- (2) The loan agreement must have the following information displayed prominently in bold print on the first page of the agreement:
 - (a) The APR;
 - (b) The amount of the loan;
 - (c) The amount of interest or finance charge if paid when the loan is due;

- (d) The total amount due on the due date; and
- (e) The due date must comply with the disclosure requirements of Truth In Lending, 15 U.S.C. 1601 et seq., and Regulation Z, 12 C.F.R. Part 226, to satisfy the requirements of this section.

(3) If a licensee permits a borrower to renew a loan after the due date, the renewal must be effective on the due date of the loan.

(4) If the licensee does not cash the borrower's check, the licensee must return the note marked "Paid" and the requirements of subsection (4) of this rule would not apply. The licensee must also mark the check "Void" and return it to the borrower with the note marked "Paid."

- Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §§17, 20, 21, 22 & 27
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0272

Requirements for Licensees

- (1) A licensee:
 - (a) Must calculate daily interest based upon a 365/day year.
 - (b) Must comply with the Equal Credit Opportunity Act, 15 USC 1691 et seq., and must provide the applicant with a written notice of the reason for declining a loan. The licensee may provide the notice to the applicant at the time the loan is declined or the notice may be mailed to the applicant. The licensee must retain a copy of the notice in the borrower's files unless an exception under the Equal Credit Opportunity Act applies.

(c) Must prominently post the APR inside their office where customers can easily see it and the APR must be prominently posted on the licensee's website so that it will be viewed by any Oregon consumer prior to applying for a loan.

(2) After any payment made, in full or in part, on any loan, a licensee must:

- (a) Give the person making payment a signed, dated receipt showing the amount paid to principal, the amount paid to interest, and the balance due on the loan; or

(b) An electronic receipt, a canceled check, or other written instrument approved by the director as a substitute for the receipt requirements of subsection (a).

(3) If a licensee does not give a borrower the note marked "Paid or Renewed" in compliance with 2010 Or Laws ch. 23, §17, the loan agreement must state that the borrower's canceled check will be evidence of payment of the loan. The licensee must mark the note "Paid" or "Renewed" and retain the note in the file. If the loan is made using an electronic medium and the consumer has consented to use of electronic transmission, an electronic transmission may fulfill the requirements of this section.

(4) A licensee may not make a loan to an applicant without forming a good faith belief that the applicant has the ability to repay the loan. A licensee will be presumed to have complied if the licensee:

(a) Requires the applicant to provide evidence of a source of funds to repay the loan such as pay stubs, bank statements or similar record or evidence of employment or income;

(b) Establishes the amount of salary or earnings of the applicant and the date of the month on which the applicant receives compensation or funds;

(c) Solicits the applicant for information on the number, amounts and dates of maturity on outstanding loans on which the applicant is the payor or guarantor;

(d) Does not lend more than 25% of the consumer's monthly net income to an applicant that earns \$60,000 a year or less. This limitation does not apply to loans made to applicants who have a net income in excess of \$60,000 a year. If a loan is based upon anticipated receipt of funds from other sources, the licensee must so note in the file and may lend no more than 25% of the total anticipated funds received by the applicant during the loan period.

(e) Solicits information on the number, amount and dates of maturity of existing outstanding loans.

(5) When an application is made, a licensee must provide the borrower with a written statement, in a form approved by the director, clearly describing the results of any default or late payment.

(6) In compliance with Or Laws ch. 23, §§21 and 22, a licensee may not renew a loan more than two times and may not make a new loan to a borrower within seven days of the day that a previous payday loan expires.

Example: A borrower borrows \$300 for 31 days on July 3 at 36% interest and a \$30 origination fee. Unable to pay off the loan on August 3, the borrower pays the \$30 origination fee and \$9.17 interest (\$300 x 0.36 divided by 365 x 31) and renews the loan with a new due date of September 3. Unable to repay the loan on September 3, the borrower again pays \$9.17 interest and renews the loan with a new due date of October 4. If the borrower is unable to repay the loan on October 4, the lender may not any more renewals and may not make a new loan to the borrower until October 11.

(7) If the licensee has a preexisting business relationship with the borrower in which the licensee has entered into a loan or loans within the previous 12 months that have been satisfactorily repaid in full, the lender may rely on that preexisting relationship to form the good faith belief required under Or Laws ch. 23, §20.

(8) For purposes of the investigation described in 2010 Or Laws ch. 23, §5, an applicant for a payday loan license or title loan license must authorize an investigative consumer report as defined in the Fair Credit Reporting Act, 15 USC 1681 et. seq.

(9) No license will be issued or renewed unless the applicant or licensee is legally qualified to conduct business in this state by making appropriate filings with the Secretary of State.

- Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §§17, 19, 20, 21, 22, and 27
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0275

Conditions Applicable to Loans Made by Title Loan Licensees

(1) Title loan contracts may not provide for the continuation of interest or other charges after repossession.

(2) For title loans in default, licensees must send a written notice by first class mail, in a form approved by the director, to the borrower's last known address 10 days prior to repossession.

- (a) The notice must be dated the day it is mailed;
- (b) A dated copy of the notice must be placed in the borrower's file; and

(c) Repossession may not occur until the 11th day from the date of the notice.

(3) Unless an auctioneer conducts the sale at a public or dealer auction, the licensee must obtain at least three bids on the vehicle prior to the sale of a vehicle. The bids must be in writing and contain the identity of the vehicle, the amount of the bid, and the name and address of the bidder.

ADMINISTRATIVE RULES

(4) Licensees may not sell a vehicle to an agent, affiliate, subsidiary, or employee of the licensee.

(5) If a vehicle is sold, the borrower must receive all proceeds, exceeding the debt and reasonable costs associated with the repossession and sale. The licensee must deliver the proceeds no later than three business days after they receive the proceeds of the sale. If the vehicle was paid for by a check, the licensee may deliver the proceeds within three days after the check has cleared.

(6) The licensee may not charge the borrower any storage charge, regardless of how long the vehicle is held prior to sale, if the vehicle is stored on property owned, leased, or otherwise controlled by the licensee.

(7) If more than one person holds title to a vehicle, the vehicle may not be repossessed unless all such persons have signed the necessary loan documents.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: §§17, 20, 21, and 27
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0280

Prohibited Provisions in Loan Contract Provisions

A licensee may not use a contract evidencing a loan that contains any of the following provisions:

(1) A hold harmless clause;

(2) A confession of judgment or other waiver of the right to notice and the opportunity to be heard in the event of suit or process;

(3) A provision in which the consumer agrees not to assert any claim or defense arising out of the contract against the licensee or any holder in due course; or

(4) An executory waiver or a limitation of exemption from attachment, execution, or other process on real or personal property held, owned by, or due to the consumer, unless the waiver applies solely to property subject to a security interest executed in connection with the loan.

Stat. Auth.: 2010 Or Laws ch. 23, §§19, 20, & 27
Stats. Implemented: 2010 Or Laws ch. 23, §17
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0310

Refund of Unearned Interest and Charges

(1) If a borrower pays off a loan prior to the due date, the licensee must refund all unearned interest and charges.

(2) For purposes of this rule, a licensee must calculate earned interest and charges by multiplying the loan amount by the interest rate and dividing by 365 to find daily interest then multiply that quotient by the number of days from the date the loan was made to the date of pay-off counting the day after the loan was made as the first day.

Example: A borrower gets a loan of \$200 on the 5th day of the month at 36% interest and comes on the 25th of the month to pay off the loan. The interest is calculated as follows: $\$200 \times 0.36 = \72 divided by $365 = \$0.20$ per day $\times 20$ days = \$4.00 interest. If the borrower gave a lender a check on the 5th for the full 31-day term (\$206.12), the lender must refund the unearned interest of \$2.12. There is no minimum interest amount.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §§17 and 27
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

441-735-0320

Licensee Reporting

Licensees are required to file an annual report by June 30 for operations during calendar year 2009. Beginning in calendar year 2010 and thereafter, licensees are required to file their annual report by March 31 of each year. Licensees must also provide known information on any felony conviction, or any conviction involving theft or fraud, of any executive officer, director, managing partner, or the manager of any office location that occurred during the reporting period that had not already been reported to the director. This applies to:

(1) A new qualified person or office manager;

(2) A new experienced person;

(3) Material changes in business plan; or

(4) Any criminal conviction entered against any person named in the application.

Stat. Auth.: 2010 Or Laws ch. 23, §27
Stats. Implemented: 2010 Or Laws ch. 23, §8
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Adopting Permanent Rules Governing State Program for Continuation of Health Benefit Plans.

Adm. Order No.: ID 12-2010

Filed with Sec. of State: 6-11-2010

Certified to be Effective: 6-11-10

Notice Publication Date: 5-1-2010

Rules Adopted: 836-053-0851, 836-053-0856, 836-053-0861, 836-053-0866

Rules Repealed: 836-053-0850, 836-053-0855, 836-053-0860, 836-053-0865

Subject: Oregonians who lose their jobs have two options to continue coverage under their group health plan. If their former employer has 20 or more workers, they are eligible under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA). If their former employer has fewer than 20 workers, they are eligible under Oregon's state continuation law. The federal economic stimulus package extends 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 Oregon Legislative Assembly enacted House Bill 2433, which extends 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.

The Legislative Assembly declared an emergency exists so House Bill 2433 could take effect immediately upon passage, and on April 28, 2009, the director adopted temporary rules OAR 836-053-0850T, 836-053-0855T, 836-053-0860T, 836-053-0865T (the Temporary Rules) in recognition of the need to expedite the rules to put in place the mechanisms to facilitate Oregonians obtaining the subsidy. These temporary rules were replaced by permanent rules that became effective October 23, 2009.

The director again adopted temporary rules in December 2009, March 2010 and April 2010 in response to federal extensions and changes to the federal subsidy program.

These rules enact permanent provisions that establish the requisite notice insurers must provide to assistance eligible individuals, revise the dates of eligibility for the federal subsidy and establish eligibility requirements to maximize the benefit. The existing temporary rules expire June 16, 2010 and these rules are intended to replace the current permanent rules and all temporary amendments to those rules in their entirety.

Rules Coordinator: Sue Munson—(503) 947-7272

836-053-0851

Purpose; Authority; Applicability; and Enforcement

(1) OAR 836-053-0851 to 836-053-0866 are permanent rules that repeal and replace permanent rules OAR 836-053-0850 to 836-053-0865 and temporary amendments to those rules OAR 836-053-0850T to 836-053-0885T and are adopted under the authority of ORS 731.244 and chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433) for the purpose of implementing continuation of benefits provisions in accordance with chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433) and for the purpose of maximizing the benefit certificate holders in Oregon may receive under the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(2) OAR 836-053-0851 to 836-053-0866 apply to insurers issuing continuation coverage as required under ORS 743.610.

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 12-2010, f. & cert. ef. 6-11-10

836-053-0856

Definitions

As used in OAR 836-053-0851 to 836-053-0866:

(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:

ADMINISTRATIVE RULES

(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 836-053-0866(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 12-2010, f. & cert. ef. 6-11-10

836-053-0861 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.

(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 836-053-0866(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 836-053-0866(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 836-053-0866(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 836-053-0861(2), including information on the provisions of 836-053-0866(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 12-2010, f. & cert. ef. 6-11-10

836-053-0866

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:

ADMINISTRATIVE RULES

(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 836-053-0861(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 836-053-0861(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:

(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 836-053-0861(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 12-2010, f. & cert. ef. 6-11-10

Department of Consumer and Business Services, Oregon Occupational Safety and Health Division Chapter 437

Rule Caption: Adopt federal amendments to hexavalent chromium in general industry, construction, and maritime activities.

Adm. Order No.: OSHA 3-2010

Filed with Sec. of State: 6-10-2010

Certified to be Effective: 6-15-10

Notice Publication Date: 5-1-2010

Rules Amended: 437-002-0360, 437-003-0001, 437-005-0001

Subject: This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Federal OSHA revised the notification requirements in the Hexavalent Chromium (Cr(VI)) standard in general industry, construction, and maritime activities. Employers will be required to notify employees of the results of all exposure determinations regardless of exposure levels.

Oregon OSHA adopts the changes in Divisions 2/Z, General Industry, 3/Z, Construction, and 5/Z, Maritime Activities as published in the March 17, 2010 Federal Register.

Please visit OR-OSHA's web site at www.orosha.org.

Rules Coordinator: Sue C. Joye—(503) 947-7449

ADMINISTRATIVE RULES

437-002-0360

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

- (1) (Reserved) 29 CFR 1910.1000 Air contaminants.
NOTE: 29 CFR 1910.1000 was repealed on 11/15/93 by OR OSHA. In Oregon, OAR 437-002-0382 applies.
- (2) 29 CFR 1910.1001 Asbestos, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (3) 29 CFR 1910.1002 Coal tar pitch volatiles, interpretation of term, published 1/21/83, Federal Register, vol. 43, p. 2768.
- (4) 29 CFR 1910.1003 13 Carcinogens, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (5) 29 CFR 1910.1004 See §1910.1003, 13 Carcinogens.
- (6) Reserved for 29 CFR 1910.1005.
- (7) 29 CFR 1910.1006 See §1910.1003, 13 Carcinogens.
- (8) 29 CFR 1910.1007 See §1910.1003, 13 Carcinogens.
- (9) 29 CFR 1910.1008 See §1910.1003, 13 Carcinogens.
- (10) 29 CFR 1910.1009 See §1910.1003, 13 Carcinogens.
- (11) 29 CFR 1910.1010 See §1910.1003, 13 Carcinogens.
- (12) 29 CFR 1910.1011 See §1910.1003, 13 Carcinogens.
- (13) 29 CFR 1910.1012 See §1910.1003, 13 Carcinogens.
- (14) 29 CFR 1910.1013 See §1910.1003, 13 Carcinogens.
- (15) 29 CFR 1910.1014 See §1910.1003, 13 Carcinogens.
- (16) 29 CFR 1910.1015 See §1910.1003, 13 Carcinogens.
- (17) 29 CFR 1910.1016 See §1910.1003, 13 Carcinogens.
- (18) 29 CFR 1910.1017 Vinyl chloride, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (19) 29 CFR 1910.1018 Inorganic arsenic, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (20) 29 CFR 1910.1020 Access to Employee Exposure and Medical Records, published 4/3/06, FR vol. 71, no. 63, p. 16669.
Appendix A Sample Authorization Letter.
Appendix B Availability of NIOSH RTECS.
- (21) 29 CFR 1910.1025 Lead, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (22) 29 CFR 1910.1026 Chromium (VI), published 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.
- (23) 29 CFR 1910.1027 Cadmium, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (24) 29 CFR 1910.1028 Benzene, and Appendices A, B, C, D, and E, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (25) 29 CFR 1910.1029 Coke oven emissions, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (26) 29 CFR 1910.1030 Bloodborne pathogens, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (27) 29 CFR 1910.1043 Cotton dust, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (28) 29 CFR 1910.1044 1,2 dibromo-3 chloropropane, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (29) 29 CFR 1910.1045 Acrylonitrile, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (30) 29 CFR 1910.1047 Ethylene oxide, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (31) 29 CFR 1910.1048 Formaldehyde, and Appendices A, B, C, D and E, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (32) 29 CFR 1910.1050 Methylene dianiline (MDA), published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (33) 29 CFR 1910.1051 1,3-Butadiene, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (34) 29 CFR 1910.1052 Methylene Chloride, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- NOTE:** 29 CFR 1910.1101 Asbestos, was repealed by Federal Register, vol. 57, no. 110, issued 6/8/92, p. 24330.
- (35) 29 CFR 1910.1096 Ionizing radiation, published 6/20/96, FR vol. 61, no. 46, p. 31427.
- (36) 29 CFR 1910.1200 Hazard communication, published 3/7/96, FR vol. 61, no. 46, p. 9245.
- (37) 29 CFR 1910.1201 Retention of DOT Markings, Placards and Labels, published 7/19/94, Federal Register, vol. 59, p. 36700.
- (38) 29 CFR 1910.1450 Occupational Exposure to Hazardous Chemicals in Laboratories, published 4/3/06, FR vol. 71, no. 63, p. 16669.
- (39) 29 CFR 1910.1499 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9245.

(40) 29 CFR 1910.1500 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9245.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 13-1988, f. 8-2-88 & ef. 8-2-88; APD 14-1988, f. & ef. 9-12-88; APD 18-1988, f. & ef. 11-17-88; APD 4-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 6-1989(Temp), f. 4-20-89, ef. 5-1-89; APD 9-1989, f. & ef. 7-7-89; APD 11-1989, f. 7-14-89, ef. 8-14-89; APD 13-1989, f. & ef. 7-17-89; OSHA 1-1990(Temp), f. & ef. 1-11-90; OSHA 3-1990(Temp), f. & ef. 1-19-90; OSHA 6-1990, f. & ef. 3-2-90; OSHA 7-1990, f. & ef. 3-2-90; OSHA 9-1990, f. 5-8-90, ef. 8-8-90; OSHA 11-1990, f. 6-7-90, ef. 7-1-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 14-1990, f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & ef. 8-31-90; OSHA 20-1990, f. & ef. 9-18-90; OSHA 21-1990, f. & ef. 9-18-90; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 13-1991, f. & cert. ef. 10-10-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 1-1992, f. & cert. ef. 1-22-92; OSHA 4-1992, f. & cert. ef. 4-16-92; OSHA 5-1992, f. 4-24-92, cert. ef. 7-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 9-1992(Temp), f. & cert. ef. 9-24-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 12-1992, f. & cert. ef. 10-13-92; OSHA 14-1992, f. & cert. ef. 12-7-92; OSHA 15-1992, f. & cert. ef. 12-30-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 6-1993(Temp), f. & cert. ef. 5-17-93; OSHA 12-1993, f. 8-20-93, cert. ef. 11-1-93; OSHA 17-1993, f. & cert. ef. 11-15-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 4-1996, f. & cert. ef. 9-13-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 8-1997, f. & cert. ef. 11-14-97; OSHA 1-1998, f. & cert. ef. 2-13-98; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 1-1999, f. & cert. ef. 3-22-99; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-2001, f. & cert. ef. 5-15-01; OSHA 10-2001, f. 9-14-01, cert. ef. 10-18-01; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10

437-003-0001

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, in the Federal Register:

- (1) Subdivision A — GENERAL
 - (a) 29 CFR 1926.1 Purpose and Scope, published 4/6/79, FR vol. 44, p. 20940.
 - (b) 29 CFR 1926.2 Variances from safety and health standards, published 4/6/79, FR vol. 44, p. 20940.
 - (c) 29 CFR 1926.3 Inspections — right of entry, published 4/6/79, FR vol. 44, p. 20940.
 - (d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 4/6/79, FR vol. 44, p. 20940.
 - (2) Subdivision B — GENERAL INTERPRETATIONS
 - (a) 29 CFR 1926.10 Scope of subpart, published 4/6/79, FR vol. 44, p. 20940.
 - (b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 4/6/79, FR vol. 44, p. 20940.
 - (c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 4/6/79, FR vol. 44, p. 20940.
 - (d) 29 CFR 1926.13 Interpretation of statutory terms, published 4/6/79, FR vol. 44, p. 20940.
 - (e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 4/6/79, FR vol. 44, p. 20940.
 - (f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 4/6/79, FR vol. 44, p. 20940.
 - (g) 29 CFR 1926.16 Rules of construction, published 4/6/79, FR vol. 44, p. 20940.
 - (3) Subdivision C — GENERAL SAFETY AND HEALTH PROVISIONS
 - (a) 29 CFR 1926.20 General safety and health provisions, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
 - (b) 29 CFR 1926.21 Safety training and education, published 4/6/79, FR vol. 44, p. 20940.
 - (c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved)
 - (d) 29 CFR 1926.23 First aid and medical attention, published 4/6/79, FR vol. 44, p. 20940.
 - (e) 29 CFR 1926.24 Fire protection and prevention, published 4/6/79, FR vol. 44, p. 20940.
 - (f) 29 CFR 1926.25 Housekeeping, published 4/6/79, FR vol. 44, p. 20940.
 - (g) 29 CFR 1926.26 Illumination, published 4/6/79, FR vol. 44, p. 20940.
 - (h) 29 CFR 1926.27 Sanitation, published 4/6/79, FR vol. 44, p. 20940.

ADMINISTRATIVE RULES

- (i) 29 CFR 1926.28 Personal protective equipment, published 4/6/79, FR vol. 44, p. 20940.
- (j) 29 CFR 1926.29 Acceptable certifications, published 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 3/7/96, FR vol. 61, no. 46, p. 9249.
- (l) 29 CFR 1926.31 Incorporation by reference, published 6/18/98, FR vol. 63, no. 117, p. 33468.
- (m) 29 CFR 1926.32 Definitions, published 6/30/93, FR vol. 58, no. 124, p. 35078.
- (n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.
- (o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.
- (4) Subdivision D — OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS
- (a) 29 CFR 1926.50 Medical services and first aid, published 6/18/98, FR vol. 63, no. 117, p. 33469.
- (b) 29 CFR 1926.51 Sanitation, published 6/30/93, FR vol. 58, no. 124, p. 35084.
- (c) 29 CFR 1926.52 Occupational noise exposure, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.53 Ionizing radiation, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.54 Nonionizing radiation, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 1/10/97, FR vol. 62, no. 7, p. 1619.
- (g) 29 CFR 1926.56 Illumination, published 4/6/79, FR vol. 44, p. 20940.
- (h) 29 CFR 1926.57 Ventilation, published 1/8/98, FR vol. 63, no. 5, p. 1295.
- (i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).
- (j) 29 CFR 1926.59 Hazard Communication, published 6/20/96, FR vol. 61, p. 31427.
- (k) 29 CFR 1926.60 Methyleneedianiline (MDA), published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 6/20/96, FR vol. 61, p. 31427.
- (m) 29 CFR 1926.62 Lead, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- NOTE:** Cadmium has been redesignated as §1926.1127.
- (n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response
- NOTE:** Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.
- (5) Subdivision E — PERSONAL PROTECTIVE AND LIFE SAVING EQUIPMENT
- (a) 29 CFR 1926.95 Criteria for personal protective equipment, published 11/15/07, FR vol. 72, no. 220, p. 64342.
- (b) 29 CFR 1926.100 Head protection, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.101 Hearing protection, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.102 Eye and face protection, published 6/30/93, FR vol. 58, no. 124, p. 35160.
- (e) 29 CFR 1926.103 Respiratory protection, published 1/8/98, FR vol. 63, no. 5, p. 1297.
- NOTE:** 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.
- (f) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.
- (g) 29 CFR 1926.106 Working over or near water, published 4/6/79, FR vol. 44, p. 20940.
- (h) 29 CFR 1926.107 Definitions applicable to this subpart, published 8/9/94, FR vol. 59, no. 152, p. 40729.
- (6) Subdivision F — FIRE PROTECTION AND PREVENTION
- (a) 29 CFR 1926.150 Fire protection, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.151 Fire prevention, published 7/11/86, FR vol. 51, p. 25318.
- (c) 29 CFR 1926.152 Flammable and combustible liquids, published 6/30/93, FR vol. 58, no. 124, p. 35162.
- (d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 6/30/93, FR vol. 58, no. 124, p. 35170.
- (e) 29 CFR 1926.154 Temporary heating devices, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.155 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (7) Subdivision G — SIGNS, SIGNALS, AND BARRICADES
- (a) 29 CFR 1926.200 Accident prevention signs and tags, published 6/30/93, FR vol. 58, no. 124, p. 35173; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (b) 29 CFR 1926.201 Signaling, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (c) 29 CFR 1926.202 Barricades, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (d) 29 CFR 1926.203 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (8) Subdivision H — MATERIALS HANDLING, STORAGE, USE AND DISPOSAL
- (a) 29 CFR 1926.250 General requirements for storage, published 6/30/93, FR vol. 58, no. 124, p. 35173.
- (b) 29 CFR 1926.251 Rigging equipment for material handling, published 6/30/93, FR vol. 58, no. 124, p. 35173.
- (c) 29 CFR 1926.252 Disposal of waste materials, published 4/6/79, FR vol. 44, p. 20940.
- (9) Subdivision I — TOOLS — HAND AND POWER
- (a) 29 CFR 1926.300 General requirements, published 3/7/96, FR vol. 61, no. 46, p. 9250.
- (b) 29 CFR 1926.301 Hand tools, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.302 Power operated hand tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.
- (d) 29 CFR 1926.303 Abrasive wheels and tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.
- (e) 29 CFR 1926.304 Woodworking tools, published 3/7/96, FR vol. 61, no. 46, p. 9251.
- (f) 29 CFR 1926.305 Jacks - lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.
- (10) Subdivision J — WELDING AND CUTTING
- (a) 29 CFR 1926.350 Gas welding and cutting, published 6/30/93, FR vol. 58, no. 124, p. 35179.
- (b) 29 CFR 1926.351 Arc welding and cutting, published 7/11/86, FR vol. 51, p. 25318.
- (c) 29 CFR 1926.352 Fire prevention, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 6/30/93, FR vol. 58, no. 124, p. 35179.
- (e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 4/6/79, FR vol. 44, p. 20940.
- (11) Subdivision K — ELECTRICAL
- (a) 29 CFR 1926.400 Introduction, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (b) 29 CFR 1926.401 (Reserved)
- (c) 29 CFR 1926.402 Applicability, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (d) 29 CFR 1926.403 General requirements, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (e) 29 CFR 1926.404 Wiring design and protection, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.
- (f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (g) 29 CFR 1926.406 Specific purpose equipment and installations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (h) 29 CFR 1926.407 Hazardous (classified) locations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (i) 29 CFR 1926.408 Special systems, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (j) 29 CFR 1926.409 (Reserved)
- (k) 29 CFR 1926.415 (Reserved)
- (l) 29 CFR 1926.416 General requirements, published 8/12/96, FR vol. 61, no. 156, p. 41738.
- (m) 29 CFR 1926.417 Lockout and tagging of circuits, published 8/12/96, FR vol. 61, no. 156, p. 41739.
- (n) 29 CFR 1926.418 (Reserved)
- (o) 29 CFR 1926.430 (Reserved)

ADMINISTRATIVE RULES

- (p) 29 CFR 1926.431 Maintenance of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (q) 29 CFR 1926.432 Environmental deterioration of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (r) 29 CFR 1926.433 - 29 CFR 1926.440 (Reserved)
- (s) 29 CFR 1926.441 Battery locations and battery charging, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (t) 29 CFR 1926.442 - 29 CFR 1926.448 (Reserved)
- (u) 29 CFR 1926.449 Definitions applicable to this subpart, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (12) Subdivision L — SCAFFOLDING
- (a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/30/96, FR vol. 61, no. 170, p. 46104.
- (b) 29 CFR 1926.451 General requirements, published 11/25/96, FR vol. 61, no. 228, p. 59831.
- (c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.
- (d) 29 CFR 1926.453 Aerial lifts, published 11/25/96, FR vol. 61, no. 228, p. 59832.
- (e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (f) Appendix A to Subpart L Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (g) Appendix B to Subpart L Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (h) Appendix C to Subpart L List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (i) Appendix D to Subpart L List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (j) Appendix E to Subpart L Drawing and illustrations, published 11/25/96, FR vol. 61, no. 228, p. 59832.
- (13) Subdivision M — FALL PROTECTION
- (a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.
- (b) 29 CFR 1926.501 Duty to have fall protection, published 8/9/94, FR vol. 59, no. 152, p. 40732-40733; amended with AO 6-2002, f. and ef. 7/19/02.
- (c) 29 CFR 1926.502 Fall protection systems criteria and practices, published 8/9/94, FR vol. 59, no. 152, p. 40733-40738; amended with AO 6-2002, f. and ef. 7/19/02.
- (d) 29 CFR 1926.503 Training requirements. REPEALED with AO 6-2002, f. and ef. 7/19/02, replaced with OI.
- (e) Appendix A to Subpart M Determining Roof Widths, published 8/9/94, FR vol. 59, no. 152, p. 40738-40742.
- (f) Appendix B to Subpart M Guardrail Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743.
- (g) Appendix C to Subpart M Personal Fall Arrest Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743-40746.
- (h) Appendix D to Subpart M Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.
- (14) Subdivision N — CRANES, DERRICKS, HOISTS, ELEVATORS, AND CONVEYORS
- (a) 29 CFR 1926.550 Cranes and derricks, published 6/30/93, FR vol. 58, no. 124, p. 35183.
- (b) 29 CFR 1926.551 Helicopters, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.553 Base-mounted drum hoist, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.554 Overhead hoists, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.555 Conveyors, published 4/6/79, FR vol. 44, p. 20940.
- (15) Subdivision O — MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS
- (a) 29 CFR 1926.600 Equipment, published 6/30/93, FR vol. 58, no. 124, p. 35183.
- (b) 29 CFR 1926.601 Motor vehicles, REPEALED by OR-OSHA Admin. Order 6-2007, f. 9/26/07, ef. 9/26/07.
- (c) 29 CFR 1926.602 Material handling equipment, published 12/1/98, FR vol. 63, no. 230, p. 66274; amended by AO 7-2003, f. 12/5/03, ef. 12/5/03.
- (d) 29 CFR 1926.603 Pile driving equipment, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.604 Site clearing, published 7/22/77, FR vol. 42, p. 37674.
- (f) 29 CFR 1926.605 Marine operations and equipment, published 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.606 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (16) Subdivision P — EXCAVATIONS
- (a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 10/31/89, FR vol. 54, no. 209, pp. 45959-45961.
- (b) 29 CFR 1926.651 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.652 Requirements for protective systems, published 10/31/89, FR vol. 54, no. 209, pp. 45961-45962.
- (d) Appendices A-F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962-45991.
- (17) Subdivision Q — CONCRETE AND MASONRY CONSTRUCTION
- (a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (b) 29 CFR 1926.701 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.702 Requirements for equipment and tools, published 6/16/88, FR vol. 53, p. 22612.
- (d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.
- (e) 29 CFR 1926.704 Requirements for precast concrete, published 10/5/89, FR vol. 54, no. 192, p. 41088.
- (f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (g) Appendix A to 1926.705 Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.
- (18) Subdivision R — STEEL ERECTION
- (a) 29 CFR 1926.750 Scope, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (b) 29 CFR 1926.751 Definitions, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (d) 29 CFR 1926.753 Hoisting and rigging, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (e) 29 CFR 1926.754 Structural steel assembly, published 4/3/06, FR vol. 71, no. 63, p. 16669.
- (f) 29 CFR 1926.755 Column anchorage, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (g) 29 CFR 1926.756 Beams and columns, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (h) 29 CFR 1926.757 Open web steel joists, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (i) 29 CFR 1926.758 Systems-engineered metal buildings, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (j) 29 CFR 1926.759 Falling object protection, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (k) 29 CFR 1926.760 Fall protection, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (l) 29 CFR 1926.761 Training, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (m) Appendix A to Subpart R Guidelines for establishing the components of a site-specific erection plan: Nonmandatory Guidelines for Complying with §1926.752(e), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (n) Appendix B to Subpart R Reserved.
- (o) Appendix C to Subpart R Illustrations of bridging terminus points: Nonmandatory Guidelines for Complying with §1926.757(a)(10) and §1926.757(c)(5), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (p) Appendix D to Subpart R Illustration of the use of control lines to demarcate controlled decking zones (CDZs): Nonmandatory Guidelines for Complying with §1926.760(c)(3), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

ADMINISTRATIVE RULES

(q) Appendix E to Subpart R Training: Nonmandatory Guidelines for Complying with §1926.761, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(r) Appendix F to Subpart R Perimeter columns: Nonmandatory Guidelines for Complying with §1926.756(e) to Protect the Unprotected Side or Edge of a Walking/Working Surface, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(s) Appendix G to Subpart R Fall protection systems criteria and practices from §1926.502: Nonmandatory Guidelines for Complying with Complying with §1926.760(d), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(t) Appendix H to Subpart R Double connections: Illustration of a clipped end connection and a staggered connection: Non-Mandatory Guidelines for Complying with Complying with §1926.756(c)(1), published 7/17/01, FR vol. 66, no. 137, p. 37137.

(19) Subdivision S — UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR

(a) 29 CFR 1926.800 Tunnels and shafts, published 4/3/06, FR vol. 71, no. 63, p. 16669.

(b) 29 CFR 1926.801 Caissons, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.802 Cofferdams, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.803 Compressed air, published 7/11/86, FR vol. 51, p. 25318.

(e) 29 CFR 1926.804 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(f) Appendix A to Subpart S Decompression Tables, published 4/6/79, FR vol. 44, p. 20940.

(20) Subdivision T — DEMOLITION

(a) 29 CFR 1926.850 Preparatory operations, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.852 Chutes, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.853 Removal of materials through floor openings, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.855 Manual removal of floors, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.857 Storage, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.858 Removal of steel construction, published 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.859 Mechanical demolition, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.860 Selective demolition by explosives, published 4/6/79, FR vol. 44, p. 20940.

(21) Subdivision U — BLASTING AND USE OF EXPLOSIVES

(a) 29 CFR 1926.900 General provisions, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.901 Blaster qualifications, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.902 Surface transportation of explosives, published 6/30/93, FR vol. 58, no. 124, p. 35311.

(d) 29 CFR 1926.903 Underground transportation of explosives, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35311.

(f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35184.

(g) 29 CFR 1926.906 Initiation of explosive charges — electric blasting, published 6/18/98, FR vol. 63, no. 117, p. 33469.

(h) 29 CFR 1926.907 Use of safety fuse, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.908 Use of detonating cord, published 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.909 Firing the blast, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.910 Inspection after blasting, published 4/6/79, FR vol. 44, p. 20940.

(l) 29 CFR 1926.911 Misfires, published 4/6/79, FR vol. 44, p. 20940.

(m) 29 CFR 1926.912 Underwater blasting, published 4/6/79, FR vol. 44, p. 20940.

(n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 4/6/79, FR vol. 44, p. 20940.

(o) 29 CFR 1926.914 Definitions applicable to this subpart, published 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.

(22) Subdivision V — POWER TRANSMISSION AND DISTRIBUTION

(a) 29 CFR 1926.950 General requirements, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.951 Tools and protective equipment, published 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.952 Mechanical equipment, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.953 Material handling, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.954 Grounding for protection of employees, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.955 Overhead lines, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.956 Underground lines, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.957 Construction in energized substations, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.958 External load helicopters, published 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.959 Lineman's body belts, safety straps, and lanyards, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.960 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(23) Subdivision W — ROLLOVER PROTECTIVE STRUCTURES: OVERHEAD PROTECTION

(a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 7/20/06, FR vol. 71, no. 139, p. 41127..

(d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/28/06, FR vol. 71, no. 39, p. 9909.

(24) Subdivision X — STAIRWAYS AND LADDERS

(a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 6/30/93, FR vol. 58, no. 124, p. 35184.

(b) 29 CFR 1926.1051 General requirements, published 11/14/90, FR vol. 55, no. 220, p. 47688.

(c) 29 CFR 1926.1052 Stairways, published 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.

(d) 29 CFR 1926.1053 Ladders, published 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.

(e) 29 CFR 1926.1054 (Reserved)

(f) 29 CFR 1926.1055 (Reserved)

(g) 29 CFR 1926.1056 (Reserved)

(h) 29 CFR 1926.1057 (Reserved)

(i) 29 CFR 1926.1058 (Reserved)

(j) 29 CFR 1926.1059 (Reserved)

(k) 29 CFR 1926.1060 Training requirements, published 11/14/90, FR vol. 55, no. 220, p. 47691.

(25) Subdivision Z — TOXIC AND HAZARDOUS SUBSTANCES
(a) 29 CFR 1926.1101 Asbestos, published 1/9/09, FR vol. 74, no. 6, p. 858.

(b) 29 CFR 1926.1126 Chromium (VI), published; 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.

(c) 29 CFR 1926.1127 Cadmium, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(d) 29 CFR 1926.1152 Methylene Chloride, published 12/18/97, FR vol. 62, no. 243, p. 66275.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001-654.295

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91;

ADMINISTRATIVE RULES

OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03; OSHA 2-2003, f. & cert. ef. 1-30-03; OSHA 7-2003, f. & cert. ef. 12-5-03; OSHA 8-2003, f. 12-30-03 cert. ef. 1-1-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 2-2006, f. & cert. ef. 4-28-06; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 5-2006, f. 8-7-06, cert. ef. 1-1-07; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 6-2007, f. & cert. ef. 9-26-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10

437-005-0001

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1915, in the Federal Register:

(1) Subdivision A

(a) 29 CFR 1915.1. Purpose and authority, published 4/20/82, Federal Register (FR) vol. 47, p. 16984.

(b) 29 CFR 1915.2. Scope and application, published 4/20/82, FR vol. 47, p. 16984.

(c) 29 CFR 1915.3. Responsibility, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.4. Definitions, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.5. Incorporation by reference, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.

(f) 29 CFR 1915.6. Commercial diving operations, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.7. Competent person, published 7/25/94, FR vol. 59, p. 37856.

(h) 29 CFR 1915.9. Compliance duties owed to each employee, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(2) Subdivision B

(a) 29 CFR 1915.11. Scope, application and definitions applicable to this Subpart, published 7/25/94, FR vol. 59, p. 37857.

(b) 29 CFR 1915.12. Precautions before entering confined and enclosed spaces and other dangerous atmospheres, published 3/16/95, FR vol. 60, no. 51, p. 14218.

(c) 29 CFR 1915.13. Cleaning and other cold work, published 7/25/94, FR vol. 59, p. 37859.

(d) 29 CFR 1915.14. Hot work, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.15. Maintenance of safe conditions, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.16. Warning signs and labels, published 7/25/94, FR vol. 59, p. 37861.

Appendix A to Subpart B published 7/3/02, FR vol. 67, no. 128, p. 44541.

Appendix B to Subpart B published 7/25/94, FR vol. 59, p. 37816.

(3) Subdivision C

(a) 29 CFR 1915.31. Scope & application of subdivision, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.32. Toxic cleaning solvents, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(c) 29 CFR 1915.33. Chemical paint & preservative remover, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(d) 29 CFR 1915.34. Mechanical paint removers, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(e) 29 CFR 1915.35. Painting, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.36. Flammable liquids, published 4/20/82, FR vol. 47, p. 16984.

(4) Subdivision D

(a) 29 CFR 1915.51. Ventilation & protection in welding, cutting and heating, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.52. Fire prevention. REMOVED 9/15/04, FR vol. 69, p. 55667.

(c) 29 CFR 1915.53. Welding, cutting and heating of hollow metal containers & structure not covered by 1915.12, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.55. Gas welding & cutting, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.56. Arc welding and cutting, published 4/20/82, FR vol. 47, p. 16984.

(f) 29 CFR 1915.57. Uses of fissionable material in ship repairing and shipbuilding, published 4/20/82, FR vol. 47, p. 16984.

(5) Subdivision E

(a) 29 CFR 1915.71. Scaffolds or staging, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.72. Ladders, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(c) 29 CFR 1915.73. Guarding of deck openings and edges, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.74. Access to vessels, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.75. Access to and guarding of dry docks and marine railways, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.76. Access to cargo spaces and confined spaces, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.77. Working surfaces, published amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(6) Subdivision F

(a) 29 CFR 1915.91. Housekeeping, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.92. Illumination, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(c) 29 CFR 1915.93. Utilities, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.94. Work in confined or isolated spaces, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.95. Ship repairing and shipbuilding work on or in the vicinity of radar and radio, published 6/7/89, FR vol. 54, p. 24334.

(f) 29 CFR 1915.96. Work in or on lifeboats, published 8/24/87, FR vol. 52, p. 31886.

(g) 29 CFR 1915.97. Health and sanitation, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(h) 29 CFR 1915.98. First aid, published 4/20/82, FR vol. 47, p. 16984.

NOTE: 29 CFR 1915.99, Hazard Communication, was redesignated as 1915.1200 on 7/1/93, FR vol. 58, no. 125, p. 35514.

(i) 29 CFR 1915.100. Retention of DOT markings, placards and labels, published 7/19/94, Federal Register, vol. 59, no. 137, p. 36700.

(7) Subdivision G

(a) 29 CFR 1915.111. Inspection, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.112. Ropes, chains and slings, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(c) 29 CFR 1915.113. Shackles and hooks, published 9/29/86, FR vol. 51, p. 34562.

(d) 29 CFR 1915.114. Chain falls and pull lifts, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.115. Hoisting and hauling equipment, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.116. Use of gear, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(g) 29 CFR 1915.117. Qualifications of operators, published 4/20/82, FR vol. 47, p. 16984.

(h) 29 CFR 1915.118. Tables, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(8) Subdivision H

(a) 29 CFR 1915.131. General precautions, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.132. Portable electric tools, published 4/20/82, FR vol. 47, p. 16984.

(c) 29 CFR 1915.133. Hand tools, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.134. Abrasive wheels, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.135. Powder actuated fastening tools, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(f) 29 CFR 1915.136. Internal combustion engines other than ship's equipment, published 4/20/82, FR vol. 47, p. 16984.

(9) Subdivision I

(a) 29 CFR 1915.151. Scope, application and definitions, published 5/24/96, FR vol. 61, no. 102, p. 26352.

ADMINISTRATIVE RULES

- (b) 29 CFR 1915.152. General requirements, published 11/15/07, FR vol. 72, no. 220, p. 64342.
- (c) 29 CFR 1915.153. Eye and face protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (d) 29 CFR 1915.154. Respiratory protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (e) 29 CFR 1915.155. Head protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (f) 29 CFR 1915.156. Foot protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (g) 29 CFR 1915.157. Hand and body protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (h) 29 CFR 1915.158. Lifesaving equipment, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (i) 29 CFR 1915.159. Personal fall arrest systems (PFAS), published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (j) 29 CFR 1915.160. Positioning device systems, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix A to Subpart I, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix B to Subpart I, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (10) Subdivision J
- (a) 29 CFR 1915.161. Scope and application of subdivision, published 4/20/82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.162. Ship's boilers, published 4/20/82, FR vol. 47, p. 16984.
- (c) 29 CFR 1915.163. Ship's piping systems, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (d) 29 CFR 1915.164. Ship's propulsion machinery, published 4/20/82, FR vol. 47, p. 16984.
- (e) 29 CFR 1915.165. Ship's decking machinery, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (11) Subdivision K
- (a) 29 CFR 1915.171. Scope and application of subdivision, published 4/20/82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.172. Portable air receiver and other unfired pressure vessels, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.173. Drums and containers, published 4/20/82, FR vol. 47, p. 16984.
- (12) Subdivision L
- (a) 29 CFR 1915.181. Electrical circuits and distribution boards, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (13) Subdivisions M O (Reserved)
- (14) Subdivision P
- (a) 29 CFR 1915.501. General provisions, published 9/15/04, FR vol. 69, p. 55667.
- (b) 29 CFR 1915.502. Fire safety plan, published 9/15/04, FR vol. 69, p. 55667.
- (c) 29 CFR 1915.503. Precautions for hot work, published 9/15/04, FR vol. 69, p. 55667.
- (d) 29 CFR 1915.504. Fire watches, published 9/15/04, FR vol. 69, p. 55667.
- (e) 29 CFR 1915.505. Fire response, published 10/17/06, FR vol. 71, no. 200, p. 60843.
- (f) 29 CFR 1915.506. Hazards of fixed extinguishing systems on board vessels and vessel sections, published 9/15/04, FR vol. 69, p. 55667.
- (g) 29 CFR 1915.507. Land-side fire protection systems, published 10/17/06, FR vol. 71, no. 200, p. 60843.
- (h) 29 CFR 1915.508. Training, published 9/15/04, FR vol. 69, p. 55667.
- (i) 29 CFR 1915.509. Definitions applicable to this subpart, published 9/15/04, FR vol. 69, p. 55667.
- Appendix A to Subpart P, published 9/15/04, FR vol. 69, p. 55667.
- (15) Subdivision Q-Y (Reserved)
- (16) Subdivision Z
- (a) 29 CFR 1915.1000. Air Contaminants, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (b) 29 CFR 1915.1001. Asbestos, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- Appendix A to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix B to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix C to 1915.1001, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix D to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix E to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix F to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix G to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix H to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix I to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix J to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix K to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix L to 1915.1001, published 8/23/96, FR vol. 61, p. 43454.
- (c) 29 CFR 1915.1002. Coal tar pitch volatiles; interpretation of term, published 6/20/96, FR vol. 61, p. 31427.
- (d) 29 CFR 1915.1003. 13 Carcinogens (4 Nitrophenyl, etc.), published 6/20/96, FR vol. 61, p. 31427.
- (e) 29 CFR 1915.1004. alpha Naphthylamine, published 6/20/96, FR vol. 61, p. 31427.
- (f) 29 CFR 1915.1005. (Reserved)
- (g) 29 CFR 1915.1006. Methyl chloromethyl ether, published 6/20/96, FR vol. 61, p. 31427.
- (h) 29 CFR 1915.1007. 3,3'-Dichlorobenzidene (and its salts), published 6/20/96, FR vol. 61, p. 31427.
- (i) 29 CFR 1915.1008. bis Chloromethyl ether, published 6/20/96, FR vol. 61, p. 31427.
- (j) 29 CFR 1915.1009. beta Naphthylamine, published 6/20/96, FR vol. 61, p. 31427.
- (k) 29 CFR 1915.1010. Benzidine, published 6/20/96, FR vol. 61, p. 31427.
- (l) 29 CFR 1915.1011. 4 Aminodiphenyl, published 6/20/96, FR vol. 61, p. 31427.
- (m) 29 CFR 1915.1012. Ethyleneimine, published 6/20/96, FR vol. 61, p. 31427.
- (n) 29 CFR 1915.1013. beta Propiolactone, published 6/20/96, FR vol. 61, p. 31427.
- (o) 29 CFR 1915.1014. 2 Acetylaminofluorene, published 6/20/96, FR vol. 61, p. 31427.
- (p) 29 CFR 1915.1015. 4 Dimethylaminoazobenzene, published 6/20/96, FR vol. 61, p. 31427.
- (q) 29 CFR 1915.1016. N Nitrosodimethylamine, published 6/20/96, FR vol. 61, p. 31427.
- (r) 29 CFR 1915.1017. Vinyl chloride, published 6/20/96, FR vol. 61, p. 31427.
- (s) 29 CFR 1915.1018. Inorganic arsenic, published 6/20/96, FR vol. 61, p. 31427.
- (t) 29 CFR 1915.1020. Access to employee exposure and medical records, published 6/20/96, FR vol. 61, p. 31427.
- (u) 29 CFR 1915.1025. Lead, published 6/20/96, FR vol. 61, p. 31427.
- (v) 29 CFR 1915.1026. Chromium (VI), published 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.
- (w) 29 CFR 1915.1027. Cadmium, published 6/20/96, FR vol. 61, p. 31427.
- (x) 29 CFR 1915.1028. Benzene, published 6/20/96, FR vol. 61, p. 31427.
- (y) 29 CFR 1915.1030. Bloodborne pathogens, published 6/20/96, FR vol. 61, p. 31427.
- (z) 29 CFR 1915.1044. 1,2 dibromo 3 chloropropane, published 6/20/96, FR vol. 61, p. 31427.
- (aa) 29 CFR 1915.1045. Acrylonitrile, published 6/20/96, FR vol. 61, p. 31427.
- (bb) 29 CFR 1915.1047. Ethylene oxide, published 6/20/96, FR vol. 61, p. 31427.
- (cc) 29 CFR 1915.1048. Formaldehyde, published 6/20/96, FR vol. 61, p. 31427.
- (dd) 29 CFR 1915.1050. Methylenedianiline, published 6/20/96, FR vol. 61, p. 31427.
- (ee) 29 CFR 1915.1052. Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619.
- (ff) 29 CFR 1915.1120. Access to employee exposure and medical records has been redesignated to §1915.1020.
- Note:** 29 CFR 1915.99. Hazard Communication was redesignated as 1915.1200 on 7/1/93, FR vol. 58, no. 125, p. 35514.
- (gg) 29 CFR 1915.1200. Hazard communication, published 6/20/96, FR vol. 61, p. 31427.
- (hh) 29 CFR 1915.1450. Occupational exposure to hazardous chemicals in laboratories, published 6/20/96, FR vol. 61, p. 31427.
- Stat. Auth.: ORS 654.025(2) & 656.726(4)
- Stats. Implemented: ORS 654.001 - 654.295
- Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 19-1993, f. & cert. ef. 12-29-93; OSHA 4-1994 f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 2-1995, f. & cert. ef. 1-25-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 3-1997, f. & cert. ef. 3-28-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 4-2003, f. & cert. ef. 5-6-03; OSHA 8-2004, f. & cert. ef. 12-30-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 1-2007, f. 1-9-07 cert. ef. 1-16-

ADMINISTRATIVE RULES

07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2008(Temp), f. & cert. ef. 7-7-08 thru 1-2-09, Administrative correction 1-23-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

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

Rule Caption: Rules affecting workers' compensation medical treatment and fees.

Adm. Order No.: WCD 3-2010

Filed with Sec. of State: 5-28-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 4-1-2010

Rules Adopted: 436-009-0110, 436-009-0115, 436-009-0120, 436-009-0125, 436-009-0130, 436-009-0135, 436-009-0140, 436-009-0145, 436-009-0150, 436-009-0155, 436-009-0160, 436-009-0165, 436-009-0170, 436-009-0175, 436-009-0180, 436-009-0185, 436-010-0225

Rules Amended: 436-009-0002, 436-009-0003, 436-009-0004, 436-009-0005, 436-009-0008, 436-009-0010, 436-009-0015, 436-009-0020, 436-009-0022, 436-009-0025, 436-009-0030, 436-009-0040, 436-009-0050, 436-009-0060, 436-009-0070, 436-010-0330, 436-015-0090

Rules Ren. & Amend: 436-009-0100 to 436-009-0199

Subject: These amended rules:

- Adopt updated medical fee schedules and resources for the payment of health care providers.
- Adopt new fee schedules showing maximum allowable payments for CPT® and Oregon Specific Codes – thus eliminating the need to calculate the maximum allowable payment (using the Medicare Resource-Based Relative Value Scale and the Oregon Conversion Factors).
- Clarify time frames for appeals of disputed services or fees.
- Adjust dollar values of the conversion factors.
- Adjust payment rates for physical and work capacity evaluations.
- Establish a new fee schedule and procedures for language interpreters who assist at medical examinations, as well as procedures for insurers and self-insured employers to pay for these services, and the rights of a worker to choose a person to provide interpreter services.
- Assign additional CPT® codes to the Medicare groups for payment of ambulatory surgery centers (ASCs), and prescribe ASC payment procedures affecting implants.
- Revise the notices that must accompany medical bill payments and denials of payments.
- Clarify minimum patient contact times for physical capacity and work capacity examinations.

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.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-009-0002

Purpose

The purpose of these rules is to establish uniform guidelines for administering the payment for medical benefits to injured workers within the workers' compensation system.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0003

Applicability of Rules

(1) These rules apply to all services rendered on or after the effective date of these rules.

(2) The director may waive procedural rules as justice requires, unless otherwise obligated by statute.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

436-009-0004

Adoption of Standards

(1) The director adopts, by reference, the *American Society of Anesthesiologists ASA, Relative Value Guide 2010* as a supplementary fee schedule for those anesthesia codes not found in Appendix B.

(2) The director adopts, by reference, the *American Medical Association's (AMA) Current Procedural Terminology (CPT® 2010), Fourth Edition Revised, 2009*, for billing by medical providers. The guidelines are adopted as the basis for determining level of service.

(3) The director adopts, by reference, the AMA's CPT® Assistant, Volume 0, Issue 04 1990 through Volume 19, Issue 12, 2009, as a supplement for determining the level of service described by the CPT® manual guidelines. If there is a conflict between the CPT® manual and CPT® Assistant, the CPT® manual shall be the controlling resource to determine the level of service.

(4)(a) The director adopts, by reference, only the alphanumeric codes from the CMS Healthcare Common Procedure Coding System (HCPCS) to be used when billing for services only to identify products, supplies, and services that are not described by CPT® codes or that provide more detail than a CPT® code.

(b) The director does not adopt the HCPCS edits, processes, exclusions, color-coding and associated instructions, age and sex edits, notes, status indicators, or other policies of CMS.

(5) Specific provisions contained in OAR chapter 436, divisions 009, 010, and 015 control over any conflicting provision in ASA Relative Value Guide 2010, CPT® 2010, CPT® Assistant, or HCPCS 2010.

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

Stat. Auth.: ORS 656.248 & 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-10; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0005

Definitions

(1) Unless a term is specifically defined elsewhere in these rules or the context otherwise requires, the definitions of ORS chapter 656 and OAR 436-010-0005 are hereby incorporated by reference and made part of these rules.

(2) "Clinic" means a group practice in which several medical service providers work cooperatively.

(3) "Fee Discount Agreement" means a direct contract entered into between a medical service provider or clinic and an insurer to discount fees to the medical service provider or clinic under OAR 436-009-0018.

(4) "Insurer" means the State Accident Insurance Fund Corporation; an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in the state; an assigned claims agent selected by the director under ORS 656.054; or, an employer or employer group that has been certified under ORS 656.430 meeting the qualifications of a self-insured employer under ORS 656.407.

(5) "Provider network" means a health service intermediary other than an MCO that facilitates transactions between medical providers and insurers through a series of contractual arrangements.

(6) Abbreviations used in these rules are either defined in the rules in which they are used or defined as follows:

(a) ANSI means the American National Standards Institute.

(b) CMS means Centers for Medicare & Medicaid Services.

(c) CPT® means Current Procedural Terminology published by the American Medical Association.

(d) DME means durable medical equipment.

(e) DRG means diagnosis related group.

(f) EDI means electronic data interchange.

(g) HCPCS means Healthcare Common Procedure Coding System published by CMS.

(h) IAIABC means International Association of Industrial Accident Boards and Commissions.

(i) ICD-9-CM means International Classification of Diseases, Ninth Revision, Clinical Modification, Vol. 1, 2 & 3 by US Department of Health and Human Services.

(j) MCO means managed care organization certified by the director.

(k) NPI means National Provider Identifier.

ADMINISTRATIVE RULES

- (l) OSC means Oregon specific code.
- (m) PCE means physical capacity evaluation.
- (n) WCE means work capacity evaluation.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.726(4)

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0008

Administrative Review Before the Director

(1)(a) The director has exclusive jurisdiction to resolve all disputes concerning medical services including treatment, medical fees and non-payment of compensable medical bills. The director may, on the director's own motion, initiate a medical service review at any time. A party need not be represented to participate in the administrative review before the director.

(b) Any party may request the director provide voluntary alternative dispute resolution after a request for administrative review or hearing is filed. When a dispute is resolved by agreement of the parties to the satisfaction of the director, the director will put the agreement in writing; or the parties shall put any agreement in writing for approval by the director. If the dispute is not resolved through alternative dispute resolution, the director will issue an order.

(2) The medical provider, worker, or insurer may request review by the director in the event of a dispute about either the amount of a fee or non-payment of bills for medical services on a compensable injury. The following time frames and conditions apply to requests for administrative review before the director under this rule:

(a) For all MCO enrolled claims where a party disagrees with an action or decision of the MCO, the aggrieved party shall first apply to the MCO for dispute resolution within 30 days pursuant to OAR 436-015-0110. When the aggrieved party is a represented worker, and the worker's attorney has given written notice of representation, the 30 day time frame begins when the attorney receives written notice or has actual knowledge of the dispute. Administrative review by the director must be requested within 60 days of issuance of the MCO's final decision under the MCO's dispute resolution process. If a party has been denied access to the MCO dispute process or the process has not been completed for reasons beyond a party's control, the party may request director review within 60 days of the failure of the MCO process. If the MCO does not have a process for resolving fee and billing disputes, the insurer shall advise the medical provider or worker that they may request review by the director.

(b) For all claims not enrolled in an MCO, or for disputes which do not involve an action or decision of the MCO:

(A) A worker must request administrative review by the director within 90 days of the date the worker knew, or should have known, there was a dispute over the provision of medical services.

(B) A medical provider must request administrative review within 90 days of the mailing date of the most recent explanation of benefits or a similar notification the provider received regarding the disputed service or fee.

(C) An insurer must request administrative review within 90 days of the date action on the bill was due under OAR 436-009-0030.

(D) Filing a request for administrative review under this rule may also be accomplished in the manner prescribed in OAR chapter 438, division 005.

(c) An insurer may request a refund from a provider for any amount it determines was overpaid for a compensable medical service. The insurer must make the request within 180 days of the payment date. If the provider does not respond to the request, or disagrees that a service was overpaid, the insurer may request director review within 90 days of requesting the refund.

(d) Under ORS 656.704(3)(c), when there is a formal denial of the underlying condition or a denial of the causal relationship between the medical service and the accepted condition, the issue may first be decided by the Hearings Division of the Workers' Compensation Board.

(3) Parties must submit requests for administrative review to the director in the form and format prescribed by the director. When an insurer or the worker's representative submits a request without the required information, at the director's discretion the administrative review may not be initiated until the information is submitted. Unrepresented workers may contact the director for help in meeting the filing requirements. The requesting party must simultaneously notify all other interested parties of the dispute, and their representatives, if known, as follows:

(a) Identify the worker's name, date of injury, insurer, and claim number.

(b) Specify the issues in dispute and the relief sought.

(c) Provide the specific dates of the unpaid disputed treatment or services.

(d) If the request for review is submitted by either the insurer or medical provider, it shall state specific code(s) of service(s) in dispute and include sufficient documentation to support the review request, including but not limited to copies of original CMS bills, chart notes, bill analyses, operative reports, any correspondence between the parties regarding the dispute, and any other documentation necessary to evaluate the dispute. The insurer or medical provider requesting review shall certify that they have provided all involved parties a copy of:

(A) The request for review; and

(B) Any attached supporting documentation; and

(C) If known, an indication of whether or not there is an issue of causation or compensability of the underlying claim or condition.

(4) The division will investigate the matter upon which review was requested.

(a) The investigation may include, but not be limited to, request for and review of pertinent medical treatment and payment records, interviews with the parties to the dispute, or consultation with an appropriate committee of the medical provider's peers.

(b) Upon receipt of a written request for additional information, the party must respond within 14 days.

(c) A dispute may be resolved by agreement between the parties to the dispute. When the parties agree, the director may issue a letter of agreement in lieu of an administrative order, which will become final on the 10th day after the letter of agreement is issued unless the agreement specifies otherwise. Once the agreement becomes final, the director may revise the agreement or reinstate the review only under one or more of the following conditions:

(A) A party fails to honor the agreement;

(B) The agreement was based on misrepresentation;

(C) Implementation of the agreement is not feasible because of unforeseen circumstances; or

(D) All parties request revision or reinstatement.

(5) The director may on the director's own motion reconsider or withdraw any order that has not become final by operation of law. A party may also request reconsideration of an administrative order upon an allegation of error, omission, misapplication of law, incomplete record, or the discovery of new information which could not reasonably have been discovered and produced during the review. The director may grant or deny a request for reconsideration at the director's sole discretion. A request must be mailed to the director before the administrative order becomes final.

(6) Hearings before an administrative law judge: Under ORS 656.704(2), any party that disagrees with an action or order of the director under these rules may request a hearing by filing a request for hearing as provided in OAR 436-001-0019 within 30 days of the mailing date of the order or notice of action. OAR 436-001 applies to the hearing.

(7) Contested case hearings of sanction and civil penalties: Under ORS 656.740, any party that disagrees with a proposed order or proposed assessment of a civil penalty issued by the director under ORS 656.254, or 656.745 may request a hearing by the Hearings Division of the Workers' Compensation Board as described in OAR 436-010-0008(14).

(8) Director's administrative review of other actions: Any party seeking an action or decision by the director or aggrieved by an action taken by any other party, not covered under sections (1) through (7) of this rule, according to these rules, may request administrative review by the director as follows:

(a) A written request for review must be sent to the administrator of the Workers' Compensation Division within 90 days of the disputed action and must specify the grounds upon which the action is contested.

(b) The division may require and allow such input and information as it deems appropriate to complete the review.

Stat. Auth.: ORS 656.704, 656.726(4)

Stats. Implemented: ORS 656.704

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0901, 5-1-85 WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-89, (Former sections (3), (4), & (7) Renumbered to 436-010-0130); WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0110; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 13-1999(Temp), f. & cert. ef. 10-25-99 thru 4-21-00; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 7-2005, f. 10-20-05, cert. ef. 1-2-06; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD

ADMINISTRATIVE RULES

2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0010

General Requirements for Medical Billings

(1) Only treatment that falls within the scope and field of the medical provider's license to practice will be paid under a worker's compensation claim.

(2) Billings must include the worker's full name and date of injury, the employer's name and, if available, the insurer's claim number and the provider's NPI. If the provider does not have an NPI, then the provider must provide its license number and the billing provider's FEIN. For provider types not licensed by the state, "99999" must be used in place of the state license number. All medical providers must submit bills to the insurer or, if provided by their contract for medical services, to the managed care organization. Medical providers must submit bills on a completed current UB-04 (CMS 1450) or CMS 1500 form, except for:

(a) Dental billings, which must be submitted on American Dental Association dental claim forms;

(b) Pharmacy billings, which must be submitted on the most current National Council for Prescription Drug Programs (NCPDP) form; and

(c) EDI transmissions of medical bills under OAR 436-009-0030(3)(c).

(d) Computer-generated reproductions of forms referenced in subsections (2)(a) and (b) may also be used.

(3)(a) All original medical provider billings must be accompanied by legible chart notes documenting services that have been billed and identifying the person performing the service and license number of the person providing the service. Medical providers are not required to provide their license number if they are already providing a national identification number.

(b) When processing billings via EDI, the insurer may waive the requirement that billings be accompanied by chart notes. The insurer remains responsible for payment of only compensable medical services. The medical provider may submit their chart notes separately or at regular intervals as agreed with the insurer.

(4) When billing for medical services, a medical service provider must use codes listed in CPT® 2010 or Oregon Specific Codes (OSC) that accurately describe the service. If there is no specific CPT® code or OSC, a medical service provider must use the appropriate HCPCS code, if available, to identify the medical supply or service. Pharmacy billings must use the National Drug Code (NDC) to identify the drug or biological billed.

(a) If there is no specific code for the medical service, the medical service provider must use the appropriate unlisted code from HCPCS or the unlisted code at the end of each medical service section of CPT® 2010 and provide a description of the service provided.

(b) Any service not identifiable with a code number must be adequately described by report.

(5) Medical providers must submit billings for medical services in accordance with this section.

(a) Bills must be submitted within:

(A) 60 days of the date of service;

(B) 60 days after the medical provider has received notice or knowledge of the responsible workers' compensation insurer or processing agent; or

(C) 60 days after any litigation affecting the compensability of the service is final, if the provider receives written notice of the final litigation from the insurer.

(b) A medical provider must establish good cause when submitting a bill later than outlined in subsection (a) of this section. Good cause may include, but is not limited to, such issues as extenuating circumstances or circumstances considered outside the control of the provider.

(c) When a provider submits a bill within 12 months of the date of service, the insurer may not reduce payment due to late billing. When a provider submits a bill over twelve months after the date of service, the bill is not payable, except when a provision of subsection (a) of this section is the reason the billing was submitted after twelve months.

(6) When rebilling, medical providers must indicate that the charges have been previously billed.

(7) The medical provider must bill their usual fee charged to the general public. The submission of the bill by the medical provider shall serve as a warrant that the fee submitted is the usual fee of the medical provider for the services rendered. The department shall have the right to require documentation from the medical provider establishing that the fee under question is the medical provider's usual fee charged to the general public. For purposes of this rule, "general public" means any person who receives

medical services, except those persons who receive medical services subject to specific billing arrangements allowed under the law which require providers to bill other than their usual fee.

(8) Medical providers must not submit false or fraudulent billings, including billing for services not provided. As used in this section, "false or fraudulent" means an intentional deception or misrepresentation with the knowledge that the deception could result in unauthorized benefit to the provider or some other person. A request for pre-payment for a deposition is not considered false or fraudulent.

(9) When a worker with two or more separate compensable claims receives treatment for more than one injury or illness, costs must be divided among the injuries or illnesses, irrespective of whether there is more than one insurer.

(10) Workers may make a written request to a medical provider to receive copies of medical billings. Upon receipt of a request, the provider may furnish the worker a copy during the next billing cycle, but no later than 30 days following receipt of the request. Thereafter, worker copies must be furnished during the regular billing cycle.

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

Stat. Auth.: ORS 656.245, 656.252, 656.254

Stats. Implemented: ORS 656.245, 656.252, 656.254

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 8-2001, f. 9-13-01, cert. ef. 9-17-01; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0015

Limitations on Medical Billings

(1) An injured worker is not liable to pay for any medical service related to an accepted compensable injury or illness or any amount reduced by the insurer according to OAR chapter 436. A medical provider must not attempt to collect payment for any medical service from an injured worker, except as follows:

(a) When the injured worker seeks treatment for conditions not related to the accepted compensable injury or illness;

(b) When the injured worker seeks treatment that has not been prescribed by the attending physician or authorized nurse practitioner, or a specialist physician upon referral of the attending physician or authorized nurse practitioner. This would include, but not be limited to, ongoing treatment by non-attending physicians in excess of the 30-day/12-visit period or by nurse practitioners in excess of the 90-day period, as set forth in ORS 656.245 and OAR 436-010-0210;

(c) When the injured worker seeks palliative care that is either not compensable or not authorized by the insurer or the director under OAR 436-010-0290, after the worker has been provided notice that the worker is medically stationary;

(d) When the injured worker seeks treatment outside the provisions of a governing MCO contract after insurer notification in accordance with OAR 436-010-0275; or

(e) When the injured worker seeks treatment after being notified that such treatment has been determined to be unscientific, unproven, outmoded, or experimental.

(2) A medical provider may not charge any fee for completing a medical report form required by the director under this chapter or for providing chart notes required by OAR 436-009-0010(3).

(3) The medical provider may not charge a fee for the preparation of a written treatment plan and the supplying of progress notes that document the services billed as they are integral parts of the fee for the medical service.

(4) No fee is payable for the completion of a work release form or completion of a PCE form where no tests are performed.

(5) No fee is payable for a missed appointment except a closing examination or an appointment arranged by the insurer or for a Worker Requested Medical Examination. Except as provided in OAR 436-009-0070(9)(d) and (10)(d), when the worker fails to appear without providing the medical provider at least 24 hours notice, the medical provider must be paid at 50 percent of the examination or testing fee.

(6) Under ORS 656.245(3), the director has excluded from compensability the following medical treatment. While these services may be provided, medical providers shall not be paid for the services or for treatment of side effects.

(a) Dimethyl sulfoxide (DMSO), except for treatment of compensable interstitial cystitis;

(b) Intradiscal electrothermal therapy (IDET);

ADMINISTRATIVE RULES

(c) Surface EMG (electromyography) tests;
(d) Rolwing;
(e) Prolotherapy;
(f) Thermography;
(g) Lumbar artificial disc replacement, unless it is a single level replacement with an unconstrained or semi-constrained metal on polymer device and:

(A) The single level artificial disc replacement is between L3 and S1;
(B) The injured worker is 16 to 60 years old;

(C) The injured worker underwent a minimum of 6 months unsuccessful exercise based rehabilitation; and

(D) The procedure is not found inappropriate under OAR 436-010-0230(13) or (14); and

(h) Cervical artificial disc replacement, unless it is a single level replacement with a semi-constrained metal on polymer or a semi-constrained metal on metal device and:

(A) The single level artificial disc replacement is between C3 and C7;
(B) The injured worker is 16 to 60 years old;

(C) The injured worker underwent unsuccessful conservative treatment;

(D) There is intraoperative visualization of the surgical implant level; and

(E) The procedure is not found inappropriate under OAR 436-010-0230(15) or (16).

(7) Only one office visit code may be used for each visit except for those code numbers relating specifically to additional time.

(8) Mechanical muscle testing may be paid a maximum of three times during a treatment program when prescribed and approved by the attending physician or authorized nurse practitioner: once near the beginning, once near the middle, and once near the end of the treatment program. Additional mechanical muscle testing shall be paid for only when authorized in writing by the insurer prior to the testing. The fee for mechanical muscle testing includes a copy of the computer printout from the machine, written interpretation of the results, and documentation of time spent with the patient.

(9)(a) When a physician or authorized nurse practitioner provides services in hospital emergency or outpatient departments which are similar to services that could have been provided in the physician's or authorized nurse practitioner's office, such services must be identified by CPT® codes and paid according to the fee schedule.

(b) When a worker is seen initially in an emergency department and is then admitted to the hospital for inpatient treatment, the services provided immediately prior to admission shall be considered part of the inpatient treatment. Diagnostic testing done prior to inpatient treatment shall be considered part of the hospital services subject to the hospital fee schedule.

(10) Physician assistant, authorized nurse practitioner, or out-of-state nurse practitioner fees must be paid at the rate of 85 percent of a physician's allowable fee for a comparable service. The bills for services by these providers must be marked with modifier "-81". Chart notes must document when medical services have been provided by a physician assistant or nurse practitioner.

(11) Except as otherwise provided in OAR 436-009-0070, when a medical provider is asked to prepare a report, or review records or reports prepared by another medical provider, an insurance carrier or their representative, the medical provider should bill for their report or review of the records utilizing CPT® codes such as 99080. Refer to specific code definitions in the CPT® for other applicable codes. The billing should include documentation of the actual time spent reviewing the records or reports.

[Publications: Publications referenced are available from the agency.

Stat. Auth.: ORS 656.245, 656.252 & 656.254

Stats. Implemented: ORS 656.245, 656.252 & 656.254

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 8-2001, f. 9-13-01, cert. ef. 9-17-01; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0020

Hospital Fees

(1) Hospital inpatient charges billed to insurers must include ICD-9-CM diagnostic codes. When applicable, the hospital charges must also include procedural codes. Hospitals must include their NPI on all bills. For purposes of this rule, hospital inpatient services include, but are not limited to, those bills coded "111" through "118" in space #4 on the UB-04

billing form. The audited bill must be multiplied by the hospital's adjusted cost/charge ratio to determine the allowable payment.

(2) Hospital outpatient charges billed to insurers must include revenue codes, ICD-9-CM diagnostic and procedural codes, CPT® codes, HCPCS codes, and National Drug Codes (NDC), where applicable. Hospitals must include their NPI on all bills.

(3) Unless otherwise provided by contract, the insurer must pay for hospital inpatient services at the allowable payment amount as calculated by multiplying the hospital's adjusted cost/charge ratio by the amount billed (See Bulletin 290).

(4) The insurer must pay for hospital outpatient services as follows:

(a) For services by physicians and other medical service providers assigned a code under the CPT® and identified by the revenue codes indicating professional services (0960 through 0989), pay the lesser of:

(A) The amount assigned to the CPT® in the Facility Maximum column of Appendix B; or

(B) The amount charged.

(b) For all outpatient therapy services (physical therapy, occupational therapy, and speech language pathology) pay the lesser of:

(A) The amount assigned to the CPT® code or the Oregon Specific Code in the Non-Facility Maximum column of Appendix B; or

(B) The amount charged.

(c) For hospital outpatient services not paid under subsection (4)(a) or (b) of this rule, unless otherwise provided by contract, pay the amount charged multiplied by the hospital's adjusted cost/charge ratio (see Bulletin 290).

(5) If a hospital qualifies for a rural exemption under (6)(k), the insurer may only apply an MCO contract to discount the fees calculated under this rule.

(6) Each hospital's CMS 2552 form and financial statement shall be the basis for determining its adjusted cost/charge ratio. If a current form 2552 is not available, then financial statements may be used to develop estimated data. If the adjusted cost/charge ratio is determined from estimated data, the hospital will receive the lower ratio of either the hospital's last published cost/charge ratio or the hospital's cost/charge ratio based on estimated data.

(a) The basic cost/charge ratio shall be developed by dividing the total net expenses for allocation shown on Worksheet A, and as modified in subsection (b), by the total patient revenues from Worksheet G-2.

(b) The net expenses for allocation derived from Worksheet A shall be modified by adding, from Worksheet A-8, the expenses for:

(A) Provider-based physician adjustment;

(B) Patient expenses such as telephone, television, radio service, and other expenses determined by the department to be patient-related expenses; and

(C) Expenses identified as for physician recruitment.

(c) The basic cost/charge ratio shall be further modified to allow a factor for bad debt and the charity care provided by each hospital. The adjustment for bad debt and charity care is calculated in two steps. Step one: Add the dollar amount for net bad debt to the dollar amount for charity care. Divide this sum by the dollar amount of the total patient revenues, from Worksheet G-2, to compute the bad debt and charity ratio. Step two: Multiply the bad debt and charity ratio by the basic cost/charge ratio calculated in subsection (6)(a) to obtain the factor for bad debt and charity care.

(d) The basic cost/charge ratio shall be further modified to allow an adequate return on assets. The director will determine a historic real growth rate in the gross fixed assets of Oregon hospitals from the audited financial statements. This real growth rate and the projected growth in a national fixed weight price deflator will be added together to form a growth factor. This growth factor will be multiplied by the total fund balance, from Worksheet G of each hospital's CMS 2552 to produce a fund balance amount. The fund balance amount is then divided by the total patient revenues from Worksheet G-2, to compute the fund balance factor.

(e) The factors resulting from subsections (6)(c) and (6)(d) of this rule will be added to the ratio calculated in subsection (6)(a) of this rule to obtain the adjusted cost/charge ratio. In no event will the adjusted cost/charge ratio exceed 1.00.

(f) The adjusted cost/charge ratio for each hospital will be revised annually, at a time based on their fiscal year, as described by bulletin. Each hospital must submit a copy of their CMS 2552 and financial statements each year within 150 days of the end of their fiscal year to the Information Management Division, Department of Consumer and Business Services. The adjusted cost/charge ratio schedule will be published by bulletin twice yearly, effective for the six-month period beginning April 1 and the six-month period beginning October 1.

ADMINISTRATIVE RULES

(g) For newly formed or established hospitals for which no CMS 2552 has been filed or for which there is insufficient data, or for those hospitals that do not file Worksheet G-2 with the submission of their CMS 2552, the division shall determine an adjusted cost/charge ratio for the hospital based upon the adjusted cost/charge ratios of a group of hospitals of similar size or geographic location.

(h) If the financial circumstances of a hospital unexpectedly or dramatically change, the division may revise the hospital's adjusted cost/charge ratio to allow equitable payment.

(i) If audit of a hospital's CMS 2552 by the CMS produces significantly different data from that obtained from the initial filing, the division may revise the hospital's adjusted cost/charge ratio to reflect the data developed subsequent to the initial calculation.

(j) Notwithstanding subsections (c) through (i) of this section the payment to out-of-state hospitals, may be negotiated between the insurer and the hospital.

(A) Any agreement for payment less than the billed amount must be in writing and signed by a hospital and insurer representative.

(B) The agreement must include language that the hospital will not bill the worker any remaining balance and that the negotiated amount is considered payment in full.

(C) If the insurer and the hospital are unable to reach agreement within 60 days of the insurer's receipt of the bill, either party may bring the issue to the director for resolution. The director may order payment up to the amount billed considering factors such as, but not limited to, reasonableness, usual fees for similar services by facilities in similar geographic areas, case specific services, and any extenuating circumstances.

(k) Notwithstanding sections (3) and (4) of this rule, the director may exclude rural hospitals from imposition of the adjusted cost/charge ratio based upon a determination of economic necessity. The rural hospital exclusion will be based on the financial health of the hospital reflected by its financial flexibility index. All rural hospitals having a financial flexibility index at or below the median for critical access hospitals nationwide will qualify for the rural exemption. Rural hospitals that are designated as critical access hospitals under the Oregon Medicare Rural Hospital Flexibility Program are automatically exempt from imposition of the adjusted cost/charge ratio.

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

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

Stat. Auth.: ORS 656.726(4), also see 656.012, 656.236(5), 656.327(2), 656.313(4)(d)

Stats. Implemented: ORS 656.248; 656.252; 656.256

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0701, 5-1-85; WCD 3-1985(Admin)(Temp), f. & ef. 9-4-85; WCD 4-1985(Admin)(Temp), f. & ef. 9-11-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 1-1986(Admin)(Temp), f. 2-5-86, ef. 2-6-86; WCD 2-1986(Admin), f. 3-10-86, ef. 3-17-86; WCD 2-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 6-1988, f. 9-6-88, cert. ef. 9-15-88; WCD 2-1989, f. 8-21-89, cert. ef. 9-1-89; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 15-1990, f. & cert. ef. 8-7-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 18-1995(Temp), f. & cert. ef. 12-4-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0090; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1997, f. 4-21-97, cert. ef. 7-1-97; Administrative correction 6-18-97; WCD 8-1997(Temp), f. & cert. ef. 7-9-97; WCD 16-1997, f. & cert. ef. 12-15-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 3-2008(Temp), f. & cert. ef. 7-7-08 thru 1-2-09; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0022

Ambulatory Surgical Center Fees

(1) An ambulatory surgical center (ASC) is any distinct entity licensed by the state of Oregon, and operated exclusively for the purpose of providing surgical services to patients not requiring hospitalization.

(a) Any ASC outside of Oregon must meet similar licensing requirements, or be certified by Medicare or a nationally recognized agency.

(b) ASCs must bill on CMS 1500 forms using the modifier "SG" to identify facility charges.

(2) Unless otherwise provided by contract, insurers must pay an ASC at the ASC's usual fee, or the maximum allowable amount set by the fee schedule, whichever is less.

(3) Insurers must pay ASCs using the 2006 Medicare ASC groups, except:

(a) CPT® codes 15004, 64490, 64491, 64492, 64493, 64494, and 64495 are paid as Group 1;

(b) CPT® code 11760 is paid as Group 2;

(c) CPT® code 11750 is paid as Group 3;

(d) CPT® code 25606 is paid as Group 4;

(e) CPT® codes 25607, 25608, and 25609 are paid as Group 5;

(f) CPT® codes 24357, 24358, and 24359 are paid as Group 6;

(g) Arthroscopies (CPT® codes 29819 through 29898 except 29888 and 29889) are paid as Group 6;

(h) CPT® code 29828 is paid as Group 7;

(i) Arthroscopies (CPT® codes 29888 and 29889) are paid as Group 9; and

(j) Insurers must pay for services not listed in the Medicare ASC groups 1 through 9 at the provider's usual fee.

(4) The ASC fee schedule sets the maximum allowable amounts as follows:

Group 1 \$ 853.28

Group 2 \$ 1,143.88

Group 3 \$ 1,307.68

Group 4 \$ 1,616.75

Group 5 \$ 1,838.68

Group 6 \$ 2,108.00

Group 7 \$ 2,551.95

Group 8 \$ 2,485.78

Group 9 \$ 3,444.43

(5) The ASC fee includes services, such as:

(a) Nursing, technical, and related services;

(b) Use of the facility where the surgical procedure is performed;

(c) Drugs, biologicals, surgical dressings, supplies, splints, casts, appliances, and equipment directly related to the provision of the surgical procedure;

(d) Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure;

(e) Administrative, record-keeping, and housekeeping items and services;

(f) Materials for anesthesia; and

(g) Supervision of the services of an anesthetist by the operating surgeon.

(6) The ASC fee does not include services, such as physicians' services, laboratory, x-ray or diagnostic procedures not directly related to the surgical procedure, prosthetic devices, orthotic devices, durable medical equipment (DME), implants, or anesthetists' services.

(a) Unless otherwise provided by contract, the insurer must pay for prosthetic devices, orthotic devices, and DMEs as provided in OAR 436-009-0080.

(b) For the purpose of this rule, an implant is an object or material inserted or grafted into the body and the ASC's cost is over \$100.00. Unless otherwise provided by contract, the insurer must pay for implants at 110% of the ASC's actual cost documented on a receipt of sale.

(7) Unless otherwise provided by contract, when multiple procedures are performed, the highest payment group must be paid at the ASC's usual fee or the maximum allowable amount, whichever is less; each additional procedure must be paid at 50% of the ASC's usual fee or of the maximum allowable amount, whichever is less.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248 & 656.252

Hist.: WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03;

WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-

2007, f. 5-23-07, cert. ef. 7-1-07; WCD 3-2008(Temp), f. & cert. ef. 7-7-08 thru 1-2-09; WCD

5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010,

f. 5-28-10, cert. ef. 7-1-10

436-009-0025

Reimbursement of Related Services Costs

(1) The insurer shall notify the worker in writing at the time of claim acceptance that claim-related services, not otherwise addressed by these rules, paid by the worker will be reimbursed by the insurer as provided in this rule. The notification must include notice to the worker of the two year time limitation to request reimbursement.

(a) The worker must request reimbursement from the insurer in writing.

(b) The insurer may require reasonable documentation to support the request. Insurers shall date stamp requests for reimbursement upon receipt and shall reimburse the costs within 30 days of receiving the request and supporting documentation, if the request clearly shows the costs are related to the accepted compensable injury or disease. If the insurer cannot determine if the costs are related to the accepted compensable injury or disease, the insurer shall inform the worker what information is needed before the request for reimbursement can be processed. If additional information is needed, the time needed to obtain the information is not counted in the 30 day time frame for the insurer to issue reimbursement.

(c) Notwithstanding subsections (a) and (b) of this section, in deferred claims, requests which are at least 30 days old at the time of claim acceptance become due immediately upon claim acceptance and shall be paid

ADMINISTRATIVE RULES

within 14 days. In a claim for aggravation or a new medical condition, reimbursement of related services is not due and payable until the aggravation or new medical condition is accepted. If the claim is denied, requests for reimbursement shall be returned to the worker within 14 days.

(2) Reimbursement of the costs of meals, lodging, public transportation and use of a private vehicle shall be reimbursed as provided in this section. The maximum rate of reimbursement is limited to the rate published in Bulletin 112. When a worker has documentation of the expense which includes the date of the expense, he or she may be entitled to reimbursement for:

(a) Any meal reasonably required by necessary travel to a claim-related appointment.

(b) Lodging based on the need for overnight travel to attend the appointment. Reimbursement may exceed the maximum rate where special lodging was required or where the worker was unable to find lodging at or below the maximum rate within 10 miles of the appointment location.

(c) Mileage when using a personal vehicle based on the beginning and ending addresses. Reimbursement may exceed the maximum if special transportation is required. Public transportation will be reimbursed based on actual cost.

(d) Prescriptions and other claim-related expenses will be reimbursed based on actual cost.

(3) Requests for reimbursement of claim-related services costs must be received by the insurer within two years of the date the costs were incurred or within two years of the date the claim or medical condition is finally determined compensable, whichever date is later. The insurer may disapprove requests for reimbursement received beyond the two year period as being untimely requested.

(4) Requests for reimbursement denied as unreasonable or not related to the accepted compensable injury or disease shall be returned to the worker within 30 days of the date of receipt by the insurer. The insurer shall provide the worker an explanation of the reason for nonpayment and advise the worker of the right to appeal the insurer's decision by requesting administrative review before the director, under OAR 436-009-0008.

(5) Pursuant to ORS 656.325(1)(f) and OAR 436-060-0095(5)(f), the insurer shall reimburse the worker for costs related to the worker's attendance at an independent medical examination regardless of the acceptance, deferral, or denial of the claim.

Stat. Auth.: ORS 656.245, 656.704 & 656.726(4)
Stats. Implemented: ORS 656.245, 656.704 & 656.726(4)
Hist.: WCB 6-1969, f. 10-23-69, ef. 10-29-69; WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0270, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02, Renumbered from 436-060-0070; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0030

Insurer's Duties and Responsibilities

(1) The insurer must pay for medical services related to a compensable injury claim, except as provided by OAR 436-060-0055.

(2) The insurer, or its designated agent, may request from the medical provider, any and all necessary records needed to review accuracy of billings. The medical provider may charge an appropriate fee for copying documents in accordance with OAR 436-009-0070(1). If the evaluation of the records must be conducted on-site, the provider must furnish a reasonable work-site for the records to be reviewed at no cost. These records must be provided or made available for review within 14 days of a request.

(3) Insurers must date stamp medical bills and reports upon receipt and pay bills for medical services on accepted claims within 45 days of receipt of the bill, if the billing is submitted in proper form in accordance with OAR 436-009-0010(2) through (4) and clearly shows that the treatment is related to the accepted compensable injury or disease. Billings not submitted in the proper form must be returned to the medical provider within 20 days of receipt of the bill with a written explanation describing why the bill was not paid or what needs to be corrected. A request for chart notes on EDI billings must be made to the medical provider within 20 days of receipt of the bill. The number of days between the date the insurer returns the billing or requests for chart notes from the provider and the date the insurer receives the corrected billing or chart notes, shall not apply toward the 45 days within which the insurer is required to make payment.

(a) The insurer must retain a copy of each medical provider's bill received by the insurer or must be able to reproduce upon request data relevant to the bill, including but not limited to, provider name, date of service, date the insurer received the bill, type of service, billed amount, coding submitted by the medical provider as described in OAR 436-009-0010(2),

and insurer action, for any non-payment or fee reduction. This includes all bills submitted to the insurer even when the insurer determines no payment is due.

(b) Any service billed with a code number commanding a higher fee than the services provided shall be returned to the medical provider for correction or paid at the value of the service provided.

(c) When a medical provider submits a bill electronically, it shall be considered "mailed" in accordance with OAR 436-010-0005.

(4) With each payment, the insurer or its representative must provide the medical provider a written explanation identifying the service(s) being paid. If the insurer or its representative denies or reduces payment, the insurer or its representative must provide the medical provider a written explanation that includes the specific reason(s) for non-payment, reduced payment, or discounted payment for each service billed by the medical provider. The written explanation must also include:

(a) An Oregon or toll-free contact phone number for the insurer for billing inquiries from medical providers;

(b) A notice of right to administrative review as follows: **"If you disagree with this decision about this payment, contact {insurer's name and an Oregon or toll-free contact phone number}. If you are unable to reach an agreement with {insurer's name}, you may request administrative review by the director of the Department of Consumer and Business Services. Your request for review by the director must be made within 90 days of the mailing date of this explanation. To request review, sign and date this document in the space provided, indicate which decisions you disagree with, and mail this document with supporting documentation to the Workers' Compensation Division, Medical Section, PO Box 14480, Salem, OR 97309-0405. Or you may fax the request to the director at 503-934-6050. You must also send a copy of the request to the insurer. You should keep a copy of this document for your records."**

(c) Space for the medical provider's signature and the date.

(5) An insurer must answer a medical provider's inquiry about a medical payment within 48 hours, not including weekends or legal holidays, of the medical provider's inquiry.

(6) Payment of medical bills is required within 14 days of any action causing the service to be payable, or within 45 days of the insurer's receipt of the bill, whichever is later.

(7) Failure to pay for medical services timely may render the insurer liable to pay a reasonable monthly service charge for the period payment was delayed, if the provider customarily levies such a service charge to the general public.

(8) When there is a dispute over the amount of a bill or the appropriateness of services rendered, the insurer must, within 45 days, pay the undisputed portion of the bill and at the same time provide specific reasons for non-payment or reduction of each medical service code. Resolution of billing disputes, including possible overpayment disputes, must be made in accordance with OAR 436-009-0008, 436-010-0008 and 436-015.

(9) Bills for medical services rendered at the request of the insurer and bills for information submitted at the request of the insurer, which are in addition to those required in OAR 436-010-0240 must be paid for within 45 days of receipt by the insurer even if the claim is denied.

(10) The insurer must establish an audit program for bills for all medical services to determine that the bill reflects the services provided, that appropriate prescriptions and treatment plans are completed in a timely manner, that payments do not exceed the maximum fees adopted by the director, and that bills are submitted in a timely manner. The audit shall be continuous and shall include no fewer than 10 percent of medical bills. The insurer must provide upon request documentation establishing that the insurer is conducting a continuous audit of medical bills. This documentation must include, but not be limited to, medical bills, internal audit forms, and any medical charge summaries prepared by private medical audit companies.

(11) The insurer must pay a medical provider for any bill related to the claimed condition received by the insurer on or before the date the terms of a disputed claim settlement (DCS) were agreed on, but was either not listed in the approved DCS or was not paid to the medical provider as set forth in the approved DCS. Payment must be made by the insurer as prescribed by ORS 656.313(4)(d) and OAR 438-009-0010(2)(g) as if the bill had been listed in the approved settlement or as set forth in the approved DCS, except if the DCS payments have already been made, the payment must not be deducted from the settlement proceeds. Payment must be made within 45 days of the insurer's knowledge of the outstanding bill.

(12) Insurers that had at least 100 accepted disabling claims in the previous calendar year, as determined by the director, are required to sub-

ADMINISTRATIVE RULES

mit detailed medical bill payment data to the Information Management Division of the Department of Consumer and Business Services at 350 Winter St NE, Room 300, PO Box 14480, Salem OR 97309-0405. Once an insurer has reached the minimum number of accepted disabling claims, they must continue to report in subsequent years unless there is a significant decrease below the 100 claim minimum which is expected to continue. The director will notify the affected insurers when they reach the minimum. If the insurer drops below the 100 disabling claim level or encounters other significant hardships, the insurer may apply to the director for exemption from the reporting requirement. The reporting requirements are as follows:

(a) The transmission data and format requirements are included in Appendix A of these rules and Appendix B of OAR 436-160. OAR 436-160 explains the IAIABC ANSI 837 medical bill reporting requirements. To determine which appendix applies to required reporting insurers, see below.

(b) Each insurer must continue to report according to Appendix A until successfully completing IAIABC ANSI 837 testing under OAR 436-160. Once successfully completing testing, the insurer may only report via IAIABC ANSI 837.

(c) Group 1 is all required reporting insurers who are currently reporting data via IAIABC ANSI 837 in another jurisdiction. Each insurer in Group 1 must begin testing on July 1, 2008.

(d) Group 2 is the State Accident Insurance Fund Corporation. Group 2 must begin testing on April 1, 2009.

(e) Group 3 is all other required reporting insurers. Each insurer in Group 3 must begin testing on October 1, 2009.

(13) An insurer may request, in writing, additional time to report the requested data elements according to OAR 436-160. The insurer must demonstrate that the date to begin testing creates an undue hardship. The request must include a plan to begin testing within 12 months of the group's testing date, and may not extend beyond January 1, 2010.

(14) Undue hardship is demonstrated by providing the total required expenses to begin testing; the reporting cost per bill if transmitted directly by the insurer; and the total cost per bill if reported by a vendor.

(15) If the director allows additional time, the insurer must continue to report all medical billing data under Appendix A during the testing.

(16) The director may audit an insurer's actual payments reported for individual claims. An insurer is subject to a civil penalty if an audit determines that the insurer's error rate is 15 percent or higher in any field.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.252, 656.325, 656.245, 656.248, 656.260 & 656.264

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1997, f. 4-21-97, cert. ef. 7-1-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 3-2008(Temp), f. & cert. ef. 7-7-08 thru 1-2-09; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0040

Calculating Medical Provider Fees

(1) Unless otherwise provided by contract or fee discount agreement permitted by these rules, insurers must pay for medical services the lesser of:

(a) The maximum allowable payment amount for CPT® codes and **Oregon Specific Codes** listed in Appendix B of these rules; or

(b) The provider's usual fee.

(2) The insurer must pay the provider's usual fee when:

(a) Appendix B does not establish a maximum payment amount and the code is designated "as billed";

(b) The fee schedule does not establish a fixed, maximum payment amount (e.g., medical supplies); or

(c) The service is not covered by the fee schedule (e.g., dental or ambulance services).

(3) For services payable under subsection (2) of this rule or for hospital outpatient charges, an insurer may challenge the reasonableness of a provider's billing on a case by case basis by asking the director to review the billing under OAR 436-009-0008. If the director determines the amount billed is unreasonable, the director may establish a different fee to be paid to the provider based on at least one of, but not limited to, the following: reasonableness, the usual fees of similar providers, the services provided in the specific case, fees for similar services in similar geographic regions, and any extenuating circumstances.

(4)(a) When using **Appendix B** for calculating payment for CPT® codes, the maximum allowable payment column is determined by the loca-

tion where the procedure is performed: If the procedure is performed inside the medical service provider's office, use the Non-Facility Maximum column; if the procedure is performed outside the medical service provider's office, use the Facility Maximum column. Use the Global Days column to identify the follow up days when applicable. For all outpatient therapy services (physical therapy, occupational therapy, and speech language pathology), use the Non-Facility Maximum column.

(b) When an Oregon Specific Code is assigned, the maximum allowable payment for multidisciplinary program and other services is found at the end of Appendix B, and in OAR 436-009-0060(5) and 436-009-0070(12).

(c) When using the American Society of Anesthesiologists Relative Value Guide, a basic unit value is determined by reference to the appropriate Anesthesia code. The anesthesia value includes the basic unit value, time units, and modifying units. When the Anesthesia code is designated by IC (individual consideration), the insurer must pay the provider's usual fee.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 3-2008(Temp), f. & cert. ef. 7-7-08 thru 1-2-09; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0050

CPT® Sections

Each CPT® section has its own schedule of relative values, completely independent of and unrelated to any of the other sections. The definitions, descriptions, and guidelines found in CPT® must be used as guides governing the descriptions of services, except as otherwise provided in these rules. The following provisions are in addition to those provided in each section of CPT®.

(1) Evaluation and Management services.

(2) Anesthesia services.

(a) In calculating the units of time, use 15 minutes per unit. If a medical provider bills for a portion of 15 minutes, round the time up to the next 15 minutes and pay one unit for the portion of time.

(b) Anesthesia basic unit values are to be used only when the anesthesia is personally administered by either a licensed physician or certified nurse anesthetist who remains in constant attendance during the procedure for the sole purpose of rendering such anesthesia service.

(c) When a regional anesthesia is administered by the attending surgeon, the value must be the "basic" anesthesia value only without added value for time.

(d) When the surgeon or attending physician administers a local or regional block for anesthesia during a procedure, the modifier "NT" (no time) must be noted on the bill.

(e) Local infiltration, digital block, or topical anesthesia administered by the operating surgeon is included in the relative value unit for the surgical procedure.

(3) Surgery services.

(a) When a worker is scheduled for elective surgery, the pre-operative visit, in the hospital or elsewhere, necessary to examine the patient, complete the hospital records, and initiate the treatment program is included in the listed global value of the surgical procedure. If the procedure is not elective, the physician is entitled to payment for the initial evaluation of the worker in addition to the global fee for the surgical procedure(s) performed.

(b) When an additional surgical procedure(s) is carried out within the listed period of follow-up care for a previous surgery, the follow-up periods will continue concurrently to their normal terminations.

(c) Multiple surgical procedures performed at the same session must be paid as follows:

(A) When multiple surgical procedures are performed by one surgeon, the principal procedure is paid at 100 percent of the maximum allowable fee, the secondary and all subsequent procedures are paid at 50 percent of the maximum allowable fee. A diagnostic arthroscopic procedure performed preliminary to an open operation, is considered a secondary procedure and paid accordingly.

(B) When multiple arthroscopic procedures are performed, the major procedure must be paid at no more than 100 percent of the value listed in these rules and the subsequent procedures paid at 50 percent of the value listed.

(C) When more than one surgeon performs surgery, each procedure must be billed separately. The maximum allowable fee for each procedure, as listed in these rules, must be reduced by 25 percent. When the surgeons

ADMINISTRATIVE RULES

assist each other throughout the operation, each is entitled to an additional fee of 20 percent of the other surgeon's allowable fee as an assistant's fee. When the surgeons do not assist each other, and a third physician assists the surgeons, the third physician is entitled to the assistant's fee of 20 percent of the surgeons' allowable fees.

(D) When a surgeon performs surgery following severe trauma that requires considerable time, and the surgeon does not think the fees should be reduced under the multiple surgery rule, the surgeon may request special consideration by the insurer. Such a request must be accompanied by written documentation and justification. Based on the documentation, the insurer may pay for each procedure at 100 percent.

(E) When a surgical procedure is performed bilaterally, the modifier "-50" must be noted on the bill for the second side, and paid at 50% of the fee allowed for the first side.

(d) When physician assistants or nurse practitioners assist a surgeon performing surgery, they must be paid at the rate of 15 percent of the surgeon's allowable fee for the surgical procedure(s). When physician assistants or nurse practitioners are the primary providers of a surgical procedure, they must be paid at the rate of 85 percent of a physician's allowable fee for a comparable service. Physician assistants and nurse practitioners must mark their bills with a modifier "-81." Chart notes must document when medical services have been provided by a physician assistant or nurse practitioner.

(e) Other surgical assistants who are self-employed and work under the direct control and supervision of a physician must be paid at the rate of 10 percent of the surgeon's allowable fee for the surgical procedure(s). The operation report must document who assisted.

(4) Radiology services.

(a) In order to be paid, x-ray films must be of diagnostic quality and include a report of the findings. Billings for 14" x 36" lateral views shall not be paid.

(b) When multiple contiguous areas are examined by computerized axial tomography (CAT) scan, computerized tomography angiography (CTA), magnetic resonance angiography (MRA), or magnetic resonance imaging (MRI), the technical component for the first area examined must be paid at 100 percent, the second area at 50 percent, and the third and all subsequent areas at 25 percent under these rules. The discount applies to multiple studies done within 2 days, unless the ordering provider provides a reasonable explanation of why the studies needed to be done on separate days. No reduction is applied to multiple areas for the professional component.

(5) Pathology and Laboratory services.

(a) The maximum allowable payment amount established in Appendix B applies only when there is direct physician involvement.

(b) Laboratory fees must be billed in accordance with ORS 676.310. If any physician submits a bill for laboratory services that were performed in an independent laboratory, the bill must show the amount charged by the laboratory and any service fee that the physician charges.

(6) Medicine services.

(7) Physical Medicine and Rehabilitation services.

(a) Increments of time for a time-based CPT® code must not be reported.

(b) Payment for modalities and therapeutic procedures shall be limited to a total of three separate CPT®-coded services per day. CPT® codes 97001, 97002, 97003, or 97004 are not subject to this limit. An additional unit of time (15 minute increment) for the same CPT® code is not counted as a separate code.

(c) All modality codes requiring constant attendance (97032, 97033, 97034, 97035, 97036, and 97039) are time-based. Chart notes must clearly indicate the time treatment begins and the time treatment ends for the day.

(d) CPT® codes 97010 through 97028 shall not be paid unless they are performed in conjunction with other procedures or modalities which require constant attendance or knowledge and skill of the licensed medical provider.

(e) When multiple treatments are provided simultaneously by a machine, device or table there must be a notation on the bill that treatments were provided simultaneously by a machine, device or table and there must be one charge.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0060

Oregon Specific Code, Multidisciplinary Services

(1) Services provided by multidisciplinary programs not otherwise described by CPT® codes must be billed under Oregon Specific Codes.

(2) Treatment in a chronic pain management program, physical rehabilitation program, work hardening program, or a substance abuse program shall not be paid unless the program is accredited for that purpose by the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

(a) Organizations which have applied for CARF accreditation, but have not yet received such accreditation, may receive payment for multidisciplinary programs upon providing evidence to the insurer that an application for accreditation has been filed with and acknowledged by CARF. Such organizations may provide multidisciplinary services under this section for a period of up to 6 months from the date CARF provided notice to the organization that the accreditation process has been initiated, or until such time as CARF accreditation has been received or denied, whichever occurs first.

(b) Notwithstanding OAR 436-009-0010(4), program fees for services within a multidisciplinary program may be used based upon written pre-authorization from the insurer. Programs must identify the extent, frequency, and duration of services to be provided.

(c) All job site visits and ergonomic consultations must be preauthorized by the insurer.

(3) When an attending physician or authorized nurse practitioner approves a multidisciplinary treatment program for an injured worker, he or she must provide the insurer with a copy of the approved treatment program within 14 days of the beginning of the treatment program.

(4) Billings using the multidisciplinary codes must include copies of the treatment record which specifies the type of service rendered, the medical provider who provided the service, whether treatment was individualized or provided in a group session, and the amount of time treatment was rendered for each service billed.

(5) The table below lists the Oregon Specific Codes for Multidisciplinary Services. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0070

Oregon Specific Code, Other Services

(1) Except for records required in OAR 436-009-0010(3), copies of requested medical records shall be paid under OSC-R0001.

(2) A brief narrative by the attending physician or authorized nurse practitioner, including a summary of treatment to date and current status, and, if requested, brief answers to one to five specific questions related to the attending physician's or authorized nurse practitioner's current or proposed treatment, shall be paid under OSC-N0001.

(3) A complex narrative by the attending physician or authorized nurse practitioner, may include past history, history of present illness, attending physician's or authorized nurse practitioner's treatment to date, current status, impairment, prognosis, and medically stationary information, shall be paid under OSC-N0002.

(4) Fees for a PCE and a WCE shall be based upon the type of evaluation requested and performed. The description of each level of evaluation and the maximum allowable payment shall be as follows:

(a) FIRST LEVEL PCE: This is a limited evaluation primarily to measure musculoskeletal components of a specific body part. These components include such tests as active range of motion, motor power using the 5/5 scale, and sensation. This level generally requires 30 to 45 minutes of actual patient contact. A first level PCE shall be paid under OSC-99196, which includes the evaluation and report. Additional 15-minute increments may be added if multiple body parts are reviewed and time exceeds 45 minutes. Each additional 15 minutes shall be paid under OSC-99193, which includes the evaluation and report.

(b) SECOND LEVEL PCE: This is a PCE to measure general residual functional capacity to perform work or provide other general evaluation information, including musculoskeletal evaluation. It may be used to establish Residual Functional Capacities for claim closure. This level generally requires not less than two hours of actual patient contact. The second level PCE shall be paid under OSC-99197, which includes the evaluation and report. Additional 15 minute increments may be added to measure addi-

ADMINISTRATIVE RULES

tional body parts, to establish endurance and to project tolerances. Each additional 15 minutes shall be paid under OSC-99193, which includes the evaluation and report.

(c) WCE: This is a residual functional capacity evaluation, which generally requires not less than 4 hours of actual patient contact. The evaluation may include a musculoskeletal evaluation for a single body part. A WCE shall be paid under OSC-99198, which includes the evaluation and report. Additional 15 minute increments (per additional body part) may be added to determine endurance (e.g. cardiovascular) or to project tolerances (e.g., repetitive motion). Each additional 15 minutes shall be paid under OSC-99193, which includes the evaluation and report. Special emphasis should be given to:

(A) The ability to perform essential physical functions of the job based on a specific job analysis as related to the accepted condition;

(B) The ability to sustain activity over time; and

(C) The reliability of the evaluation findings.

(5) When an attorney requires a consultation with a medical provider, the medical provider shall bill under OSC-D0001.

(6) When an insurer requires a consultation with a medical provider, the medical provider shall bill under OSC-D0030.

(7) The fee for a deposition shall be billed under OSC-D0002. This code should include time for preparation, travel, and deposition. Upon request of one of the parties, the director may limit payment of the provider's hourly rate to a fee charged by similar providers.

(8) When an insurer obtains an Independent Medical Examination (IME):

(a) The medical service provider doing the IME shall bill under OSC-D0003. This code shall be used for a report, file review, or examination;

(b) If the insurer asks the medical service provider to review the IME report and respond, the medical service provider shall bill for the time spent reviewing and responding using OSC-D0019. Billing should include documentation of time spent.

(c) Notwithstanding 436-009-0010(2), a medical service provider doing an IME may submit a bill in the form or format agreed to by the insurer and the medical service provider.

(9) Fees for all arbiters and panel of arbiters used for director reviews pursuant to OAR 436-030-0165 shall be established by the director. This fee determination will be based on the complexity of the examination, the report requirements, and the extent of the record review. The level of each category is determined by the director based on the individual complexities of each case as compared to the universe of claims in the medical arbiter process. When the examination is scheduled, the director shall notify the medical arbiter and the parties of the authorized fee for that medical arbiter review based on a combination of separate components.

(a) Level 1 OSC-AR001 Exam

Level 2 OSC-AR002 Exam

Level 3 OSC-AR003 Exam

Limited OSC-AR004 Exam

As determined by the director, a level 1 exam generally involves a basic medical exam with no complicating factors. A level 2 exam generally involves a moderately complex exam and may have complicating factors. A level 3 exam generally involves a very complex exam and may have several complicating factors. A limited exam generally involves a newly accepted condition, or some other partial exam.

(b) Level 1 OSC-AR011 Report

Level 2 OSC-AR012 Report

Level 3 OSC-AR013 Report

As determined by the director, a level 1 report generally includes standard questions. A level 2 report generally includes questions regarding complicating factors. A level 3 report generally includes questions regarding multiple complicating factors.

(c) Level 1 OSC-AR021 File Review

Level 2 OSC-AR022 File Review

Level 3 OSC-AR023 File Review

Level 4 OSC-AR024 File Review

Level 5 OSC-AR025 File Review

As determined by the director, a level 1 file review generally includes review of a limited record. A level 2 file review generally includes review of an average record. A level 3 file review generally includes review of a large record or disability evaluation without an exam. A level 4 file review generally includes an extensive record. A level 5 file review generally includes an extensive record with unique factors.

(d) The director will notify the medical arbiter and the insurer of the approved code for each component to establish the total fee for the medical arbiter review. If a worker fails to appear for a medical arbiter examination without giving each medical arbiter at least 48 hours notice, each medical arbiter shall be paid at 50 percent of the examination or testing fee. A medical arbiter must also be paid for any file review completed prior to cancellation.

(e) If the director determines that a supplemental medical arbiter report is necessary to clarify information or address additional issues, an additional report fee may be established. The fee is based on the complexity of the supplemental report as determined by the director. The additional fees are established as follows:

Limited OSC-AR031

Complex OSC-AR032

(f) Prior to completion of the reconsideration process, the medical arbiter may request the director to redetermine the authorized fee by providing the director with rationale explaining why the physician believes the fee should be different than authorized.

(g) The director may authorize testing which shall be paid according to OAR 436-009.

(h) Should an advance of costs be necessary for the worker to attend a medical arbiter exam, a request for advancement shall be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer shall contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely as required in this subsection.

(10) A single physician selected under ORS 656.327 or 656.260, to review treatment, perform reasonable and appropriate tests, or examine the worker, and submit a report to the director shall be paid at an hourly rate up to a maximum of 4 hours for record review and examination.

(a) The physician will be paid for preparation and submission of the report. Billings for services by a single physician shall be billed under OSC-P0001 for the examination and under OSC-P0003 for the report.

(b) Physicians selected under OAR 436-010-0008, to serve on a panel of physicians shall each receive payment based on an hourly rate up to a maximum of 4 hours for record review and panel examination. Each physician shall bill for the record review and panel examination under OSC-P0002. The panel member who prepares and submits the panel report shall receive an additional payment under OSC-P0003.

(c) The director may, in a complex case requiring extensive review by a physician, pre-authorize an additional fee. Complex case review shall be billed under OSC-P0004.

(d) An insurer may not discount or reduce fees related to examinations or reviews performed by medical providers under OAR 436-010-0330.

(e) If a worker fails to appear for a director required examination without providing the physician with at least 48 hours notice, each physician shall bill under OSC-P0005. The insurer must pay the physician for the appointment time and any time spent reviewing the record completed prior to the examination time. The billing must document the physician's time spent reviewing the record.

(f) Should an advance of costs be necessary for the worker to attend an exam under ORS 656.327 or 656.260, a request for advancement shall be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer shall contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely, as required in this subsection.

(11) The fee for a Worker Requested Medical Examination shall be billed under OSC-W0001. This code shall be used for a report, file review, or examination.

(12) The table below lists the Oregon Specific Codes for Other Services. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0110

Definitions for OAR 436-009-0110 through 436-009-0145

(1) "You" and "I" mean an interpreter.

(2) "Interpreter" means a person who:

(a) Provides oral or sign language translation; and

(b) Owns, operates, or works for a business that receives income for providing oral or sign language translation. It does not include a medical provider, medical provider's employee, or a family member or friend of the patient.

(3) "Interpreter services" means the act of orally translating between a medical provider and a patient who speak different languages, including

ADMINISTRATIVE RULES

sign language. It includes time spent waiting at the location for the medical provider to examine or treat the patient.

(4) "Mileage" means the number of miles traveling from the interpreter's starting point to the exam or treatment location.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0115

Who do I Bill for Providing Interpreter Services?

(1) You may only bill an insurer or, if provided by contract, a managed care organization.

(2) You may only bill a patient if the insurer denies the claim.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0120

What May I Bill For?

You may bill for:

- (1) Interpreter services; and
- (2) Mileage when your round-trip mileage is more than 60 miles.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0125

What May I Not Bill For?

You may not bill any amount for interpreter services or mileage when the patient fails to attend the appointment, e.g., cancelled appointments or no-show appointments.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0130

How do I Bill Interpreter Services and Mileage?

(1) You must use an invoice when billing for interpreter services and mileage;

(2) You must use a description code with each service you bill. When you bill for:

- (a) Interpreter services, use the code D0004; and
- (b) Mileage, use the code D0041.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0135

What Must I Include on my Invoice?

Your invoice must include:

- (1) Your company's name, the billing address, phone number, and the name of the interpreter providing the services;
- (2) The patient's name, address, and phone number;
- (3) The patient's workers' compensation claim number, if known;
- (4) The correct codes for the billed services (D0004 or D0041);
- (5) The workers' compensation insurer's name, address, and phone number;
- (6) The date you provided the interpreter services;
- (7) The name and address of the medical provider that conducted the exam or provided treatment;
- (8) The total amount of time you provided interpreter services; and
- (9) Your mileage, if your round trip was over 60 miles.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0140

How Much may I Charge?

You must charge your usual fee that you charge to the general public for the same service.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0145

When Must I Submit my Invoice?

(1) You must send your invoice to the workers' compensation insurer within 60 days of:

- (a) The first date of service listed on your invoice; or
- (b) The date you knew or should have known the patient filed a workers' compensation claim.

(2) If you do not know the workers' compensation insurer responsible for the claim, you may contact the Department of Consumer and Business Services' Workers' Compensation Division at 503-947-7814. You may also access insurance policy information at <http://www4.cbs.state.or.us/ex/wcd/cov/index.cfm>.

(3) A bill is considered sent on the date the envelope is post-marked or the date the document is faxed.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0150

Definitions for OAR 436-009-0150 through 436-009-0195

(1) "You" and "I" mean the insurer.

(2) "Interpreter" means a person who:

- (a) Provides oral or sign language translation; and
- (b) Owns, operates, or works for a business that receives income for providing oral or sign language translation. It does not include a medical provider, a medical provider's employee, or a family member or friend of the patient.

(3) "Interpreter services" means the act of orally translating between a medical provider and a patient who speak different languages, including sign language. It includes time spent waiting at the location for the medical provider to examine or treat the patient.

(4) "Mileage" means the number of miles traveling from the interpreter's starting point to the exam or treatment location.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0155

How do I Calculate the Maximum Allowable Payment Amount?

(1) You use the following table to calculate the maximum allowable payment: [Table not included. See ED. NOTE.]

(2) You must use the following method to calculate the maximum allowable payment:

- (a) For interpreter services, multiply the number of minutes billed by the conversion factor of \$1.00 with a minimum payment of \$60.00; and
- (b) For mileage, multiply the number of miles by the conversion factor of \$0.50 when the round trip mileage is more than 60 miles.

(3) When an interpreter in Oregon is the only person able to interpret a specific language the maximum allowable payment is the amount billed for interpreter services and mileage.

(4) Calculation examples:

(a) If the interpreter provides 1 hour and 35 minutes of interpreter services, the maximum allowable payment is: 95 minutes x \$1.00 (interpreter services conversion factor) = \$95.00

(b) If the interpreter provides 1 hour and 20 minutes of interpreter services, and the round trip is 100 miles, the maximum allowable payment is: 80 minutes x \$1.00 (interpreter services conversion factor) = \$80.00; 100 miles x \$0.50 (mileage conversion factor) = \$50.00; Total maximum payment = \$130.00

(c) If the interpreter provides 40 minutes of interpreter services, and the round trip is 50 miles, the maximum allowable payment is: Use the minimum payment of \$60.00; There is no mileage allowance because the round trip is less than 60 miles.; Total maximum payment = \$60.00

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

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0160

What Must I Pay for?

When the medical exam or treatment is directed to an accepted claim or condition, an independent medical exam, or a worker requested medical exam, you must pay for:

- (1) Interpreter services provided by an interpreter; and
- (2) Mileage when the round-trip mileage is more than 60 miles.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0165

How Much do I Pay for Interpreter Services and Mileage?

Unless otherwise provided by contract, you must pay the lesser of:

- (1) The maximum allowable payment amount; or
- (2) The interpreter's usual fee.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

ADMINISTRATIVE RULES

436-009-0170

When Must I Pay an Interpreter?

[Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245, 656.248

Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0175

What if the Interpreter's Bill does not Provide all the Information I Need in Order to Process Payment?

If you don't receive all the information to process payment, you must, within 20 days of receipt of the invoice, return the invoice to the interpreter with an explanation of why the invoice was returned. You must provide specific information about what you need in order to process payment.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245, 656.248

Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0180

What Must I Include on an Explanation of Benefits?

(1) You must provide a written explanation of benefits being paid or denied. The explanation must be sent to the interpreter.

(2) The explanation of benefits must include:

(a) The amount of payment for each service provided;

(b) The specific reason for non-payment, reduced payment, or discounted payment for each service billed;

(c) Your Oregon or toll-free phone number at which the interpreter may contact you for questions about a payment(s);

(d) Space for a signature and date.

(e) A notice of the right to administrative review as follows: **"If you disagree with this decision about this payment, contact {insurer's name and an Oregon or toll-free contact phone number}. If you are unable to reach an agreement with {insurer's name}, you may request administrative review by the Director of the Department of Consumer and Business Services. Your request for review by the director must be made within 90 days of the mailing date of this explanation. To request review, sign and date this document in the space provided, indicate which decision you disagree with, and mail this document with supporting documentation to the Workers' Compensation Division, Medical Section, PO Box 14480, Salem, OR 97309-0405. Or you may fax the request to the director at 503-934-6050. You must also send a copy of the request to the insurer. You should keep a copy of this document for your records."**

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245, 656.248

Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0185

Do I Have to Pay for Interpreter Services that are not Provided by an Interpreter?

You don't have to pay for interpreter services or mileage when the services are provided by:

(1) A family member or friend of the patient; or

(2) The medical provider or medical provider's employee.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245, 656.248

Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-009-0199

Sanctions and Civil Penalties

(1) The director may impose sanctions upon a medical provider or insurer for violation of these rules in accordance with OAR 436-010-0340.

(2) If an insurer applies a contract or fee discount agreement to a provider's bill that is incorrect, the insurer must pay the provider's bill at the provider's usual fee or according to the fee schedule, whichever is less, and the insurer may be subject to a civil penalty

(3) Although insurers may contract with provider networks for certain services, the insurer is responsible for their own actions as well as the actions of others acting on the insurer's behalf. If an insurer or someone acting on the insurer's behalf violates any provisions of these rules, the director may impose a civil penalty against the insurer.

(4) If the director finds a pattern and practice, or an egregious violation of applying incorrect discounts to providers' fees under these rules, by an insurer or someone acting on the insurer's behalf, the director may issue a civil penalty up to the amount allowed under ORS chapter 656.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245, 656.254, 656.745

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97;

WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 9-

1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; Renumbered from 436-009-0100 by WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-010-0225

Choosing a Person to Provide Interpreter Services

A worker may choose a person to communicate with a medical provider when the worker and the medical provider speak different languages, including sign language. The worker may choose a family member, a friend, an employee of the medical provider, or someone who provides interpreter services as a profession. The medical provider may disapprove of the worker's choice at any time the medical provider feels the interpreter services are not improving communication with the worker, or feels the interpretation is not complete or accurate.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245

Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-010-0330

Medical Arbiters and Panels of Physicians

(1) In consultation with the Workers' Compensation Management-Labor Advisory Committee under ORS 656.790, the director will establish and maintain a list of physicians to be used as follows:

(a) To appoint a medical arbiter or a panel of medical arbiters in accordance with ORS 656.268 and to select a physician in accordance with ORS 656.325 (1)(b).

(b) To appoint an appropriate physician or a panel of physicians to review medical treatment or medical services disputes under ORS 656.245 and ORS 656.327.

(2) Arbiters, panels of arbiters, physicians, and panels of physicians will be selected by the director.

(3) When a worker is required to attend an examination under this rule the director will provide notice of the examination to the worker and all affected parties. The notice will inform all parties of the time, date, location and purpose of the examination. Such examinations will be at a place reasonably convenient to the worker, if possible.

(4) The arbiters, the panels of arbiters, the physicians and the panels of physicians selected under this rule must be paid by the insurer in accordance with OAR 436-009-0070(9) to (11).

(5) The insurer must pay the worker for all necessary related services in accordance with ORS 656.325(1).

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.268, 656.325 & 656.327

Hist.: WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; Renumbered from 436-010-0047; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 2-2008, f. 6-13-08, cert. ef. 6-30-08; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

436-015-0090

Charges and Fees

(1) Billings for medical services under an MCO shall be submitted in the form and format as prescribed in OAR 436-009. The payment of medical services may be less than, but shall not exceed, the maximum amounts allowed pursuant to OAR 436-009.

(2) Notwithstanding section (1) of this rule, fees paid for medical services provided by primary care physicians who qualify under ORS 656.260(4)(g) or authorized nurse practitioners who qualify under ORS 656.245(5) shall not be less than fees paid to MCO providers for similar medical services. Fees paid to medical providers who are not under contract with the MCO, shall be subject to the provisions of OAR 436-009.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245 & 656.260

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 6-2004, f. 6-14-04, cert. ef. 6-29-04; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10

Department of Corrections Chapter 291

Rule Caption: Interstate Compact Application Fee.

Adm. Order No.: DOC 7-2010

Filed with Sec. of State: 6-10-2010

Certified to be Effective: 6-10-10

Notice Publication Date: 3-1-2010

Rules Adopted: 291-180-0274

ADMINISTRATIVE RULES

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

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-180-0274

Application Fee for Interstate Compact Transfers

(1) Payment of NonRefundable Application Fee Required:

(a) Offenders on probation, parole, or post-prison supervision who request transfer of their supervision to another state under the compact must submit a nonrefundable application fee of \$50 to the supervisory authority. The fee must be received by the supervisory authority before the Department of Corrections will process the offender's transfer request.

(b) Payment of an additional application fee will not be required of offenders for processing revised or subsequent requests for transfer of their supervision to the same state. However, offenders who request transfer of their supervision to the same state after being returned to Oregon from the receiving state from a previous compact transfer, and offenders that make a subsequent request for transfer of their supervision to a different state must pay a new application fee.

(2) The supervisory authority shall collect the application fee and forward it to the Governor's Office for deposit in the Arrest and Return Account as defined in ORS 133.865.

(a) The fee shall be paid and collected in the form of a bank money order or cashier's check made payable and mailed to "State of Oregon, c/o Director of Extradition Services, Governor's Office, Room 160 State Capitol Building, Salem, OR 97310"

(b) The payment should be identified as an Interstate Compact Application fee and include the offender's name and SID number.

(3) The application fee is not subject to waiver; however, upon the recommendation of the supervisory authority, the Department of Corrections may reduce the amount of the fee by up to 50%. In determining if a fee reduction is warranted, the supervisory authority shall consider:

(a) The offender's financial resources;

(b) The burden the application fee will impose in light of the offender's overall obligations;

(c) The rehabilitative effect of the application fee and compact transfer; and

(d) The community's interests in the transfer of the offender.

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

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

Hist.: DOC 1-2010(Temp), f. & cert. ef. 1-4-10 thru 7-3-10; DOC 7-2010, f. & cert. ef. 6-10-10

.....
**Department of Energy
Chapter 330**

Rule Caption: Modification of the Business Energy Tax

Adm. Order No.: DOE 4-2010(Temp)

Filed with Sec. of State: 5-21-2010

Certified to be Effective: 5-27-10 thru 11-2-10

Notice Publication Date:

Rules Adopted: 330-090-0350, 330-090-0450

Rules Amended: 330-090-0105, 330-090-0110, 330-090-0120, 330-090-0130, 330-090-0133, 330-090-0140, 330-090-0150

Subject: These rules implement the provisions of HB 3680 (2010) which goes into effect on May 27, 2010. These rules:

Implement the monetary cap for renewable energy projects based on criteria and factors to consider.

Create a system to prioritize renewable energy storage device.

Update eligible cost for wind powered devices above 10MW and electric vehicle manufacturing.

Amend standards used when considering what constitutes a single facility, including phasing, expansions or additions to renewable energy manufacturing facilities.

Clarify when final certifications may be issued for efficient truck technology.

Add clarity to existing policies for applicants.

Update calculations used for determining discounted value of tax credits transferred under ORS 469.206

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 but excluding wind facilities with an installed capacity of more than 10 megawatts for which preliminary certification is issued on or after January 1, 2010 are eligible for a tax credit equal to 50 percent of eligible costs. Wind facilities with an installed capacity of more than 10 megawatts, for which preliminary certification is issued on or after January 1, 2010, are eligible for a tax credit equal to 5 percent of eligible costs. Qualifying homebuilder installed renewable energy facilities are eligible for a tax credit of up to \$9,000 and qualifying high performance homes 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 issue a final certificate pursuant to ORS 469.215 before the credit 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. These rules apply to all applications pending as of the effective date of these rules and preliminary and final applications received on or after July 1, 2009.

(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; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10

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:

ADMINISTRATIVE RULES

(A) Individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

(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. These entities must follow all procurement processes, including competitive bid, where applicable.

(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 cellulosic 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 defined in these rules. 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.

ADMINISTRATIVE RULES

(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.

(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) "Component Parts of Electric Vehicles": means component parts for use solely in Electric Vehicles and not in conventional vehicles. Component parts shall be distinguished by their absence from conventional vehicles and shall not include components that can be used interchangeably in both electric and conventional vehicles. For the purpose of this definition, "conventional vehicle" is a production vehicle that is powered with an internal combustion engine, excluding hybrids.

(19) "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.

(20) "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;

(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 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; or

(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, or standard practice if this exceeds 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 otherwise specified in these rules. 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 $-0.01 X$ (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: $MEC = SOC \times \text{Number of modules} \times \text{Solar Thermal Rate}$. 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:

$SOC = 0.1(\text{Category A}) + 0.2(\text{Category B}) + 0.3(\text{Category C}) + 0.4(\text{Category D})$.

(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:

(1) For a system size of less than 100KBtu/day, the rate is \$220/KBtu/day

(2) For a system size that is 100 KBtu/day or greater, but less than 250 KBtu/day, the rate is \$210/KBtu/day

(3) For a system size greater than 250 KBtu/day, the rate is \$200/KBtu/day.

ADMINISTRATIVE RULES

(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 replacement 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**. [Table not included. See ED. NOTE.]

(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.

(21) "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.

(22) "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.

(23) "Director": The Director of the Oregon Department of Energy or designees.

(24) "Energy Department": The Department of Energy.

(25) "Energy Facility": is defined in ORS 469.185(5).

(26) "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 these rules, 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

ADMINISTRATIVE RULES

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.

(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:

(I) A minimum two-year contractor warranty for materials and workmanship

(II) Manufacturer's warranty for collector, tanks, pumps and heat exchanger (if present) and any other components under warranty by the manufacturer.

(III) Permit documentation.

(iii) Manuals and data sheets, including:

(I) Bill of material listing all primary facility components, including part numbers

(II) Facility controller owner's manual

(III) 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.

(N) Solar thermal facilities must be installed in compliance with the Oregon Mechanical Specialty Code (Chapter 14 OMSC), 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) A renewable energy system or device, other than a homebuilder installed renewable energy facility or high performance home facility, that is placed on or at a residence for the purpose of supplying energy to the residence.

(C) Swimming pools and hot tubs used to store heat.

(D) Wood stoves.

(E) 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.

(F) Devices and substances whose use is common in the applicant's business, except hog fuel boilers that replace fossil fuel boilers.

(G) 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.

(H) Devices or materials which are standard practice.

(I) Recycling automotive air conditioning chlorofluorocarbons (CFC).

(J) 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.

(K) Other items the Director finds are not allowed under ORS 469.185 to 469.225.

(27) "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.

(28) "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.

(29) "Facility Owner": An applicant who purchases and owns a qualified facility.

(30) "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 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. or

(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. or

(g) For a renewable energy facility, the applicant shall not be considered to have started erection, construction, installation or acquisition of a proposed facility until excavation or actual physical construction of the renewable energy facility. Eligible costs include all costs as defined in these rules, including costs incurred prior to the receipt by the department of the preliminary certification application related to site and facility development and approval. Applicants who start a facility prior to issuance of preliminary certification shall not be eligible to reapply.

(31) "Final Certification": Final certificate issued after completion of an approved BETC facility.

ADMINISTRATIVE RULES

(32) "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).

(33) "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.

(34) "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. 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 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.

(35) "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, [slab edge] 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.

(D) 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.

(36) "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

ADMINISTRATIVE RULES

to home's main service panel and installers must provide a warranty covering all parts and labor of the facility for two years.

(37) "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

(38) "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.

(39) "Individualized Travel Behavior Change Program": A facility that is a program approved by the Oregon Department of Energy that reduces vehicle miles traveled through one-on-one contact with participants in a specific geographical area or in a targeted group.

(40) "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; but

(g) Does not include space conditioning for human comfort or general illumination.

(41) "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.

(42) "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.

(43) "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.

(44) "Mass Transit District": A mass transit district included in ORS 184.675(7).

(45) "Metropolitan Service District": A metropolitan service district included in ORS 184.675(7).

(46) "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 under "Recycling Facility"; or

(c) Routine maintenance or repair, such as replacing water damaged insulation, a broken window, dry-rotted wood siding or trim.

(47) "Net Present Value": A cash payment equivalent to the net present value of the BETC as determined under OAR 330-090-0140. This is also referred to as the "pass-through rate."

(48) "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.

(49) "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.

(50) "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.

(51) "Preliminary Certification": Preliminary certificate issued upon successful completion of the first stage in obtaining a BETC.

(52) "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.

(53) "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.

(54) "Qualified Transit Pass Contract": is defined in ORS 469.185(10).

(55) "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.

(56) "Recycling Facility": is defined in ORS 469.815(11)

(57) "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.

(58) "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.

ADMINISTRATIVE RULES

(59) "Renewable Energy Resource": is defined in ORS 469.185(12).

(60) "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.

(61) "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.

(62) "Renewable Energy Storage Device": A facility that enables the storage of energy derived from Renewable Energy Resources as defined in ORS 469.185(12). To qualify as a renewable energy storage device a facility does not need to be directly connected to a renewable energy resource, but a beneficial relationship must be demonstrated between the energy output of the resource or resources and the charge and discharge capabilities of the facility. A Renewable Energy Storage Device includes batteries or similar devices used to provide propulsive energy in electric vehicles. The storage device may be designed to store energy for transmission lines provided that the transmission lines serve, at least in part, renewable energy resources.

(63) "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 is subject to Oregon income or excise tax.

(64) "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 weatherization 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.

(65) "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 through 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).

ADMINISTRATIVE RULES

(D) Eligible costs for a Research, Development or Demonstration facility are not subject to OAR 330-090-0110 (20)(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.

(66) "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.

(67) "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) \div 0.35 = BETC eligible cost.

(68) "Riders": Employees, students, clients, customers, or other individuals using transportation facilities or transportation facilities for travel.

(69) "Service Life": Equipment service life is as established in the 2007 edition of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Heating, Ventilating and Air Conditioning (HVAC) Applications Handbook 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.

(70) "Simple Payback": The total eligible cost of a facility divided by the expected yearly energy cost savings, stated in years.

(71) "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.

(a) 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.

(b) In other energy facilities it may include but not be limited to propane powered lift trucks, electric golf carts or curbside recycling bins.

(c) Any other equipment, material, or applications of equipment or material as determined by the Director.

(72) "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.

(73) "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.

(74) "Transportation District": A transportation district included in ORS 184.675(7).

(75) "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 equipment 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.

ADMINISTRATIVE RULES

(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 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: 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. AND 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 fifty years of the time the tax credit is issued.

(76) "Transportation Provider": is defined in ORS 469.185(16).

(77) "Transportation Services Contract": is defined in ORS 469.185(17).

(78) "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.

(79) "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.

(80) "Vehicle Miles Reduced (VMR)": Reduction in miles achieved by a facility when compared to single occupant vehicles.

(81) "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.

(82) "Wind Facility": means a facility that converts wind power into another energy resource.

(83) "Year": Calendar year.

[ED. NOTE: Tables & 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;

ADMINISTRATIVE RULES

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; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10

330-090-0120

Preliminary Certificate Application Requirements for a Business Energy Tax Credit

(1) Eligible facilities

(a) The Department may issue only one BETC for each separate and distinct 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.

(b) A proposed facility must meet applicable codes and standards, must include a warranty and must be serviceable locally.

(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.

(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 benefits of the facility with regard to overall economic activity in this state, 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 operational. Except that, as a condition of the preliminary and final certificate, the following facilities must remain in operation for one year: Tele-working equipment, transit passes, transportation services, incentive programs, car-share programs and individualized travel behavior

change programs, and van-pool programs. If an applicant expects that a facility not listed in this subsection will operate less than five years, the applicant may submit a request for approval of the shorter operating period as part of their application for preliminary certification. This request shall include information describing the proposed facility and supporting the proposed operating period. The Director will determine whether to approve the shorter operating period and may include conditions, reductions or other limits on any potential tax credits.

(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. In the case of a facility manufacturing Electric Vehicles under the all-terrain-vehicles standards, an applicant shall provide information that demonstrates that the vehicles will be used for agricultural, commercial, industrial or governmental purposes.

(K) Applications for facilities using or producing renewable energy resources, or facilities listed as renewable energy resources as defined under ORS 469.185 shall provide all information required as part of the tiered priority system under OAR 330-090-0350.

(b) The Department may request additional information from the applicant determining whether multiple applications have been made for the same facility. The department will make its determination based on the following:

(A) All applications under consideration will be reviewed against other current applications, facilities that have received preliminary certification and facilities that have received final certification within the past 12 months. Further consideration shall be given to applications which:

(i) When combined exceed the annual limit for a tax credit found in ORS 469.200.

(ii) Are individually below the threshold for one year tax credit found in ORS 315.354, but if combined exceed this threshold; or

(iii) When combined, result in assessment within a different category or tier, or against different criteria or cost allowances.

(B) Applications for facilities using or producing renewable energy resources, or facilities listed as renewable energy resources as defined under ORS 469.185 will be considered a single facility, despite the number of applications, owners or construction phases, if three or more of the following apply:

(i) The facility is located on one or more adjacent parcels of land or parcels;

(ii) 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 applied for siting or land use approval and other applicable permits, licenses or site certificates as a single facility or on a single application;

(iii) 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 is not interdependent in purpose or the manner in which it 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.

(iv) The facility owners have entered into or expect to enter into agreements to share project expenses, personnel, capital investments including generating equipment or other resources related to the facility;

(v) 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;

(vi) 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

(vii) Other factors or considerations which demonstrate that the facility is not a separate and distinct facility based on its construction, operation, maintenance and output.

ADMINISTRATIVE RULES

(C) Applications for renewable energy resource equipment manufacturing facilities will be considered a single facility unless each phase of development or each expansion of or addition to existing facilities or production lines can be demonstrated to meet, through increased production and number of jobs created, the requirements of ORS 469.197(4) and these rules.

(D) Applications other than those described in subsections (B) and (C) will be considered a single facility if three or more of the following apply:

- (i) Shared ownership of facilities,
- (ii) Shared location of facilities,
- (iii) Project permits are issued to a common entity or at the same time

or

- (iv) A shared contract to construct the facilities.

(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)–(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 independent 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 under "Transportation Facility".

(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 operation and 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.

ADMINISTRATIVE RULES

(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) 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) 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; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10

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. Applications for facilities that use or produce renewable energy resources, or are listed as renewable energy resources as defined under ORS 469.185, must be submitted under the tiered priority system described in OAR 330-090-0350 and include any additional requirements under this section.

(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.

(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(1) and (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

ADMINISTRATIVE RULES

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 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 alter, condition, suspend, deny or revoke a preliminary certification for a reason listed in this section

(a) A facility, other than a renewable energy resource equipment manufacturing facility, is not completed and a complete final certification application accepted before 1,095 days (3 years) after the preliminary certification was issued or a further 730 days (2 years) if an extension has been approved. A renewable energy equipment manufacturing facility is not completed and a complete final certification application accepted before 1,825 days (5 years) after the preliminary certification was issued.

(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).

(d) Any other reason allowed by the amendments to ORS 469.210(3) in Oregon Laws, 2010, Chapter 76, Section 11.

(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 request may also include changes in the amount of energy saved or produced, jobs created, project financing, the applicant, the location, or other matters that demonstrate substantial change in the project's scope. The request must be accompanied by the appropriate fee.

(b) If a request 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 department will provide the applicant a written notice relating to the information needed to make the request complete. If the application does not provide all of the requested information to the Department within 30 days, the request will expire and no changes will be made to the preliminary certification.

(c) Preliminary certifications issued for facilities using or producing renewable energy resources, or facilities listed as renewable energy resources as defined under ORS 469.185, on or after July 1, 2009 shall not be eligible for consideration of amendments other than equipment modifications within 10% of the approved specification.

(d) Preliminary certifications issued for facilities using or producing renewable energy resources, or facilities listed as renewable energy resources as defined under ORS 469.185 prior to July 1, 2009 shall not be eligible for consideration of amendments other than:

(A) Equipment modifications within 10% of the approved specification.

(B) Amendments to the facility that do not result in an increased potential tax credit amount, but increase output or otherwise improve, or are necessary for the completion of, the facility; or

(C) Changes in ownership.

(e) 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) Extension of Preliminary Certification: Applicants, other than for renewable resource manufacturing facilities, who have not previously extended their certification and whose preliminary certification is anticipated to expire prior to completion of the facility may apply for an extension of an additional two years from the current expiry of the preliminary certification.

(a) Applicants must submit a written request to the department, accompanied by the appropriate fee, describing the progress made in developing the facility since the department issued the preliminary certification and verifying that the project will be developed in accordance with the initial approval, within two years from the current end of the preliminary certification and prior to the sunset date of the program. The request shall include the new proposed facility completion date. Requests may be made no earlier than 6 months prior to the expiration of the existing preliminary certification.

(b) If an applicant wishes to make changes other than to the completion date, the applicant must submit a request for amendment as described in ORS 330-090-0130(7).

(c) If a request or original application 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 department will provide the applicant a written notice specifying the information needed to make the request complete. If the applicant does not provide all of the requested information to the Department within 30 days, the request will expire and no extension will be made to the preliminary certification expiration date.

(d) The department will review the previously approved application against current statute and rules. Within 60 days after the department receives the extension request, the Director will decide if the request 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 extension and provide written reasons for the denial.

(11) 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.

(iii) The facility will be maintained and operated for at least five years after the facility is placed into operation, or a lesser period if approved and specified on the preliminary certification.

(B) An account of the facility costs, including prorated costs.

ADMINISTRATIVE RULES

(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 under these rules unless required by the Director to supply verification from a certified public accountant, who is not otherwise 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 under these rules. 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 receipts.

(D) Proof the facility is completed and operating.

(E) If the facility is leased or rented, a copy of the lease or rental agreement.

(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; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10

330-090-0133

How ODOE Processes a Final Application

(1) Processing the Final Certification

(a) Applications shall be considered received for the purposes of ORS 469.220 on the date marked received by the department, unless the application is incomplete in which case the date marked received by the department on the required information shall be considered the received date.

(b) Within 30 days after a final certification application is received, 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 received the director will either approve or deny the final certification.

(c) 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.

(d) For efficient truck technology facilities the department may, upon the request of the applicant, issue two final certificates for each preliminary certification, up to the amount of the preliminary certification.

(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 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 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(10) and include information to allow the Director to determine the amount of tax credit not claimed by the former owner or former lessee. If

ADMINISTRATIVE RULES

the facility 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, amendment to a preliminary certification, final certification, or canceling or revoking a final certificate under these rules, the applicant or certificate holder may request reconsideration in writing.

(5) Inspections: After an application is filed under ORS 469.205 or 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; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10

330-090-0140

Pass-through Option Facilities

(1) A Pass-through Partner may accept a Business Energy Tax Credit certificate on behalf of an applicant with a facility that is otherwise eligible for the tax credit in return for a cash lump-sum pass through payment equivalent to the net present value of the transferable tax credit. For the purposes of these rules, the net present value of the pass through payment is calculated based on the formulas below:

(a) For original precertifications issued on or after January 1, 2010 where the facility does not have a completed pass through agreement signed or has not received a cash lump-sum pass through payment:

(A) For a five year tax credit the net present value is determined by taking the total tax credit amount divided by 1.3579. Tax Credit/1.3579

(B) For a one year tax credit. The net present value is determined by taking the tax credit amount divided by 1.0309. Tax Credit/1.0309

(b) For original pre certifications issued on or before December 31, 2009:

(A) 50% BETC more than \$20,000 in eligible costs — 33.5% pass-through rate;

(B) 50% BETC \$20,000 or less in eligible costs — 43.5% pass-through rate;

(C) 35% BETC more than \$20,000 in eligible costs — 25.5% pass-through rate;

(D) 35% BETC \$20,000 or less in eligible costs — 30.5 % pass-through rate;

(E) Homebuilder Installed Renewable Energy Facility or High Performance Home tax credits — 87% of tax credit amount.

(c) If an applicant elects to use the pass through option, the net present value of the pass through payment for a facility is determined by the date the department issues the initial preliminary certification for the project.

(2) An Investor-Owned Utility may choose to become a utility Pass-Through Partner under the provisions of this section or participate as a Pass-Through Partner under other Provisions of these rules that would apply to any other Pass-Through Partner.

(a) An investor-owned utility (IOU) that complies with this section may choose to become a Utility Pass-Through Partner.

(b) Preliminary certification standards and process:

(A) The application for preliminary certification must include an estimate of the total installation cost of the qualifying measures for which the applicant expects to make payments under OAR 330-090-0140(2) for that year.

(B) Within 60 days after an application for preliminary certification of the pass-through is filed, the Director shall decide if it is complete. If it is not complete, the application will be rejected and returned to the applicant. The applicant may resubmit a complete application.

(C) Within 120 days after a completed application is filed, the Director shall notify the applicant of the status of the application, if the applicant has not been notified otherwise that the application has been approved or denied.

(D) The application for preliminary certification of the pass-through must include a supplemental work plan, which includes a copy, or reference to any proposed or required OPUC tariff and all evaluations of the program through which the pass-through will be delivered. The applicant and ODOE must mutually agree upon the work plan and program.

(c) Final certification standards and process: Final application for a pass-through tax credit must include a summary and total of each facility's owner, site address, facility description or type, number of dwelling units

for multifamily facilities, total facility cost, energy savings, energy type saved and tax credit amount passed through. The applicant must retain records for each facility including all of the information required in 110-090-0130(4) of these rules.

(A) By the last working day of each month but not more than once per month, an applicant may apply to the Director for final certification. An application must contain:

(i) An itemized list of costs for each rental dwelling unit weatherized, premium efficient appliance, each alternative fuel vehicle, alternative fuel vehicle for company use, and alternative fuel fueling station, solar or other renewable resource and the total facility costs made that period for which the applicant is applying for credit.

(ii) The nominal value of credits for which the applicant applies.

(iii) The name, address, and phone number of the owner of each rental unit, alternative fuel vehicle, or alternative fuel fueling station listed in OAR 330-090-0140(2)(c)(A)(i).

(iv) Certification that each rental dwelling unit energy conservation measure (ECM) is defined in the BETC Technical Requirements as a measure that would qualify under or is a measure recommended in an energy audit completed under ORS 469.633(2).

(v) Certification that the ECMs paid for were installed and inspected in accordance with the IOU's appropriate allowed tariff(s),

(vi) Certification that the ECMs paid for were installed and inspected in accordance with the IOUs' Model Conservation Standards tariff or equivalent program as approved by ODOE.

(vii) If the facility costs are \$50,000 or more or if required by the Director, a written review and summary completed by a certified public accountant, who is not otherwise employed by the facility owner or pass-through partner, of costs paid based on canceled checks, invoices, receipts, a binding contract or agreement, or other documentation as may be required by OAR 330-090-0110(19).

(viii) If a contractor installed fueling station: the name, address, and phone number of the contractor as defined under OAR 330-090-0130(4) of this rule and the site at which the fueling station is installed.

(ix) The last final certification application filed each year must include complete evaluation(s) as defined in the applicant approved preliminary certification(s).

(B) Within 30 days after a final certification application is filed, the Director will approve or deny final certification, with reasons for the action. The Director will deny the final certification if the applicant has not complied with the requirements of this rule. No later than 60 days after the Director issues an order denying the final certification, the applicant may request reconsideration as provided in OAR 330-090-0130(13). The Director will approve final certification if:

(i) The applicant provides the owners of existing rental dwelling units listed in OAR 330-090-0140(2)(c)(A)(i) with:

(I) A low-interest loan, as defined by these rules, up to \$5,000 per dwelling unit for ECMs included in OAR 330-090-0140(2)(c)(A)(iv); or

(II) A cash payment for ECMs included in OAR 330-090-0140(2)(c)(A)(iv). The payment will be the lesser of 25 percent of the cost-effective portion of the energy conservation measures, including installation (but not including the dwelling owner's own labor), not to exceed the cost of those measures; or \$350 per rental dwelling unit, plus the present value of the tax credit accrued the IOU may claim; or,

(III) Such other payments approved by the Director to pay for ECMs in rental dwellings. This includes a payment for the present value of the tax credit that exceeds the amount of the low-interest loan. This payment will apply first to reduce the amount of the loan with the balance paid to the owner of the rental dwelling unit.

(ii) The amount of the credit is the sum of payments and loans listed in OAR 330-090-0140(2)(c)(A)(i) for ECMs that were installed and inspected.

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 3-1990, f. & cert. ef. 9-20-90; DOE 4-1991, f. & cert. ef. 12-31-91; 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 3-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 1-2010, f. & cert. ef. 1-8-10; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10

330-090-0150

Budget Limits and Payments for BETC

(1) Amount of Credits Allowed for a Facility:

ADMINISTRATIVE RULES

(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, not including wind facilities with an installed capacity of more than 10 megawatts;

(B) \$7 million in maximum eligible facility costs for a wind facility with an installed capacity of more than 10 megawatts issued a preliminary certification during 2010.

(C) \$5 million in maximum eligible facility costs for a wind facility with an installed capacity of more than 10 megawatts issued a preliminary certification during 2011.

(D) \$3 million in maximum eligible facility costs for a wind facility with an installed capacity of more than 10 megawatts issued a preliminary certification on or after January 1, 2012.

(E) \$40 million in maximum eligible facility costs for a renewable energy resource equipment manufacturing facility, not including those used to manufacture electric vehicles;

(F) \$2.5 million in maximum eligible facility costs for a renewable energy resource equipment manufacturing facility used to manufacture electric vehicles;

(G) \$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).

(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: This section does not apply to applications subject to the tiered priority system under OAR 330-090-0350. 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.

(A) Applicants within tier two or three of the tiered priority system under OAR 330-090-0350 shall include with their initial application a payment to the department of \$500 for the costs of step one. Applicants who are notified that their application is approved for step two will be required to submit an additional fee as calculated under (B) prior to review.

(B) 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, or \$30 whichever is greater. The maximum payment amount is \$35,000.

(C) For renewable energy resource equipment manufacturing facility applications the payment will be 0.0060 multiplied by the facility eligible cost not to exceed a payment amount of \$75,000.

(D) For Sustainable Building Facilities, the payment will be 0.0035 multiplied by the eligible cost calculated as required under these rules.

(E) 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 received 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 a 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) Requests for amendments or changes to a preliminary certification must be accompanied by a payment. The payment is the lesser of \$300 or the preliminary certification application fee for the project. 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) Requests for extension of a preliminary certification under ORS 469.205 must be accompanied by a payment. The payment is the lesser of \$300 or the preliminary certification application fee for the project.

(e) No facilities will be exempt from these requirements including applications for BETC pass-through under OAR 330-090-0140.

(f) 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; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10

330-090-0350

Tiered Prioritization System for Renewable Facilities

(1) Applicability: The tiered priority system applies to applications for facilities that use or produce renewable energy resources, or are listed as renewable energy resources, as defined under ORS 469.185.

(2) Process: The department will issue a BETC Opportunity Announcement (OA) detailing the availability of potential tax credits for renewable facilities, the criteria to be applied in selecting facilities for allocation of available potential credits, and soliciting applications within a set time period. Applications will be reviewed within tiers, differentiated by facility cost. The process and level of review differ between tiers as specified in these rules and the OA. The requirements for issuance of preliminary and final certifications within these rules will apply to all applications allocated potential tax credits through the tiered priority system.

(a) Tier one application acceptance and review will be completed on an ongoing basis subject to the tax credit limitations published by the department. Complete applications will be processed in the order they were received and may be rejected once the department has issued all available credits for this tier.

(b) Tier two application review will consist of an OA and three review steps:

(A) OA: The department will issue an OA and collect applications.

(B) Step one: Applications will be reviewed against initial standards, which will include criteria that will ensure those that advance are complete and that the facility can be completed prior to the program sunset. The fee for step one is non-refundable. Applications that do not proceed to step two or three may reapply during a future OA.

(C) Step two: Applications will be reviewed for priority against standards and criteria detailed in the OA and initial allocations of available potential tax credit will be made. Applications that proceed to step three will be required to submit an additional non-refundable fee.

(D) Step three: Technical review of proposed facilities will be completed, allocations of potential tax credits confirmed and announced, and preliminary certifications issued.

(c) Tier three application review will consist of three steps:

(A) OA: The department will issue an OA and collect applications.

(B) Step one: Applications will be reviewed against initial standards specified within the OA to include ensuring those that advance are complete, and that the facility can be completed prior to the program sunset. The fee for step one is non-refundable. Applications that do not proceed to step two or three may reapply during a future OA.

(C) Step two: Applications will be reviewed for priority against standards and criteria detailed in the OA and initial allocations of available potential tax credit will be made. Applications that proceed to step three will be required to submit an additional fee.

(D) Step three: Technical review of proposed facilities will be completed and allocations of potential tax credits confirmed prior to the issuance of a preliminary certification. If the department determines that it

ADMINISTRATIVE RULES

does not have the appropriate resources available to conduct the review, the department may notify the applicant that the department intends to use a third party to conduct the technical review. If a third party is used, the applicant will be required to submit payment to the department approved third party for the review.

(3) Tier Boundaries:

(a) Tier one shall consist of applications with projected facility cost less than \$500,000.

(b) Tier two shall consist of applications with projected facility cost equal to or greater than \$500,000 but less than \$6,000,000.

(c) Tier three shall consist of applications with projected facility cost equal to or greater than \$6,000,000.

(d) For the purposes of determining tier assignment, facility cost shall not be limited as defined in ORS 469.200.

(e) Applicants may apply for less than the maximum eligible potential tax credit for their project, this shall not change the tier within which the application is reviewed.

(4) Allocation of tax credits between tiers and application periods

(a) The department shall announce the allocation of potential tax credits. The OA will specify the distribution of funding for the appropriate tiers and the amount allocated to the current application period. The department will continually monitor the rate of allocation of potential tax credits to ensure the total amount of potential tax credits does not exceed the limits provided in Oregon Laws, 2010, Chapter 76, Section 2.

(b) If no applications are received within an application period for any tier, the allocated potential tax credits for that period and tier will be reallocated by the department. If the total request from all complete applications received for a period and tier is less than the allocated potential tax credits, the department will review all applications to determine that they meet any applicable standards prior to allocating potential tax credits, and reallocating remaining potential tax credits.

(c) Potential tax credit amounts that are not allocated to a facility at the end of a limitation period specified in Oregon Laws, 2010, Chapter 76, Section 5 will expire.

(5) Application acceptance periods

(a) Tier one applications will be accepted at any time prior to the sunset.

(b) Tier two and three applications will only be accepted during an application acceptance period specified in an OA. Applications for tier two and three received outside of an application acceptance period will not be accepted.

(6) Criteria. The department will announce specific standards and criteria that will be considered in determining eligibility in the OA. In addition to the criteria listed in Oregon Laws, 2010, Chapter 76, Section 6, criteria for tiered two and three potential tax credits may include:

(a) The completeness of the application and whether it was received within the time period specified in the OA;

(b) The appropriate application payment;

(c) The time frame in which actual construction will be started and completed and the ability to meet all regulatory requirements including program deadlines;

(d) Criteria established in statute or rules that apply to the business energy tax credit program;

(e) The simple payback period;

(f) The number of jobs created;

(g) Whether the renewable activities were aligned with conservation activities;

(h) Nationally recognized standards or practices for the specified technology; and

(i) Any other factors listed in the OA.

(7) Incomplete applications

(a) The department will determine if an 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, standards and criteria in the OA, rules or otherwise adopted by the Director.

(b) For tier one the department will provide a written notice to applicants that the application is incomplete, specifying the information needed to make the application complete. Applicants will be allowed 30 days from the time of notification by the department to provide specified information. The application expires if the applicant does not supply the information within 30 days.

(c) Incomplete applications for tier two or three will not be accepted for the current OA. Applicants may reapply and resubmit their application during the next OA.

(8) Prioritization within tiers

(a) Applications within tier one are not subject to prioritization, but will be required to meet listed standards and other requirements of the Business Energy Tax Credit program. If the Director receives applications for preliminary certification with a total amount of potential tax credits in excess of the allocation for tier one, the Director will allocate potential tax credits in the order in which complete applications are received.

(b) Applications within tiers two and three will be ranked within each tier against required criteria specified within the OA in effect at the time of application acceptance, and must meet the requirements of the OA and the Business Energy Tax Credit program.

(9) Allocation of potential tax credits within tiers:

(a) Potential tax credits available within an application period will be allocated to applications in order of the priority established under (7)(b) as determined by the procedure in the OA. Applicants may be offered less potential tax credit than requested in their application.

(b) Applicants will have 10 business days to respond in writing to the department's written notification of the offer of preliminary certification. Applicants who do not respond during this period will be considered to have rejected the offer of the preliminary certification. If an applicant does not accept an allocation, the potential tax credits may be issued to other applications within the period or to future periods or tiers. Upon written acceptance from the applicant, the department will issue a preliminary certification under ORS 469.205.

(10) Applications allocated potential tax credits: Applicants who are issued a preliminary certification under this section must follow all department procedures and obtain final certification prior to issuance of tax credits. Allocation of potential tax credits through the issuance of a preliminary certification does not guarantee issuance of final certification.

(11) Applications not issued preliminary certification: Applications reviewed under this section and not allocated potential tax credits will be notified by the department. Applicants may make application for the same facility within a future application period but will not be eligible to carry-forward applications or fees.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.185 - 469.225

Hist: DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10

330-090-0450

Prioritization System for Renewable Resource Equipment Manufacturing Facilities

Applications in excess of Biennial limits: In the event that the Director receives applications for preliminary certification with a total amount of potential tax credits in excess of the limitations in Oregon Laws, 2010, Chapter 76, the Director shall allocate the potential tax credits according to the order in which the applications are received.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.185 - 469.225

Hist: DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10

Department of Environmental Quality Chapter 340

Rule Caption: Revisions to Oregon's Infrastructure State Implementation Plan.

Adm. Order No.: DEQ 5-2010

Filed with Sec. of State: 5-21-2010

Certified to be Effective: 5-21-10

Notice Publication Date: 11-1-2009

Rules Amended: 340-200-0020, 340-200-0025, 340-200-0040, 340-202-0060, 340-202-0090, 340-202-0130, 340-204-0010, 340-204-0030, 340-206-0010, 340-206-0030

Subject: Revisions to Oregon's State Implementation Plan infrastructure include:

Updated state standards for fine particulate, lead and ozone to reflect recent changes to national ambient air quality standards (NAAQS).

Oregon's assessment regarding the interstate air pollution transport of fine particulate and ozone.

Definition of fine particulate (PM2.5), currently in Oregon rule, proposed as a revision to the SIP.

PM2.5 non-attainment area boundary descriptions for the cities of Klamath Falls and Oakridge.

Proposed new Significant Harm Levels for PM2.5.

ADMINISTRATIVE RULES

Proposed exemption from the definition of Volatile Organic Compound (VOC) for dimethyl carbonate and propylene carbonate, consistent with federal actions.

Rules Coordinator: Maggie Vandehey—(503) 229-6878

340-200-0020

General Air Quality Definitions

As used in divisions 200 through 268, unless specifically defined otherwise:

(1) “Act” or “FCAA” means the Federal Clean Air Act, 42 U.S.C.A. 7401 to 7671q.

(2) “Activity” means any process, operation, action, or reaction (e.g., chemical) at a source that emits a regulated pollutant.

(3) “Actual emissions” means the mass emissions of a pollutant from an emissions source during a specified time period.

(a) For determining actual emissions as of the baseline period:

(A) Except as provided in paragraph (B), actual emissions equal the average rate at which the source actually emitted the pollutant during a baseline period and that represents normal source operation;

(B) The Department presumes that the source-specific mass emissions limit included in a source’s permit that was effective on September 8, 1981 is equivalent to the source’s actual emissions during the baseline period if it is within 10% of the actual emissions calculated under paragraph (A).

(C) For any source that had not begun normal operation, actual emissions equal the potential to emit of the source.

(b) For determining actual emissions for Emission Statements under OAR 340-214-0200 through 340-214-0220 and Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions include, but are not limited to, routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities, except categorically insignificant activities and secondary emissions.

(c) For Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions must be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor in combination with the source’s actual operating hours, production rates, or types of materials processed, stored, or combusted during the specified time period.

(4) “Adjacent” means interdependent facilities that are nearby to each other.

(5) “Affected source” means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.

(6) “Affected states” means all states:

(a) Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or

(b) That are within 50 miles of the permitted source.

(7) “Aggregate insignificant emissions” means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified.

(a) One ton for total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, and each criteria pollutant, except lead;

(b) 120 pounds for lead;

(c) 600 pounds for fluoride;

(d) 500 pounds for PM10 in a PM10 nonattainment area;

(e) The lesser of the amount established in OAR 340-244-0040, Table 1 or 340-244-0230, Table 3, or 1,000 pounds;

(f) An aggregate of 5,000 pounds for all Hazardous Air Pollutants.

(8) “Air Contaminant” means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.

(9) “Air Contaminant Discharge Permit” or “ACDP” means a written permit issued, renewed, amended, or revised by the Department, pursuant to OAR 340 division 216.

(10) “Alternative method” means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but has been demonstrated to the Department’s satisfaction to, in specific cases, produce results adequate for determination of compliance. An alternative method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.

(11) “Ambient Air” means that portion of the atmosphere, external to buildings, to which the general public has access.

(12) “Applicable requirement” means all of the following as they apply to emissions units in an Oregon Title V Operating Permit program source or ACDP program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:

(a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rule-making under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

(b) Any standard or other requirement adopted under OAR 340-200-0040 of the State of Oregon Clean Air Act Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;

(c) Any term or condition in an ACDP, OAR 340 division 216, including any term or condition of any preconstruction permits issued pursuant to OAR 340 division 224, New Source Review, until or unless the Department revokes or modifies the term or condition by a permit modification;

(d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-210-0205 through 340-210-0240, until or unless the Department revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;

(e) Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless the Department revokes or modifies the term or condition by a Notice of Approval or a permit modification;

(f) Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;

(g) Any standard or other requirement under section 111 of the Act, including section 111(d);

(h) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;

(i) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(j) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(k) Any standard or other requirement under section 126(a)(1) and(c) of the Act;

(l) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(m) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(n) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(o) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;

(p) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in an Oregon Title V Operating Permit; and

(q) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

(13) “Baseline Emission Rate” means the actual emission rate during the baseline period. Baseline emission rate does not include increases due to voluntary fuel switches or increased hours of operation that occurred after the baseline period.

(14) “Baseline Period” means any consecutive 12 calendar month period during calendar years 1977 or 1978. The Department may allow the use of a prior time period upon a determination that it is more representative of normal source operation.

(15) “Best Available Control Technology” or “BACT” means an emission limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for

ADMINISTRATIVE RULES

control of such air contaminant. In no event may the application of BACT result in emissions of any air contaminant that would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard must, to the degree possible, set forth the emission reduction achievable and provide for compliance by prescribing appropriate permit conditions.

(16) "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.

(17) "Capture system" means the equipment (including but not limited to hoods, ducts, fans, and booths) used to contain, capture and transport a pollutant to a control device.

(18) "Categorically insignificant activity" means any of the following listed pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.

(a) Constituents of a chemical mixture present at less than 1% by weight of any chemical or compound regulated under divisions 200 through 268 excluding divisions 248 and 262 of this chapter, or less than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year;

(b) Evaporative and tail pipe emissions from on-site motor vehicle operation;

(c) Distillate oil, kerosene, and gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hr;

(d) Natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr;

(e) Office activities;

(f) Food service activities;

(g) Janitorial activities;

(h) Personal care activities;

(i) Groundskeeping activities including, but not limited to building painting and road and parking lot maintenance;

(j) On-site laundry activities;

(k) On-site recreation facilities;

(l) Instrument calibration;

(m) Maintenance and repair shop;

(n) Automotive repair shops or storage garages;

(o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;

(p) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;

(q) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;

(r) Temporary construction activities;

(s) Warehouse activities;

(t) Accidental fires;

(u) Air vents from air compressors;

(v) Air purification systems;

(w) Continuous emissions monitoring vent lines;

(x) Demineralized water tanks;

(y) Pre-treatment of municipal water, including use of deionized water purification systems;

(z) Electrical charging stations;

(aa) Fire brigade training;

(bb) Instrument air dryers and distribution;

(cc) Process raw water filtration systems;

(dd) Pharmaceutical packaging;

(ee) Fire suppression;

(ff) Blueprint making;

(gg) Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;

(hh) Electric motors;

(ii) Storage tanks, reservoirs, transfer and lubricating equipment used for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;

(jj) On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing

gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;

(kk) Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;

(ll) Pressurized tanks containing gaseous compounds;

(mm) Vacuum sheet stacker vents;

(nn) Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;

(oo) Log ponds;

(pp) Storm water settling basins;

(qq) Fire suppression and training;

(rr) Paved roads and paved parking lots within an urban growth boundary;

(ss) Hazardous air pollutant emissions of fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;

(tt) Health, safety, and emergency response activities;

(uu) Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency as determined by the Department;

(vv) Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;

(ww) Non-contact steam condensate flash tanks;

(xx) Non-contact steam vents on condensate receivers, deaerators and similar equipment;

(yy) Boiler blowdown tanks;

(zz) Industrial cooling towers that do not use chromium-based water treatment chemicals;

(aaa) Ash piles maintained in a wetted condition and associated handling systems and activities;

(bbb) Oil/water separators in effluent treatment systems;

(ccc) Combustion source flame safety purging on startup;

(ddd) Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;

(eee) Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and

(fff) White water storage tanks.

(19) "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.

(20) "CFR" means Code of Federal Regulations.

(21) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-204-0050.

(22) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the Act and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.

(23) "Commission" or "EQC" means Environmental Quality Commission.

(24) "Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.

(25) "Construction":

(a) Except as provided in subsection(b) of this section means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;

(b) As used in OAR 340 division 224 means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or change in the method of operation of a source which would result in a change in actual emissions.

(26) "Continuous compliance determination method" means a method, specified by the applicable standard or an applicable permit condition, which:

(a) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and

ADMINISTRATIVE RULES

(b) Provides data either in units of the standard or correlated directly with the compliance limit.

(27) "Continuous Monitoring Systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.

(28) "Control device" means equipment, other than inherent process equipment, that is used to destroy or remove air pollutant(s) prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices (such as carbon beds), condensers, scrubbers (such as wet collection and gas absorption devices), selective catalytic or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems (such as water, steam, ammonia, sorbent or limestone injection), and combustion devices independent of the particular process being conducted at an emissions unit (e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters). For purposes of OAR 340-212-0200 through 340-212-0280, a control device does not include passive control measures that act to prevent pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular pollutant-specific emissions unit, then that definition will be binding for purposes of OAR 340-212-0200 through 340-212-0280.

(29) "Criteria Pollutant" means nitrogen oxides, volatile organic compounds, particulate matter, PM10, PM2.5, sulfur dioxide, carbon monoxide, or lead.

(30) "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.

(31) "De minimis emission level" means: [Table not included. See ED. NOTE.]

NOTE: De minimis is compared to all increases that are not included in the PSEL.

(32) "Department":

(a) Means Department of Environmental Quality; except

(b) As used in OAR 340 divisions 218 and 220 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Protection Agency.

(33) "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.

(34) "Director" means the Director of the Department or the Director's designee.

(35) "Draft permit" means the version of an Oregon Title V Operating Permit for which the Department or Lane Regional Air Protection Agency offers public participation under OAR 340-218-0210 or the EPA and affected State review under 340-218-0230.

(36) "Effective date of the program" means the date that the EPA approves the Oregon Title V Operating Permit program submitted by the Department on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.

(37) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(38) "Emission" means a release into the atmosphere of any regulated pollutant or any air contaminant.

(39) "Emission Estimate Adjustment Factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.

(40) "Emission Factor" means an estimate of the rate at which a pollutant is released into the atmosphere, as the result of some activity, divid-

ed by the rate of that activity (e.g., production or process rate). Where an emission factor is required sources must use an emission factor approved by EPA or the Department.

(41)(a) Except as provided in subsection (b) of this section, "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or the EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(b) As used in OAR 340-212-0200 through 340-212-0280, "Emission limitation or standard" means any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the Act. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions (e.g., pounds of SO₂ per hour, pounds of SO₂ per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO₂) or as the relationship of uncontrolled to controlled emissions (e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO₂). An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of 340-212-0200 through 340-212-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, to operate and maintain sources in accordance with good air pollution control practices, to develop and maintain a malfunction abatement plan, to keep records, submit reports, or conduct monitoring.

(42) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of OAR 340 division 268, Emission Reduction Credits, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(43) "Emission Reporting Form" means a paper or electronic form developed by the Department that must be completed by the permittee to report calculated emissions, actual emissions, or permitted emissions for interim emission fee assessment purposes.

(44) "Emissions unit" means any part or activity of a source that emits or has the potential to emit any regulated air pollutant.

(a) A part of a source is any machine, equipment, raw material, product, or byproduct that produces or emits regulated air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits regulated air pollutants. Except as described in subsection (d) of this section, parts and activities may be grouped for purposes of defining an emissions unit if the following conditions are met:

(A) The group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply; and

(B) The emissions from the emissions unit are quantifiable.

(b) Emissions units may be defined on a pollutant by pollutant basis where applicable.

(c) The term emissions unit is not meant to alter or affect the definition of the term "unit" under Title IV of the FCAA.

(d) Parts and activities cannot be grouped for determining emissions increases from an emissions unit under OAR 340-224-0050 through 340-224-0070, or 340 division 210, or for determining the applicability of any New Source Performance Standard (NSPS).

(45) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

(46) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.

(47) "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.

(48) "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions (or opacity) are greater than the applicable emission limitation or standard (or less than the applicable standard in the case

ADMINISTRATIVE RULES

of a percent reduction requirement) consistent with any averaging period specified for averaging the results of the monitoring.

(49) "Excess emissions" means emissions in excess of a permit limit or any applicable air quality rule.

(50) "Excursion" means a departure from an indicator range established for monitoring under OAR 340-212-0200 through 340-212-0280 and 340-218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.

(51) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.

(52) Federal Major Source means a source with potential to emit any individual regulated pollutant, excluding hazardous air pollutants listed in OAR 340 division 244, greater than or equal to 100 tons per year if in a source category listed below, or 250 tons per year if not in a source category listed. Potential to emit calculations must include emission increases due to a new or modified source.

(a) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;

(b) Coal cleaning plants with thermal dryers;

(c) Kraft pulp mills;

(d) Portland cement plants;

(e) Primary Zinc Smelters;

(f) Iron and Steel Mill Plants;

(g) Primary aluminum ore reduction plants;

(h) Primary copper smelters;

(i) Municipal Incinerators capable of charging more than 50 tons of refuse per day;

(j) Hydrofluoric acid plants;

(k) Sulfuric acid plants;

(l) Nitric acid plants;

(m) Petroleum Refineries;

(n) Lime plants;

(o) Phosphate rock processing plants;

(p) Coke oven batteries;

(q) Sulfur recovery plants;

(r) Carbon black plants, furnace process;

(s) Primary lead smelters;

(t) Fuel conversion plants;

(u) Sintering plants;

(v) Secondary metal production plants;

(w) Chemical process plants;

(x) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;

(y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(z) Taconite ore processing plants;

(aa) Glass fiber processing plants;

(bb) Charcoal production plants.

(53) "Final permit" means the version of an Oregon Title V Operating Permit issued by the Department or Lane Regional Air Protection Agency that has completed all review procedures required by OAR 340-218-0120 through 340-218-0240.

(54) "Fugitive Emissions":

(a) Except as used in subsection (b) of this section, means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

(b) As used to define a major Oregon Title V Operating Permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(55) "General permit":

(a) Except as provided in subsection (b) of this section, means an Oregon Air Contaminant Discharge Permit established under OAR 340-216-0060;

(b) As used in OAR 340 division 218 means an Oregon Title V Operating Permit established under OAR 340-218-0090.

(56) "Generic PSEL" means: [Table not included. See ED. NOTE.]

NOTE: Sources are eligible for a generic PSEL if expected emissions are less than or equal to the levels listed in the table above. Baseline emission rate and netting basis do not apply to pollutants at sources using generic PSELS.

(57) "Growth Allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.

(58) "Immediately" means as soon as possible but in no case more than one hour after a source knew or should have known of an excess emission period.

(59) "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of OAR 340-212-0200 through 340-212-0280, inherent process equipment is not considered a control device.

(60) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.

(61) "Insignificant Change" means an off-permit change defined under OAR 340-218-0140(2)(a) to either a significant or an insignificant activity which:

(a) Does not result in a re-designation from an insignificant to a significant activity;

(b) Does not invoke an applicable requirement not included in the permit; and

(c) Does not result in emission of regulated air pollutants not regulated by the source's permit.

(62) "Late Payment" means a fee payment which is postmarked after the due date.

(63) "Lowest Achievable Emission Rate" or "LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. The application of this term cannot permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.

(64) "Maintenance Area" means a geographical area of the State that was designated as a nonattainment area, redesignated as an attainment area by EPA, and redesignated as a maintenance area by the Environmental Quality Commission in OAR 340, division 204.

(65) "Maintenance Pollutant" means a pollutant for which a maintenance area was formerly designated a nonattainment area.

(66) "Major Modification" means any physical change or change of operation of a source that results in the following for any regulated air pollutant:

(a) An increase in the PSEL by an amount equal to or more than the significant emission rate over the netting basis; and

(b) The accumulation of physical changes and changes of operation since baseline would result in a significant emission rate increase.

(A) Calculations of emission increases in (b) must account for all accumulated increases in actual emissions due to physical changes and changes of operation occurring at the source since the baseline period, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations in OAR 340 division 224 for that pollutant, whichever time is more recent. These include emissions from insignificant activities.

(B) Emission increases due solely to increased use of equipment or facilities that existed during the baseline period are not included, if that increased use was possible during the baseline period under the baseline configuration of the source, and the increased use of baseline equipment capacity is not to support a physical change or change in operation.

(c) For new or modified major sources that were permitted to construct and operate after the baseline period and were not subject to New Source Review, a major modification means:

(A) Any change at a source, including production increases, that would result in a Plant Site Emission Limit increase of 1 ton or more for any regulated pollutant for which the source is a major source; or

(B) The addition or modification of any stationary source or sources after the initial construction that have cumulative potential emissions greater than or equal to the significant emission rate, excluding any emission decreases.

(C) Changes to the PSEL solely due to the availability of better emissions information are exempt from being considered an increase.

(d) The following are not considered major modifications:

(A) Except as provided in (c), proposed increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit and would not involve a physical change or change in method of operation in the source;

ADMINISTRATIVE RULES

(B) Pollution control projects that are determined by the Department to be environmentally beneficial;

(C) Routine maintenance, repair, and replacement of components;

(D) Temporary equipment installed for maintenance of the permanent equipment if the temporary equipment is in place for less than six months and operated within the permanent equipment's existing PSEL;

(E) Use of alternate fuel or raw materials, that were available and the source was capable of accommodating in the baseline period.

(67) "Major Source":

(a) Except as provided in subsection (b), means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. This includes emissions from insignificant activities.

(b) As used in OAR 340 division 210, Stationary Source Notification Requirements, OAR 340 division 218, rules applicable to sources required to have Oregon Title V Operating Permits, OAR 340 division 220, Oregon Title V Operating Permit Fees, and 340-216-0066 Standard ACDPs, means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping or supporting the major industrial group and that is described in paragraphs (A), (B) or (C) of this subsection. For the purposes of this subsection, a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.

(A) A major source of hazardous air pollutants, which means:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutants that has been listed pursuant to OAR 340-244-0040; 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" will have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit 100 tpy or more of any regulated air pollutant, including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source are not considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 50 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(xxvii) Any other stationary source category, that as of August 7, 1980 is being regulated under section 111 or 112 of the Act.

(C) A major stationary source as defined in part D of Title I of the Act, including:

(i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides do not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of VOCs;

(iii) For carbon monoxide nonattainment areas:

(I) That are classified as "serious"; and

(II) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide.

(iv) For particulate matter (PM₁₀) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM₁₀.

(68) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process.

(69) "Modification," except as used in the term "major modification," means any physical change to, or change in the method of operation of, a stationary source that results in an increase in the stationary source's potential to emit any regulated air pollutant on an hourly basis. Modifications do not include the following:

(a) Increases in hours of operation or production rates that do not involve a physical change or change in the method of operation;

(b) Changes in the method of operation due to using an alternative fuel or raw material that the stationary source was physically capable of accommodating during the baseline period; and

(c) Routine maintenance, repair and like-for-like replacement of components unless they increase the expected life of the stationary source by using component upgrades that would not otherwise be necessary for the stationary source to function.

(70) "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance with an emission limitation or standard (such as records of raw material content and usage, or records documenting compliance with work practice requirements). Monitoring may include conducting compliance method tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis. Requirements to conduct such tests on a one-time basis, or at such times as a regulatory authority may require on a non-regular basis, are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques as appropriate for a particular circumstance:

(a) Continuous emission or opacity monitoring systems.

(b) Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.

(c) Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).

(d) Maintaining and analyzing records of fuel or raw materials usage.

(e) Recording results of a program or protocol to conduct specific operation and maintenance procedures.

(f) Verifying emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.

(g) Visible emission observations and recording.

(h) Any other form of measuring, recording, or verifying on a routine basis emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.

ADMINISTRATIVE RULES

(71) "Netting Basis" means the baseline emission rate MINUS any emission reductions required by rule, orders, or permit conditions required by the SIP or used to avoid SIP requirements, MINUS any unassigned emissions that are reduced from allowable under OAR 340-222-0045, MINUS any emission reduction credits transferred off site, PLUS any emission increases approved through the New Source Review regulations.

(a) With the first permitting action for a source after July 1, 2002, the baseline emissions rate will be frozen and recalculated only if:

(A) A better emission factor is established for the baseline period and approved by the Department;

(B) A currently operating emissions unit that the Department formerly thought had negligible emissions, is determined to have non-de minimis emissions and needs to be added to the baseline emission rate; or

(C) A new pollutant is added to the regulated pollutant list (e.g., PM_{2.5}). For a pollutant that is newly regulated after 11/15/90, the initial netting basis is the actual emissions during any 12 consecutive month period within the 24 months immediately preceding its designation as a regulated pollutant. The Department may allow a prior 12 consecutive month time period to be used if it is shown to be more representative of normal source operation.

(b) Netting basis is zero for:

(A) any source constructed after the baseline period and has not undergone New Source Review;

(B) Any pollutant that has a generic PSEL in a permit;

(C) Any source permitted as portable; and

(D) Any source with a netting basis calculation resulting in a negative number.

(c) If a source relocates to an adjacent site, and the time between operation at the old and new sites is less than six months, the source may retain the netting basis from the old site.

(d) Emission reductions required by rule, order, or permit condition affect the netting basis if the source currently has devices or emissions units that are subject to the rules, order, or permit condition. The baseline emission rate is not affected.

(e) Netting basis for a pollutant with a revised definition will be adjusted if the source is emitting the pollutant at the time of redefining and the pollutant is included in the permit's netting basis.

(f) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis will be established at no more than the level used in the dispersion modeling to demonstrate attainment with the ambient air quality standard (i.e., the attainment demonstration is an emission reduction required by rule).

(72) "Nitrogen Oxides" or "NO_x" means all oxides of nitrogen except nitrous oxide.

(73) "Nonattainment Area" means a geographical area of the State, as designated by the Environmental Quality Commission or the EPA, that exceeds any state or federal primary or secondary ambient air quality standard.

(74) "Nonattainment Pollutant" means a pollutant for which an area is designated a nonattainment area.

(75) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.

(76) "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a proposed major source or major modification of an existing source.

(77) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with OAR 340-212-0120 and 212-0140. Unless otherwise specified by rule, opacity shall be measured in accordance with EPA Method 9 or a continuous opacity monitoring system (COMS) installed and operated in accordance with the Department's Continuous Monitoring Manual. For all standards, the minimum observation period shall be six minutes, though longer periods may be required by a specific rule or permit condition. Aggregate times (e.g. 3 minutes in any one hour) consist of the total duration of all readings during the observation period that equal or exceed the opacity percentage in the standard, whether or not the readings are consecutive.

(78) "Oregon Title V Operating Permit" means any permit covering an Oregon Title V Operating Permit source that is issued, renewed, amended, or revised pursuant to division 218.

(79) "Oregon Title V Operating Permit program" means a program approved by the Administrator under 40 CFR Part 70.

(80) "Oregon Title V Operating Permit program source" means any source subject to the permitting requirements, OAR 340 division 218.

(81) "Ozone Season" means the contiguous 3 month period during which ozone exceedances typically occur (i.e., June, July, and August).

(82) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air. When used in emission standards, particulate matter is defined by the method specified within the standard or by an applicable reference method in accordance with OAR 340-212-0120 and 340-212-0140. Unless otherwise specified, sources with exhaust gases at or near ambient conditions may be tested with DEQ Method 5 or DEQ Method 8, as approved by the Department. Direct heat transfer sources shall be tested with DEQ Method 7; indirect heat transfer combustion sources and all other non-fugitive emissions sources not listed above shall be tested with DEQ Method 5.

(83) "Permit" means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.

(84) "Permit modification" means a permit revision that meets the applicable requirements of OAR 340 division 216, 340 division 224, or 340-218-0160 through 340-218-0180.

(85) "Permit revision" means any permit modification or administrative permit amendment.

(86) "Permitted Emissions" as used in OAR division 220 means each regulated pollutant portion of the PSEL, as identified in an ACDP, Oregon Title V Operating Permit, review report, or by the Department pursuant to OAR 340-220-0090.

(87) "Permittee" means the owner or operator of the facility, authorized by the ACDP or the Oregon Title V Operating Permit to operate the source.

(88) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.

(89) "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one permitted emission.

(90) "PM₁₀":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992);

(b) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with 40 CFR Part 50, Appendix J.

(91) "PM_{2.5}":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air as measured by conditional test method CTM-040 (EPA Emission Measurement Center) and a reference method based on 40 CFR Part 52, Appendix M.

(b) When used in the context of ambient concentration, means particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50, Appendix L, or an equivalent method designated in accordance with 40 CFR Part 53.

(92) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated air pollutant.

(93) "Potential to emit" or "PTE" means the lesser of:

(a) The capacity of a stationary source; or

(b) The maximum allowable emissions taking into consideration any physical or operational limitation, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation is enforceable by the Administrator.

(c) This definition does not alter or affect the use of this term for any other purposes under the Act or the term "capacity factor" as used in Title IV of the Act and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.

(94) "Predictive emission monitoring system (PEMS)" means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

ADMINISTRATIVE RULES

(95) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(96) "Proposed permit" means the version of an Oregon Title V Operating Permit that the Department or a Regional Agency proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.

(97) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 60, 61 or 63.

(98) "Regional Agency" means Lane Regional Air Protection Agency.

(99) "Regulated air pollutant" or "Regulated Pollutant":

(a) Except as provided in subsections (b) and (c) of this rule, means:

(A) Nitrogen oxides or any VOCs;

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(E) Any pollutant listed under OAR 340-244-0040 or 340-244-0230.

(b) As used in OAR 340 division 220, regulated pollutant means particulates, volatile organic compounds, oxides of nitrogen and sulfur dioxide.

(c) As used in OAR 340 division 224 any pollutant listed under OAR 340-244-0040 or 340-244-0230 is not a regulated pollutant.

(100) "Renewal" means the process by which a permit is reissued at the end of its term.

(101) "Responsible official" means one of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(B) The delegation of authority to such representative is approved in advance by the Department or Lane Regional Air Protection Agency.

(b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this Division, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the EPA); or

(d) For affected sources:

(A) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated there under are concerned; and

(B) The designated representative for any other purposes under the Oregon Title V Operating Permit program.

(102) "Secondary Emissions" means emissions that are a result of the construction and/or operation of a source or modification, but that do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships and trains coming to or from a facility;

(b) Emissions from off-site support facilities that would be constructed or would otherwise increase emissions as a result of the construction or modification of a source.

(103) "Section 111" means section 111 of the FCAA which includes Standards of Performance for New Stationary Sources (NSPS).

(104) "Section 111(d)" means subsection 111(d) of the FCAA which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.

(105) "Section 112" means section 112 of the FCAA which contains regulations for Hazardous Air Pollutants (HAP).

(106) "Section 112(b)" means subsection 112(b) of the FCAA which includes the list of hazardous air pollutants to be regulated.

(107) "Section 112(d)" means subsection 112(d) of the FCAA which directs the EPA to establish emission standards for sources of hazardous air

pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.

(108) "Section 112(e)" means subsection 112(e) of the FCAA which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.

(109) "Section 112(r)(7)" means subsection 112(r)(7) of the FCAA which requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.

(110) "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA which requires enhanced monitoring and submission of compliance certifications for major sources.

(111) "Section 129" means section 129 of the FCAA which requires the EPA to establish emission standards and other requirements for solid waste incineration units.

(112) "Section 129(e)" means subsection 129(e) of the FCAA which requires solid waste incineration units to obtain Oregon Title V Operating Permits.

(113) "Section 182(f)" means subsection 182(f) of the FCAA which requires states to include plan provisions in the State Implementation Plan for NOx in ozone nonattainment areas.

(114) "Section 182(f)(1)" means subsection 182(f)(1) of the FCAA which requires states to apply those plan provisions developed for major VOC sources and major NOx sources in ozone nonattainment areas.

(115) "Section 183(e)" means subsection 183(e) of the FCAA which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.

(116) "Section 183(f)" means subsection 182(f) of the FCAA which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.

(117) "Section 184" means section 184 of the FCAA which contains regulations for the control of interstate ozone air pollution.

(118) "Section 302" means section 302 of the FCAA which contains definitions for general and administrative purposes in the Act.

(119) "Section 302(j)" means subsection 302(j) of the FCAA which contains definitions of "major stationary source" and "major emitting facility."

(120) "Section 328" means section 328 of the FCAA which contains regulations for air pollution from outer continental shelf activities.

(121) "Section 408(a)" means subsection 408(a) of the FCAA which contains regulations for the Title IV permit program.

(122) "Section 502(b)(10) change" means a change which contravenes an express permit term but is not a change that:

(a) Would violate applicable requirements;

(b) Would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or

(c) Is a Title I modification.

(123) "Section 504(b)" means subsection 504(b) of the FCAA which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.

(124) "Section 504(e)" means subsection 504(e) of the FCAA which contains regulations for permit requirements for temporary sources.

(125) "Significant Air Quality Impact" means an additional ambient air quality concentration equal to or greater than in the concentrations listed in Table 1. The threshold concentrations listed in Table 1 are used for comparison against the ambient air quality standard and do not apply for protecting PSD Class I increments or air quality related values (including visibility). For sources of VOC or NOx, a major source or major modification has a significant impact if it is located within the Ozone Precursor Distance defined in OAR 340-225-0020.

(126) "Significant Emission Rate" or "SER," except as provided in subsections (a) through (c) of this section, means an emission rate equal to or greater than the rates specified in Table 2.

(a) For the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rate for PM10 is defined in Table 3.

(b) For regulated air pollutants not listed in Table 2 or 3, the significant emission rate is zero unless the Department determines the rate that constitutes a significant emission rate.

(c) Any new source or modification with an emissions increase less than the rates specified in Table 2 or 3 associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m³ (24 hour average) is emitting at a significant emission rate.

ADMINISTRATIVE RULES

(127) "Significant Impairment" occurs when the Department determines that visibility impairment interferes with the management, protection, preservation, or enjoyment of the visual experience within a Class I area. The Department will make this determination on a case-by-case basis after considering the recommendations of the Federal Land Manager and the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered along with visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(128) "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all pollutant emitting activities that belong to a single major industrial group (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987) or that support the major industrial group.

(129) "Source category":

(a) Except as provided in subsection(b) of this section, means all the pollutant emitting activities that belong to the same industrial grouping(i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987).

(b) As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that the Department determines are using similar raw materials and have equivalent process controls and pollution control equipment.

(130) "Source Test" means the average of at least three test runs conducted in accordance with the Department's Source Sampling Manual.

(131) "Startup" and "shutdown" means that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively.

(132) "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the Commission under OAR 340-200-0040 and approved by EPA.

(133) "Stationary source" means any building, structure, facility, or installation at a source that emits or may emit any regulated air pollutant.

(134) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.

(135) "Synthetic minor source" means a source that would be classified as a major source under OAR 340-200-0020, but for limits on its potential to emit air pollutants contained in a permit issued by the Department under OAR 340 division 216 or 218.

(136) "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:

(a) A major modification subject to OAR 340-224-0050, Requirements for Sources in Nonattainment Areas;

(b) A major modification subject to OAR 340-224-0060, Requirements for Sources in Maintenance Areas;

(c) A major modification subject to OAR 340-224-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas;

(d) A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or

(e) A modification under Section 112 of the FCAA.

(137) "Total Reduced Sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide(H₂S).

(138) "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit in accordance with OAR 340-226-0130. For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. TACT determinations will be based on information known to the Department while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control equipment. The Department may consider emission control technologies typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a

design, equipment, work practice, operational standard, or combination thereof, may be required.

(139) "Unassigned Emissions" means the amount of emissions that are in excess of the PSEL but less than the Netting Basis.

(140) "Unavoidable" or "could not be avoided" means events that are not caused entirely or in part by poor or inadequate design, operation, maintenance, or any other preventable condition in either process or control equipment.

(141) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment that may cause excess emissions.

(142) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

(143) "Volatile Organic Compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

(a) This includes any such organic compound except the following, which have been determined to have negligible photochemical reactivity in the formation of tropospheric ozone: methane; ethane; methylene chloride(dichloromethane); dimethyl carbonate; 1,1,1-trichloroethane(methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane(CFC-113); trichlorofluoromethane(CFC-11); dichlorodifluoromethane(CFC-12); chlorodifluoromethane(HCFC-22); trifluoromethane(HFC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane(CFC-115); 1,1,1-trifluoro-2,2-dichloroethane(HCFC-123); 1,1,1,2-tetrafluoroethane(HFC-134a); 1,1-dichloro 1-fluoroethane(HCFC-141b); 1-chloro 1,1-difluoroethane(HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane(HCFC-124); pentafluoroethane(HFC-125); 1,1,2,2-tetrafluoroethane(HFC-134); 1,1,1-trifluoroethane(HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride(PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene(tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane(HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane HFC 43-10mee); difluoromethane(HFC-32); ethyl fluoride(HFC-161); 1,1,1,3,3,3-hexafluoropropane(HFC-236fa); 1,1,2,2,3-pentafluoropropane(HFC-245ca); 1,1,2,3,3-pentafluoropropane(HFC-245ea); 1,1,1,2,3-pentafluoropropane(HFC-245eb); 1,1,1,3,3-pentafluoropropane(HFC-245fa); 1,1,1,2,3,3-hexafluoropropane(HFC-236ea); 1,1,1,3,3-pentafluorobutane(HFC-365mf); chlorofluoromethane (HCFC-31); 1 chloro-1-fluoroethane(HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane(HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane(C4F9OCH₃ or HFE-7100); 2-(difluoromethoxy)methyl-1,1,1,2,3,3,3-heptafluoropropane((CF₃)₂CF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane(C4F9OC₂H₅ or HFE-7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₂); methyl acetate; 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane(n-C₃F₇OCH₃, HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6-decafluoro-2-(trifluoromethyl) hexane(HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane(HFC 227ea); methyl formate (HCOOCH₃); (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane(HFE-7300); and perfluorocarbon compounds that fall into these classes:

(A) Cyclic, branched, or linear, completely fluorinated alkanes;

(B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(D) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in accordance with the Department's Source Sampling Manual, January, 1992. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and the Department approves the exclusion.

(c) The Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the Department's satisfaction, the amount of negligibly-reactive compounds in the source's emissions.

(d) The following compound(s) are VOC for purposes of all record-keeping, emissions reporting, photochemical dispersion modeling and

ADMINISTRATIVE RULES

inventory requirements which apply to VOC and must be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

(144) "Year" means any consecutive 12 month period of time.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: [DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93]; [DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033.04; DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989, f. & cert. ef. 6-26-89; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0145, 340-020-0225, 340-020-0305, 340-020-0355, 340-020-0460 & 340-020-0520; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0205, 340-028-0110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 5-2010, f. & cert. ef. 5-21-10]

340-200-0025

Abbreviations and Acronyms

(1) "ACDP" means Air Contaminant Discharge Permit.

(2) "ACT" means Federal Clean Air Act.

(3) "AE" means Actual Emissions.

(4) "AICPA" means Association of Independent Certified Public

Accountants.

(5) "AQCR" means Air Quality Control Region.

(6) "AQMA" means Air Quality Maintenance Area.

(7) "ASME" means American Society of Mechanical Engineers.

(8) "ASTM" means American Society for Testing & Materials.

(9) "ATETP" means Automotive Technician Emission Training

Program.

(10) "AWD" means all wheel drive.

(11) "BACT" means Best Available Control Technology.

(12) "BLS" means black liquor solids.

(13) "CAA" means Clean Air Act

(14) "CAR" means control area responsible party.

(15) "CBD" means central business district.

(16) "CCTMP" means Central City Transportation Management Plan.

(17) "CEM" means continuous emissions monitoring.

(18) "CEMS" means continuous emission monitoring system.

(19) "CERCLA" means Comprehensive Environmental Response Compensation and Liability Act.

(20) "CFRMS" means continuous flow rate monitoring system.

(21) "CFR" means Code of Federal Regulations.

(22) "CMS" means continuous monitoring system.

(23) "CO" means carbon monoxide.

(24) "COMS" means continuous opacity monitoring system.

(25) "CPMS" means continuous parameter monitoring system.

(26) "DEQ" means Department of Environmental Quality.

(27) "DOD" means Department of Defense.

(28) "EA" means environmental assessment.

(29) "ECO" means employee commute options.

(30) "EEAF" means emissions estimate adjustment factor.

(31) "EF" means emission factor.

(32) "EGR" means exhaust gas re-circulation.

(33) "EIS" means Environmental Impact Statement

(34) "EPA" means Environmental Protection Agency.

(35) "EQC" means Environmental Quality Commission.

(36) "ESP" means electrostatic precipitator.

(37) "FAAA" means Federal Clean Air Act.

(38) "FHWA" means Federal Highway Administration.

(39) "FONSI" means finding of no significant impact.

(40) "FTA" means Federal Transit Administration.

(41) "GFA" means gross floor area.

(42) "GLA" means gross leasable area.

(43) "GPM" means grams per mile.

(44) "gr/dscf" means grains per dry standard cubic foot.

(45) "GTBA" means grade tertiary butyl alcohol.

(46) "GVWR" means gross vehicle weight rating.

(47) "HAP" means hazardous air pollutant.

(48) "HEPA" means high efficiency particulate air.

(49) "HMIWT" means hospital medical infectious waste incinerator.

(50) "I/M" means inspection and maintenance program.

(51) "IG" means inspection grade.

(52) "IRS" means Internal Revenue Service.

(53) "ISECP" means indirect source emission control program.

(54) "ISTEA" means Intermodal Surface Transportation Efficiency

Act.

(55) "LAER" means Lowest Achievable Emission Rate.

(56) "LDT2" means light duty truck 2.

(57) "LIDAR" means laser radar; light detection and ranging.

(58) "LPG" means liquefied petroleum gas.

(59) "LRAPA" means Lane Regional Air Protection Agency.

(60) "LUCS" means Land Use Compatibility Statement.

(61) "MACT" means Maximum Achievable Control Technology.

(62) "MPO" means Metropolitan Planning Organization.

(63) "MTBE" means methyl tertiary butyl ether.

(64) "MWC" means municipal waste combustor.

(65) "NAAQS" means National Ambient Air Quality Standards.

(66) "NEPA" means National Environmental Policy Act.

(67) "NESHAP" means National Emissions Standard for Hazardous Air Pollutants.

(68) "NIOSH" means National Institute of Occupational Safety & Health.

(69) "NOx" means nitrogen oxides.

(70) "NSPS" means New Source Performance Standards.

(71) "NSR" means New Source Review.

(72) "NSSC" means neutral sulfite semi-chemical.

(73) "O3" means ozone.

(74) "OAR" means Oregon Administrative Rules.

(75) "ODOT" means Oregon Department of Transportation.

(76) "ORS" means Oregon Revised Statutes.

(77) "OSAC" means orifice spark advance control.

(78) "OSHA" means Occupational Safety & Health Administration.

(79) "PCDE" means pollution control device collection efficiency.

(80) "PEMS" means predictive emission monitoring system.

(81) "PM" means particulate matter.

(82) "PM10" means particulate matter less than 10 microns.

(83) "PM2.5" means particulate matter less than 2.5 microns.

(84) "POTW" means Publicly Owned Treatment Works.

(85) "POV" means privately owned vehicle.

(86) "PSD" means Prevention of Significant Deterioration.

(87) "PSEL" means Plant Site Emission Limit.

(88) "QIP" means quality improvement plan.

(89) "RACT" means Reasonably Available Control Technology.

(90) "RVCOG" means Rogue Valley Council of Governments.

(91) "RWOC" means running weighted oxygen content.

(92) "SKATS" means Salem-Kaiser Area Transportation Study.

(93) "scf" means standard cubic feet.

(94) "SCS" means speed control switch.

(95) "SD" means standard deviation.

(96) "SIP" means State Implementation Plan.

(97) "SO2" means sulfur dioxide.

(98) "SOCMI" means synthetic organic chemical manufacturing industry.

(99) "SOS" means Secretary of State.

(100) "TAC" means thermostatic air cleaner.

(101) "TACT" means Typically Achievable Control Technology.

(102) "TCM" means transportation control measures.

(103) "TCS" means throttle control solenoid.

(104) "TIP" means Transportation Improvement Program.

(105) "TRS" means total reduced sulfur.

(106) "TSP" means total suspended particulate matter.

(107) "UGA" means urban growth area.

(108) "UGB" means urban growth boundary.

(109) "US DOT" means United States Department of Transportation.

(110) "UST" means underground storage tanks.

(111) "UTM" means universal transverse mercator.

(112) "VIN" means vehicle identification number.

(113) "VMT" means vehicle miles traveled.

(114) "VOC" means volatile organic compounds.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2010, f. & cert. ef. 5-21-10

ADMINISTRATIVE RULES

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal **Clean Air Act, 42 U.S.C.A 7401 to 7671q**.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on April 29, 2010.

(3) Notwithstanding any other requirement contained in the SIP, the Department may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after the Department has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 2002); and

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

NOTE: Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, the Department shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996 (Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000 f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2008, f. & cert. ef. 3-20-08; DEQ 11-2008, f. & cert. ef. 8-29-08; DEQ 12-2008, f. & cert. ef. 9-17-08; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 3-2009, f. & cert. ef. 6-30-09; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 2-2010, f. & cert. ef. 3-5-10; DEQ 5-2010, f. & cert. ef. 5-21-10

340-202-0060

Suspended Particulate Matter

Concentrations of the fraction of suspended particulate that is equal to or less than ten microns in aerodynamic diameter in ambient air as measured by an approved method must not exceed:

(1) 50 micrograms of PM10 per cubic meter of air as an annual arithmetic mean. This standard is attained when the expected annual arithmetic mean concentration, as determined in accordance with **Appendix K of 40 CFR 50** is less than or equal to 50 micrograms per cubic meter at any site.

(2) 150 micrograms of PM10 per cubic meter of air as a 24-hour average concentration for any calendar day. This standard is attained when the

expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter as determined in accordance with Appendix K of 40 CFR 50 is equal to or less than one at any site. Concentrations of the fraction of suspended particulate that is equal to or less than 2.5 microns in aerodynamic diameter in ambient air as measured by an approved method must not exceed:

(3) 35 micrograms of PM2.5 per cubic meter of air as a 3-year average of annual 98th percentile 24-hour average values recorded at each monitoring site. This standard is attained when the 3-year average of annual 98th percentile 24-hour average concentrations is equal to or less than 35 micrograms per cubic meter as determined in accordance with **Appendix N of 40 CFR 50**.

(4) 15 micrograms of PM2.5 per cubic meter of air as a 3-year average of the annual arithmetic mean. This standard is attained when the annual arithmetic mean concentration is equal to or less than 15 micrograms per cubic meter as determined in accordance with Appendix N of 40 CFR 50.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0015; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2010, f. & cert. ef. 5-21-10

340-202-0090

Ozone

Concentrations of ozone in ambient air as measured by an approved method must not exceed 0.075 ppm as a daily maximum eight-hour average concentration. This standard is attained when, at any site the average of the annual fourth-highest daily maximum eight-hour average ozone concentration is equal to or less than 0.075 ppm as determined by the method of **Appendix I, 40 CFR 50**.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 15-1979, f. & ef. 6-22-79; DEQ 7-1980, f. & ef. 3-5-80; DEQ 4-1982, f. & ef. 1-29-82; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0030; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 5-2010, f. & cert. ef. 5-21-10

340-202-0130

Ambient Air Quality Standard for Lead

The lead concentration in ambient air as measured by an approved method must not exceed 0.15 micrograms per cubic meter as a maximum arithmetic mean averaged over a calendar quarter, determined by **Appendix R, 40 CFR 50**.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 85, f. 1-29-75, ef. 2-25-75; DEQ 1-1983, f. & ef. 1-21-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0055; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2010, f. & cert. ef. 5-21-10

340-204-0010

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020, the definition in this rule applies to this division. Definitions of boundaries in this rule also apply to OAR 340 division 200 through 268 and throughout the State of Oregon Clean Air Act Implementation Plan adopted under 340-200-0040.

(1) "AQCR" means Air Quality Control Region.

(2) "AQMA" means Air Quality Maintenance Area.

(3) "CO" means Carbon Monoxide.

(4) "CBD" means Central Business District.

(5) "Criteria Pollutant" means any of the six pollutants set out by the Clean Air Act (sulfur oxides, particulate matter, ozone, carbon monoxide, nitrogen dioxide, and lead) for which the EPA has promulgated standards in 40 CFR 50.4 through 50.12 (July, 1993).

(6) "Eugene-Springfield UGA" means the area within the bounds beginning at the Willamette River at a point due east from the intersection of East Beacon Road and River Loop No.1; thence southerly along the Willamette River to the intersection with Belt Line Road; thence easterly along Belt Line Road approximately one-half mile to the intersection with

ADMINISTRATIVE RULES

Delta Highway; thence northwesterly and then northerly along Delta Highway and on a line north from the Delta Highway to the intersection with the McKenzie River; thence generally southerly and easterly along the McKenzie River approximately eleven miles to the intersection with Marcola Road; thence southwestwardly along Marcola Road to the intersection with 42nd Street; thence southerly along 42nd Street to the intersection with the northern branch of US Highway 126; thence easterly along US Highway 126 to the intersection with 52nd Street; thence north along 52nd Street to the intersection with High Banks Road; thence easterly along High Banks Road to the intersection with 58th Street; thence south along 58th Street to the intersection with Thurston Road; thence easterly along Thurston Road to the intersection with the western boundary of Section 36, T17S, R2W; thence south to the southwest corner of Section 36, T17S, R2W; thence west to the Springfield City Limits; thence following the Springfield City Limits southwestwardly to the intersection with the western boundary of Section 2, T18S, R2W; thence on a line southwest to the Private Logging Road approximately one-half mile away; thence south-easterly along the Private Logging Road to the intersection with Wallace Creek; thence southwestwardly along Wallace Creek to the confluence with the Middle Fork of the Willamette River; thence generally northwesterly along the Middle Fork of the Willamette River approximately seven and one-half miles to the intersection with the northern boundary of Section 11, T18S, R3W; thence west to the northwest corner of Section 10, T18S, R3W; thence south to the intersection with 30th Avenue; thence westerly along 30th Avenue to the intersection with the Eugene City Limits; thence following the Eugene City Limits first southerly then westerly then northerly and finally westerly to the intersection with the northern boundary of Section 5, T18S, R4W; thence west to the intersection with Greenhill Road; thence north along Greenhill Road to the intersection with Barger Drive; thence east along Barger Drive to the intersection with the Eugene City Limits (Ohio Street); thence following the Eugene City Limits first north then east then north then east then south then east to the intersection with Jansen Drive; thence east along Jansen Drive to the intersection with Belt Line Road; thence northeasterly along Belt Line Road to the intersection with Highway 99; thence northwesterly along Highway 99 to the intersection with Clear Lake Road; thence west along Clear Lake Road to the intersection with the western boundary of Section 9, T17S, R4W; thence north to the intersection with Airport Road; thence east along Airport Road to the intersection with Highway 99; thence northwesterly along Highway 99 to the intersection East Enid Road; thence east along East Enid Road to the intersection with Prairie Road; thence southerly along Prairie Road to the intersection with Irvington Road; thence east along Irvington Road to the intersection with the Southern Pacific Railroad Line; thence southeasterly along the Southern Pacific Railroad Line to the intersection with Irving Road; thence east along Irving Road to the intersection with Kalmia Road; thence northerly along Kalmia Road to the intersection with Hyacinth Road; thence northerly along Hyacinth Road to the intersection with Irvington Road; thence east along Irvington Road to the intersection with Spring Creek; thence northerly along Spring Creek to the intersection with River Road; thence northerly along River Road to the intersection with East Beacon Drive; thence following East Beacon Drive first east then south then east to the intersection with River Loop No.1; thence on a line due east to the Willamette River and the point of beginning.

(7) "Grants Pass CBD" means the area within the City of Grants Pass enclosed by "B" Street on the north, 8th Street to the east, "M" Street on the south, and 5th Street to the west.

(8) Grants Pass Control Area means the area of the state beginning at the northeast corner of Section 35, T35S, R5W; thence south to the southeast corner of Section 11, T37S, R5W; thence west to the southwest corner of Section 9, T37S, R6W; thence north to the northwest corner of Section 33, T35S, R6W; thence east to the point of beginning.

(9) "Grants Pass UGB" as shown on the Plan and Zoning maps for the City of Grants Pass as of Feb. 1, 1988 is the area within the bounds beginning at the NW corner of Sec. 7, T36S, R5W; thence south to the SW corner of Sec. 7; thence west along the southern boundary of Sec. 12, T36S, R5W approx. 2000 feet; thence south approx. 100 feet to the northern right of way of the Southern Pacific Railroad Line (SPRR Line); thence south-easterly along said right of way approx. 800 feet; thence south approx. 400 feet; thence west approx. 1100 feet; thence south approx. 700 feet to the intersection with the Hillside Canal; thence west approx. 100 feet; thence south approx. 550 feet to the intersection with Upper River Road; thence southeasterly along Upper River Road and continuing east along Old Upper River Road approx. 700 feet; thence south approx. 1550 feet; thence west approx. 350 feet; thence south approx. 250 feet; thence west approx. 1000 feet; thence south approx. 600 feet to the north end of Roguela Lane; thence

east approx. 400 feet; thence south approx. 1400 feet to the intersection with Lower River Road; thence west along Lower River Road approx. 1400 feet; thence south approx. 1350 feet; thence west approx. 25 feet; thence south approx. 1200 feet to the south bank of the Rogue River; thence northwesterly along said bank approx. 2800 feet; thence on a line southwestwardly and parallel to Parkhill Place approx. 600 feet; thence northwesterly at a 90 degree angle approximately 300 feet to the intersection with Parkhill Place; thence southwestwardly along Parkhill Place approx. 250 feet; thence on a line southeasterly forming a 90 degree angle approximately 300 feet to a point even with Leonard Road; thence west approx. 1500 feet along Leonard Road; thence north approx. 200 feet; thence west to the west side of Schroeder Lane; thence north approx. 150 feet; thence west approx. 200 feet; thence south to the intersection with Leonard Road; thence west along Leonard Road approx. 450 feet; thence north approx. 300 feet; thence east approx. 150 feet; thence north approx. 400 feet; thence west approx. 500 feet; thence south approx. 300 feet; thence west to the intersection with Coutant Lane; thence south along Coutant Lane to the intersection with Leonard Road; thence west along Leonard Road to the intersection with Buena Vista Lane; thence north along the west side of Buena Vista Lane approx. 200 feet; thence west approx. 150 feet; thence north approx. 150 feet; thence west approx. 200 feet; thence north approx. 400 feet; thence west approx. 600 feet to the intersection with the western boundary of Sec. 23, T36S, R6W; thence south to the intersection with Leonard Road; thence west along Leonard Road approx. 300 feet; thence north approx. 600 feet to the intersection with Darneille Lane; thence northwesterly along Darneille Lane approx. 200 feet; thence west approx. 300 feet; thence south approx. 600 feet to the intersection with Leonard Road; thence west along Leonard Road approx. 700 feet; thence south approx. 1350 feet; thence east approx. 1400 feet to the intersection with Darneille Lane; thence south along Darneille Lane approx. 600 feet; thence west approx. 300 feet; thence south to the intersection with Redwood Avenue; thence east along Redwood Avenue to the intersection with Hubbard Lane and the western boundary of Sec. 23, T36S, R6W; thence south along Hubbard Lane approx. 1850 feet; thence west approx. 1350 feet; thence south to the south side of U.S. Highway 199; thence westerly along U.S. 199 approx. 1600 feet to the intersection with the north-south midpoint of Sec. 27, T36S, R6W; thence south approx. 2200 feet; thence east approx. 1400 feet; thence north approx. 1000 feet; thence east approx. 300 feet; thence north approx. 250 feet to the intersection with the Highline Canal; thence northerly along the Highline Canal approx. 900 feet; thence east to the intersection with Hubbard Lane; thence north along Hubbard Lane approximately 600 feet; thence east approx. 200 feet; thence north approx. 400 feet to a point even with Canal Avenue; thence east approx. 550 feet; thence north to the south side of U.S. 199; thence easterly along the southern edge of U.S. 199 to the intersection with Willow Lane; thence south along Willow Lane to the intersection with Demaray Drive; thence easterly along Demaray Drive and continuing along the southern edge of U.S. 199 to the intersection with Dowell Road; thence south along Dowell Road approx. 550 feet; thence easterly approx. 750 feet; thence north to the intersection with the South Canal; thence easterly along the South Canal to the intersection with Schutzwohl Lane; thence south approx. 1300 feet to a point even with West Harbeck Road; thence east approx. 2000 feet to the intersection with Allen Creek; thence southerly along Allen Creek approx. 1400 feet to a point even with Denton Trail; thence southerly along Highline Canal to the intersection with the southern boundary of Sec. 25, T36S, R6W; thence east to the intersection with Allen Creek; thence southerly along Allen Creek to the intersection with the western boundary of Sec. 31, T36S, R5W; thence south to the SW corner of Sec. 31; thence east to the intersection with Williams Highway; thence southeasterly along Williams Highway approx. 1300 feet; thence east approx. 200 feet; thence north approx. 400 feet; thence east approx. 700 feet; thence north to the intersection with Espey Road; thence west along Espey Road approx. 150 feet; thence north approx. 600 feet; thence east approx. 300 feet; thence north approx. 2000 feet; thence west approx. 2100 feet; thence north approx. 1350 feet; thence east approx. 800 feet; thence north approx. 2800 feet to the east-west midline of Sec. 30, T36S, R5W; thence on a line due NE approx. 600 feet; thence north approx. 100 feet; thence east approx. 600 feet; thence north approx. 100 feet to the intersection with Highline Canal; thence easterly along Highline Canal approx. 1300 feet; thence south approx. 100 feet; thence east to the intersection with Harbeck Road; thence north along Harbeck Road to the intersection with Highline Canal; thence easterly along Highline Canal to a point approx. 250 feet beyond Skyway Road; thence south to the intersection with Skyway Road; thence east to the intersection with Highline Canal; thence southeasterly along Highline Canal approx. 1200 feet; thence on a line due SW to the intersection with

ADMINISTRATIVE RULES

Bluebell Lane; thence southerly along Bluebell Lane approx. 150 feet; thence east to the intersection with Sky Crest Drive; thence southerly along Sky Crest Drive to the intersection with Harper Loop; thence southeasterly along Harper Loop to the intersection with the east-west midline of Sec. 29, T36S, R5W; thence east approx. 400 feet; thence south approx. 1300 feet to a point even with Troll View Road to the east; thence east to the intersection with Hamilton Lane; thence north along Hamilton Lane to the intersection with the Highline Canal; thence northeasterly along the Highline Canal to the northern boundary of Sec. 28, T36S, R5W; thence east approx. 1350 feet to the transmission line; thence north to the intersection with Fruitdale Drive; thence southwestwardly along Fruitdale Drive approx. 700 feet; thence north to the northern edge of U.S. 199; thence easterly along the northern edge of U.S. 199 approx. 50 feet; thence north to the north bank of the Rogue River; thence northeasterly along the north bank of the Rogue River approx. 2100 feet to a point even with Ament Road; thence north to Ament Road and following Ament Road to U.S. Interstate Highway 5 (U.S. I-5); thence continuing north to the 1200 foot contour line; thence following the 1200 foot contour line northwesterly approx. 7100 feet to the city limits and a point even with Savage Street to the west; thence north following the city limits approx. 400 feet; thence west to the intersection with Beacon Street; thence north along Beacon Street and the city limits approx. 250 feet; thence east along the city limits approx. 700 feet; thence north along the city limits approx. 2200 feet; thence southwestwardly along the city limits approximately 800 feet to the intersection with the 1400 foot contour line; thence northerly and northwesterly along the 1400 foot contour line approx. 900 feet to the intersection with the northern boundary of Sec. 9, T36S, R5W; thence west along said boundary approx. 100 feet to the NW corner of Sec. 9; thence south along the western boundary of Sec. 9 approx. 700 feet; thence west approx. 1400 feet; thence north approx. 2400 feet; thence west approx. 1350 feet; thence north approx. 1100 feet to the city limits; thence following the city limits first west approx. 1550 feet, then south approx. 800 feet, then west approx. 200 feet, then south approx. 200 feet, then east approx. 200 feet, then south approx. 300 feet, and finally westerly approx. 1200 feet to the intersection with the western boundary of Sec. 5, T36S, R5W; thence south along said boundary to the northern side of Vine Avenue; thence northwesterly along the northern side of Vine Avenue approx. 3150 feet to the intersection with the west fork of Gilbert Creek; thence north to the intersection with the southern right of way of U.S. I-5; thence northwesterly along said right of way approx. 1600 feet; thence south to the intersection with Old Highland Avenue; thence northwesterly along Highland Avenue approx. 650 feet; thence west approx. 350 feet; thence south approx. 1400 feet; thence east approx. 700 feet; thence south approx. 1000 feet; thence on a line SW approx. 800 feet; thence south approx. 1400 feet to the intersection with the northern boundary of Sec. 7, T36S, R5W; thence west to the NW corner of Sec. 7, the point of beginning.

(10) Klamath Falls Control Area means the area of the state beginning at the northeast corner of Section 8, T38S, R10E, thence south to the southeast corner of Section 5, T40S, R10E; thence west to the southwest corner of Section 3, T40S, R8E; thence north to the northwest corner of Section 10, T38S, R8E; thence east to the point of beginning.

(11) "Klamath Falls UGB" means the area within the bounds beginning at the southeast corner of Section 36, Township 38 South, Range 9 East; thence northerly approximately 4500 feet; thence westerly approximately 1/4 mile; thence northerly approximately 3/4 mile into Section 25, T38S, R9E; thence westerly approximately 1/4 mile; thence northerly approximately 1/2 mile to the southern boundary of Section 24, T38S, R9E; thence westerly approximately 1/2 mile to the southeast corner of Section 23, T38S, R9E; thence northerly approximately 1/2 mile; thence westerly approximately 1/4 mile; thence northerly approximately 1/2 mile to the southern boundary of Section 14, T38S, R9E; thence generally northwesterly along the 5000 foot elevation contour line approximately 3/4 mile; thence westerly 1 mile; thence north to the intersection with the northern boundary of Section 15, T38S, R9E; thence west 1/4 mile along the northern boundary of Section 15, T38S, R9E; thence generally southeasterly following the 4800 foot elevation contour line around the old Oregon Institute of Technology Campus to meet with the westerly line of Old Fort Road in Section 22, T38S, R9E; thence southwestwardly along the westerly line of Old Fort Road approximately 1 and 1/4 miles to Section 27, T38S, R9E; thence west approximately 1/4 mile; thence southwestwardly approximately 1/2 mile to the intersection with Section 27, T38S, R9E; thence westerly approximately 1/2 mile to intersect with the Klamath Falls City Limits at the northerly line of Loma Linda Drive in Section 28, T38S, R9E; thence northwesterly along Loma Linda Drive approximately 1/4 mile; thence southwestwardly approximately 1/8 mile to the Klamath Falls City Limits; thence

northerly along the Klamath Falls City Limits approximately 1 mile into Section 21, T38S, R9E; thence westerly approximately 1/4 mile; thence northerly approximately 1 mile into Section 17, T38S, R9E; thence westerly approximately 3/4 mile into Section 17, T38S, R9E; thence northerly approximately 1/4 mile; thence westerly approximately 1 mile to the west boundary of Highway 97 in Section 18, T38S, R9E; thence southeasterly along the western boundary of Highway 97 approximately 1/2 mile; thence southwestwardly away from Highway 97; thence southeasterly to the intersection with Klamath Falls City Limits at Front Street; thence westerly approximately 1/4 mile to the western boundary of Section 19, T38S, R9E; thence southerly approximately 1 and 1/4 miles along the western boundary of Section 19, T38S, R9E and the Klamath Falls City Limits to the south shore line of Klamath Lake; thence northwesterly along the south shore line of Klamath Lake approximately 1 and 1/4 miles across Section 25, T38S, R9E and Section 26, T38S, R9E; thence westerly approximately 1/2 mile along Section 26, T38S, R9E; thence southerly approximately 1/2 mile to Section 27, T38S, R9E to the intersection with eastern boundary of Orindale Draw, thence southerly along the eastern boundary of Orindale Draw approximately 1 and 1/4 miles into Section 35, T38S, R9E; thence southerly approximately 1/2 mile into Section 2, T39S, R8E; thence easterly approximately 1/4 mile; thence northerly approximately 1/4 mile to the southeast corner of Section 35, T38S, R8E and the Klamath Falls City Limits; thence easterly approximately 1/2 mile to the northern boundary of Section 1, T38S, R8E; thence southeasterly approximately 1/2 mile to Orindale Road; thence north 500 feet along the west side of an easement; thence easterly approximately 1 and 1/4 miles through Section 1, T38S, R8E to the western boundary of Section 6, T39S, R9E; thence southerly approximately 3/4 mile to the southwest corner of Section 6, T39S, R9E; thence easterly approximately 1/8 mile to the western boundary of Highway 97; thence southwestwardly along the Highway 97 right-of-way approximately 1/4 mile; thence westerly approximately 1/2 mile to Agate Street in Section 7, T39S, R8E; thence northerly approximately 1/4 mile; thence westerly approximately 3/4 mile to Orindale Road in Section 12, T39S, R8E; thence northerly approximately 1/4 mile into Section 1, T39S, R8E; thence westerly approximately 3/4 mile to the Section 2, T39S, R8E boundary line; thence southerly approximately 3/4 mile along the Section 2, T39S, R8E boundary line to the northwest corner of Section 12, T39S, R8E; thence westerly approximately 1/8 mile into Section 11, T39S, R8E; thence southerly approximately 1/8 mile; thence northeasterly approximately 3/4 mile to the southern boundary of Section 12, T39S, R8E at Balsam Drive; thence southerly approximately 1/4 mile into Section 12, T39S, R8E; thence easterly approximately 1/4 mile to Orindale Road; thence southeasterly approximately 500 feet to Highway 66; thence southwestwardly approximately 1/2 mile along the boundary of Highway 66 to Holiday Road; thence southerly approximately 1/2 mile into Section 13, T39S, R8E; thence northeasterly approximately 1/4 mile to the eastern boundary of Section 13, T39S, R8E; thence northerly approximately 1/4 mile along the eastern boundary of Section 13, T39S, R8E; thence westerly approximately 1/4 mile to Weyerhaeuser Road; thence northerly approximately 1/8 mile; thence easterly approximately 1/8 mile; thence northerly approximately 1/8 mile; thence westerly approximately 1/8 mile to Farrier Avenue; thence northerly approximately 1/4 mile; thence easterly approximately 1/4 mile to the eastern boundary of Section 13, T39S, R8E; thence northerly approximately 1/8 mile along the eastern boundary of Section 13, T39S, R8E; thence easterly approximately 1/4 mile along the northern section line of Section 18, T39S, R8E; thence southerly approximately 1/4 mile; thence easterly approximately 1/2 mile to the boundary of Highway 97; thence southerly approximately 1/3 mile to the Burlington Northern Right-of-Way; thence northeasterly approximately 1 and 1/3 miles along the high water line of the Klamath River to the Southside Bypass in Section 8, T39S, R9E; thence southeasterly along the Southside Bypass to the Southern Pacific Right-of-Way in Section 9, T39S, R9E; thence southerly approximately 1/2 mile along the Southern Pacific Right-of-Way; thence southwestwardly approximately 1/4 mile along the Midland Highway; thence southeasterly approximately 1/4 mile to the old railroad spur; thence easterly 1/4 mile along the old railroad spur; thence southerly approximately 1/4 mile in Section 16, T39S, R9E; thence westerly approximately 1/3 mile; thence southerly approximately 1/4 mile; thence easterly approximately 1/16 mile in Section 21, T39S, R9E; thence southerly approximately 1/8 mile to the Lost River Diversion Channel; thence southeasterly approximately 1/4 mile along the northern boundary of the Lost River Diversion Channel; thence easterly approximately 3/4 mile along Joe Wright Road into Section 22, T39S, R9E; thence southeasterly approximately 1/8 mile on the eastern boundary of the Southern Pacific Right-of-Way; thence southeasterly approximately 1 mile along the western boundary of the Southern Pacific

ADMINISTRATIVE RULES

Right-of-Way across Section 22, T39S, R9E and Section 27, T39S, R9E to a point 440 yards south of the northern boundary of Section 27, T39S, R9E; thence easterly to Kingsley Field; thence southeasterly approximately 3/4 mile to the southern boundary of Section 26, T39S, R9E; thence east approximately 1/2 mile along the southern boundary of Section 26, T39S, R9E to a pond; thence north-northwesterly for 1/2 mile following the Klamath Falls City Limits; thence north 840 feet; thence east 1155 feet to Homedale Road; thence north along Homedale Road to a point 1/4 mile north of the southern boundary of Section 23, T39S, R9E; thence west 1/4 mile; thence north 1 mile to the Southside Bypass in Section 14, T39S, R9E; thence east 1/2 mile along the Southside Bypass to the eastern boundary of Section 14, T39S, R9E; thence north 1/2 mile; thence east 900 feet into Section 13, T39S, R9E; thence north 1320 feet along the USBR I-C 1-A to the southern boundary of Section 12, T39S, R9E; thence north 500 feet to the USBR A Canal; thence southeasterly 700 feet along the southern border of the USBR A Canal back into Section 13, T39S, R9E; thence southeast 1600 feet to the northwest parcel corner of an easement for the Enterprise Irrigation District; thence east-northeast 2200 feet to the eastern boundary of Section 13, T39S, R9E; thence north to the southeast corner of Section 12, T39S, R9E; thence along the Enterprise Irrigation Canal approximately 1/2 mile to Booth Road; thence east 1/2 mile to Vale Road; thence north 1 mile to a point in Section 6, T39S, R10E that is approximately 1700 feet north of the southern boundary of Section 6, T39S, R10E; thence west approximately 500 feet; thence south approximately 850 feet; thence west approximately 200 feet; thence north approximately 900 feet; thence west approximately 1600 feet to the western boundary of Section 6, T39S, R10E; thence north approximately 1/2 mile to the southeast corner of Section 36, T38S, R9E, the point of beginning.

(12) "LaGrande UGB" means the area within the bounds beginning at the point where U.S. Interstate 84 (I-84) intersects Section 31, Township 2 South, Range 38 East; thence east along I-84 to the Union County Fairgrounds; thence north and then east on a line encompassing the Union County Fairgrounds to the intersection with Cedar Street; thence further east approximately 500 feet, encompassing two (2) residential properties; thence on a line south to the intersection with the northern bank of the Grande Ronde River; thence westerly along the northern bank of the Grande Ronde River to the intersection with the western edge of Mount Glenn Road and Riverside Park; thence north along the western edge of Mount Glenn Road and Riverside Park to the intersection with Fruitdale Road; thence east along Fruitdale Road and the northern boundary of Riverside Park to the eastern boundary of Riverside Park; thence south along the eastern boundary of Riverside Park to the north bank of the Grande Ronde River; thence on a line southeast to the intersection with the northern edge of I-84; thence easterly along the northern edge of I-84 to May Street; thence easterly along May Street to the intersection with State Highway 82; thence northeasterly along State Highway 82 to the point approximately 1/4 mile from the eastern edge of Section 4, T3S, R38E; thence south to the intersection with Section 9, T3S, R38E, and the southern edge of Buchanan Avenue; thence west along the southern edge of Buchanan Avenue to the intersection with the northern edge of I-84; thence on a line south to the southern edge of I-84; thence southeasterly along the southern edge of I-84 approximately 2500 feet; thence on a line due west approximately 1400 feet; thence on a line due south to the intersection with the Union Pacific Railroad Line; thence southeasterly along the Union Pacific Railroad Line to the intersection with Gekeler Lane; thence west along Gekeler Lane to the intersection with U.S. Highway 30; thence southeast along U.S. Highway 30 to the intersection with the western boundary of Section 15, T3S, R38E; thence on a line west following existing property boundaries approximately 2900 feet; thence on a line north following existing property boundaries approximately 250 feet; thence on a line east following existing property boundaries approximately 650 feet; thence north on a line to the intersection with Gekeler Lane; thence west along Gekeler Lane to the intersection with 20th Avenue; thence south along 20th Avenue to the intersection with Foothill Road; thence southeasterly along Foothill Road approximately 2900 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line south following existing property boundaries approximately 1250 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line north following existing property boundaries approximately 450 feet to the intersection with the southernmost part of the La Grande City Limits; thence westerly and northwesterly along the southernmost part of the La Grande City Limits approximately 1100 feet to the intersection with the 3000 foot elevation contour line; thence westerly following the 3000 foot elevation contour line and existing property boundaries approximately 2200 feet; thence on a line north following existing

property boundaries approximately 1900 feet; thence on a line west following existing property boundaries approximately 500 feet; thence on a line north to the La Grande City Limits; thence west along the La Grande City Limits and following existing property boundaries approximately 650 feet; thence on a line south following existing property boundaries approximately 900 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line north to the intersection with the La Grande City Limits; thence west along the southern boundary of the La Grande City Limits to the intersection with the western boundary of the La Grande City Limits; thence north along the western boundary of the La Grande City Limits and following existing property lines approximately 500 feet; thence on a line west following existing property boundaries approximately 200 feet; thence on a line north following existing property boundaries approximately 700 feet; thence east to the first 3000 foot elevation contour line west of the La Grande City Limits; thence northerly following that 3000 foot elevation contour line to the intersection with Deal Canyon Road; thence easterly along Deal Canyon Road to the intersection with the western boundary of the La Grande City Limits; thence northerly along the western boundary of the La Grande City Limits to the intersection with U.S. Highway 30; thence northwesterly along U.S. Highway 30 and following existing property boundaries approximately 1400 feet; thence on a line west to the intersection with the western boundary of Section 6, T3S, R38E; thence north along the western boundaries of Section 6, T3S, R38E and Section 31, T2S, R38E to the point of beginning.

(13) "Lakeview UGB" means the area beginning at the corner common to sections 21, 22, 27, and 28, T39S, R20E; thence north on the section line between section 21 and 22 to the section corner common to section 15, 16, 21, and 22; thence west along the section line between section 21 and 16 to the section corner common to sections 16, 17, 20, and 21; thence north along the section line between section 16 and 17 approximately 3550 feet to the east branch of Thomas Creek; thence northwesterly along the east branch of Thomas Creek to the center line of Highway 140; thence east along the center line of Highway 140 to the section corner common to sections 8, 9, 16, and 17, T39S, R20E; thence north along the section line between sections 8 and 9 to the section corner common to sections 4, 5, 8, and 9, T39S, R20E; thence north along the section line between section 4 and 5 to the section corner common to section 4 and 5, T39S, R20E and sections 32 and 33, T38S, R20E; thence east along the section line between sections 4 and 33 to the section corner common to sections 3 and 4, T39S, R20E and sections 33 and 34, T38S, R20E; thence south along the eastern boundary of section 4 approximately 4,1318.6 feet; thence S 89 degrees, 11 minutes W 288.28 feet to the east right of way line of the old Paisley/Lakeview Highway; thence S 21 degrees, 53 minutes E along the eastern right of way of the old Paisley/Lakeview Highway 288.4 feet; thence S 78 degrees, 45 minutes W 1375 feet; thence S 3 degrees, 6 minutes, and 30 seconds W 200 feet; thence S 77 degrees, 45 minutes W 136 feet to the east right of way line of U.S. Highway 395; thence southeasterly along the east right of way line of U.S. Highway 395 53.5 feet; thence N 77 degrees, 45 minutes E 195.6 feet; thence S 38 degrees, 45 minutes E 56.8 feet; thence S 51 degrees, 15 minutes W 186.1 feet to the east right of way of U.S. Highway 395; thence southeast along the eastern right of way line of U.S. Highway 395 2310 feet; thence N 76 degrees, 19 minutes 544.7 feet; thence S 13 degrees, 23 minutes, 21 seconds E 400 feet; thence N 63 degrees, 13 minutes E 243.6 feet to the western line of the old American Forest Products Logging Road; thence southeast along the old American Forest Products Logging Road to the western line of the northeast quadrant of the northwest quadrant of section 10, T39S, R20E; thence southeast to a point on the south line of the northeast quadrant of the northwest quadrant of Section 10, T39S, R20E (this point also bears N 89 degrees, 33 minutes E 230 feet from the center line of U.S. Highway 395); thence south on a line parallel to the east right of way line of U.S. Highway 395 to the south line of the northwest quadrant of section 10, T39S, R20E; thence south 491 feet to the east right of way of U.S. Highway 395; thence southeasterly following the east right of way of U.S. Highway 395 255 feet to the south line of the northeast quadrant of the northeast quadrant of the southwest quadrant of section 10, T39S, R20E; thence east along that south line to the center line of section 10, T39S, R20E; thence continuing east along the same south line to the eastern boundary of section 10, T39S, R20E; thence south along the eastern boundary of section 10 to the section corner common to sections 10, 11, 14, and 15, T39S, R20E; thence south along the section line between section 14 and 15 to the section corner common to sections 14, 15, 22, and 23, T39S, R20E; thence west along the section line between sections 15 and 22 to the northwest corner of the northeast quadrant of the northeast quadrant of section 22, T39S, R20E; thence south along the eastern line of the western half of the eastern half of section

ADMINISTRATIVE RULES

22 to the southern boundary of section 22, T39S, R20E; thence west along the southern boundary of section 22 to the point of beginning.

(14) "Maintenance Area" means any area that was formerly nonattainment for a criteria pollutant but has since met EPA promulgated standards and has had a maintenance plan to stay within the standards approved by the EPA pursuant to 40 CFR 51.110 (July, 1993).

(15) "Medford-Ashland Air Quality Maintenance Area" (AQMA) means the area defined as beginning at a point approximately two and quarter miles northeast of the town of Eagle Point, Jackson County, Oregon at the northeast corner of Section 36, Township 35 South, Range 1 West (T35S, R1W); thence South along the Willamette Meridian to the southeast corner of Section 25, T37S, R1W; thence southeast along a line to the southeast corner of Section 9, T39S, R2E; thence south-southeast along line to the southeast corner of Section 22, T39S, R2E; thence South to the southeast corner of Section 27, T39S, R2E; thence southwest along a line to the southeast corner of Section 33, T39S, R2E; thence West to the southwest corner of Section 31, T39S, R2E; thence northwest along a line to the northwest corner of Section 36, T39S, R1E; thence West to the southwest corner of Section 26, T39S, R1E; thence northwest along a line to the southeast corner of Section 7, T39S, R1E; thence West to the southwest corner of Section 12, T39S, R1W, T39S, R1W; thence northwest along a line to southwest corner of Section 20, T38S, R1W; thence West to the southwest corner of Section 24, T38S, R2W; thence northwest along a line to the southwest corner of Section 4, T38S, R2W; thence West to the southwest corner of Section 6, T38S, R2W; thence northwest along a line to the southwest corner of Section 31, T37S, R2W; thence North and East along the Rogue River to the north boundary of Section 32, T35S, R1W; thence East along a line to the point of beginning.

(16) "Medford-Ashland CBD" means the area beginning at the intersection of Crater Lake Highway (Highway 62) south on Biddle Road to the intersection of Fourth Street, west on Fourth Street to the intersection with Riverside Avenue (Highway 99), south on Riverside Avenue to the intersection with Tenth Street, west on Tenth Street to the intersection with Oakdale Avenue, north on Oakdale Avenue to the intersection with Fourth Street, east on Fourth Street to the intersection with Central Avenue, north on Central Avenue to the intersection with Court Street, north on Court Street to the intersection with Crater Lake Highway (Highway 62) and east on Crater Lake Highway to the point of beginning, with extensions along McAndrews Road east from Biddle Road to Crater Lake Avenue, and along Jackson Street east from Biddle Road to Crater Lake Avenue.

NOTE: This definition also marks the area where indirect sources are required to have indirect source construction permits in the Medford area. See OAR 340-254-0040.

(17) "Medford UGB" means the area beginning at the line separating Range 1 West and Range 2 West at a point approximately 1/4 mile south of the northwest corner of Section 31, T36S, R1W; thence west approximately 1/2 mile; thence south to the north bank of Bear Creek; thence west to the south bank of Bear Creek; thence south to the intersection with the Medford Corporate Boundary; thence following the Medford Corporate Boundary west and southwesterly to the intersection with Merriman Road; thence northwesterly along Merriman Road to the intersection with the eastern boundary of Section 10, T36S, R2W; thence south along said boundary line approximately 3/4 mile; thence west approximately 1/3 mile; thence south to the intersection with the Hopkins Canal; thence east along the Hopkins Canal approximately 200 feet; thence south to Rossanley Drive; thence east along Rossanley Drive approximately 200 feet; thence south approximately 1200 feet; thence west approximately 700 feet; thence south approximately 1400 feet; thence east approximately 1400 feet; thence north approximately 100 feet; thence east approximately 700 feet; thence south to Finley Lane; thence west to the end of Finley Lane; thence approximately 1200 feet; thence west approximately 1300 feet; thence north approximately 150 feet; thence west approximately 500 feet; thence south to Highway 238; thence west along Highway 238 approximately 250 feet; thence south approximately 1250 feet to a point even with the end of Renault Avenue to the east; thence east approximately 2200 feet; thence south approximately 1100 feet to a point even with Sunset Court to the east; thence east to and along Sunset Court to the first (nameless) road to the south; thence approximately 850 feet; thence west approximately 600 feet; thence south to Stewart Avenue; thence west along Stewart Avenue approximately 750 feet; thence south approximately 1100 feet; thence west approximately 100 feet; thence south approximately 800 feet; thence east approximately 800 feet; thence south approximately 1000 feet; thence west approximately 350 feet to a point even with the north-south connector street between Sunset Drive and South Stage Road; thence south to and along said connecting road and continuing along South Stage Road to Fairlane Road; thence south to the end of Fairlane Road and extending beyond it approxi-

mately 250 feet; thence east approximately 250 feet; thence south approximately 250 feet to the intersection with Judy Way; thence east on Judy Way to Griffin Creek Road; thence north on Griffin Creek Road to South Stage Road; thence east on South Stage Road to Orchard Home Drive; thence north on Orchard Home Drive approximately 800 feet; thence east to Columbus Avenue; thence south along Columbus Avenue to South Stage Road; thence east along South Stage Road to the first road to the north after Sunnyview Lane; thence north approximately 300 feet; thence east approximately 300 feet; thence north approximately 700 feet; thence east to King's Highway; thence north along King's Highway to Experiment Station Road; thence east along Experiment Station Road to Marsh Lane; thence east along Marsh Lane to the northern boundary of Section 6, T38S, R1W; thence east along said boundary approximately 1100 feet; thence north approximately 1200 feet; thence east approximately 1/3 mile; thence north approximately 400 feet; thence east approximately 1000 feet to a drainage ditch; thence following the drainage ditch southeasterly approximately 500 feet; thence east to the eastern boundary of Section 31, T37S, R1W; thence south along said boundary approximately 1900 feet; thence east to and along the loop off of Rogue Valley Boulevard, following that loop to the Southern Pacific Railroad Line (SPRR); thence following SPRR approximately 500 feet; thence south to South Stage Road; thence east along South Stage Road to SPRR; thence southeasterly along SPRR to the intersection with the west fork of Bear Creek; thence northeasterly along the west fork of Bear Creek to the intersection with U.S. Highway 99; thence southeasterly along U.S. Highway 99 approximately 250 feet; thence east approximately 1600 feet; thence south to East Glenwood Road; thence east along East Glenwood Road approximately 1250 feet; thence north approximately 1/2 mile; thence west approximately 250 feet; thence north approximately 1/2 mile to the Medford City Limits; thence east along the city limits to Phoenix Road; thence south along Phoenix Road to Coal Mine Road; thence east along Coal Mine Road approximately 9/10 mile to the western boundary of Section 35, T37S, R1W; thence north to the midpoint of the western boundary of Section 35, T37S, R1W; thence west approximately 800 feet; thence north approximately 1700 feet to the intersection with Barnett Road; thence easterly along Barnett Road to the southeast corner of Section 27, T37S, R1W; thence north along the eastern boundary line of said section approximately 1/2 mile to the intersection with the 1800 foot contour line; thence east to the intersection with Cherry Lane; thence following Cherry Lane southeasterly and then northerly to the intersection with Hillcrest Road; thence east along Hillcrest Road to the southeast corner of Section 23, T37S, R1W; thence north to the northeast corner of Section 23, T37S, R1W; thence west to the midpoint of the northern boundary of Section 22; T37S, R1W; thence north to the midpoint of Section 15, T37S, R1W; thence west to the midpoint of the western boundary of Section 15, T37S, R1W; thence south along said boundary approximately 600 feet; thence west approximately 1200 feet; thence north approximately 600 feet; thence west to Foothill Road; thence north along Foothill Road to a point approximately 500 feet north of Butte Road; thence west approximately 300 feet; thence south approximately 250 feet; thence west on a line parallel to and approximately 250 feet north of Butte Road to the eastern boundary of Section 8, T37S, R1W; thence north approximately 2200 feet; thence west approximately 1800 feet; thence north approximately 2000 feet; thence west approximately 500 feet; thence north to Coker Butte Road; thence east along Coker Butte Road approximately 550 feet; thence north approximately 1250 feet; thence west to U.S. Highway 62; thence north approximately 3000 feet; thence east approximately 400 feet to the 1340 foot contour line; thence north approximately 800 feet; thence west approximately 200 feet; thence north approximately 250 feet to East Vilas Road; thence east along East Vilas Road approximately 450 feet; thence north approximately 2000 feet to a point approximately 150 feet north of Swanson Creek; thence east approximately 600 feet; thence north approximately 850 feet; thence west approximately 750 feet; thence north approximately 650 feet; thence west approximately 2100 feet; thence on a line southeast approximately 600 feet; thence east approximately 450 feet; thence south approximately 1600 feet; thence west approximately 2000 feet to the continuance of the private logging road north of East Vilas Road; thence south along said logging road approximately 850 feet; thence west approximately 750 feet; thence south approximately 150 feet; thence west approximately 550 feet to Peace Lane; thence north along Peace Lane approximately 100 feet; thence west approximately 350 feet; thence north approximately 950 feet; thence west approximately 1000 feet to the western boundary of Section 31, T36S, R1W; thence north approximately 1300 feet along said boundary to the point of beginning.

(18) "Nonattainment Area" means any area that has been designated as not meeting the standards established by the U.S. Environmental

ADMINISTRATIVE RULES

Protection Agency (EPA) pursuant to 40 CFR 51.52 (July, 1993) for any criteria pollutant.

(19) "O3" means Ozone.

(20) "Oakridge UGB" means the area enclosed by the following: Beginning at the northwest corner of Section 17, T21S, R3E and the city limits; thence south along the western boundary of Section 17, T21S, R3E along the city limits approximately 800 feet; thence southwesterly following the city limits approximately 750 feet; thence west along the city limits approximately 450 feet; thence northwesterly along the city limits approximately 450 feet; thence on a line south along the city limits approximately 250 feet; thence on a line east along the city limits approximately 100 feet; thence southwesterly along the city limits approximately 200 feet; thence on a line east along the city limits approximately 400 feet; thence on a line south along the city limits to the channel of the Willamette River Middle Fork; thence south-easterly up the Willamette River Middle Fork along the city limits approximately 7200 feet; thence exiting the Willamette River Middle Fork with the city limits in a northerly manner and forming a rough semicircle with a diameter of approximately one-half mile before rejoining the Willamette River Middle Fork; thence diverging from the city limits upon rejoining the Willamette River Middle Fork and moving south-easterly approximately 5600 feet up the Willamette River Middle Fork to a point on the river even with the point where Salmon Creek Road intersects with U.S. Highway 58; thence on a line east from the channel of the Willamette River Middle Fork across the intersection of Salmon Creek Road and U.S. Highway 58 to the intersection with the Southern Pacific Railroad Line; thence northerly along the Southern Pacific Railroad Line to the intersection with the northern boundary of Section 22, T21S, R3E; thence west along the northern boundary of Section 22, T21S, R3E to the intersection with Salmon Creek Road; thence on a line north to the intersection with the Southern Pacific Railroad Line; thence east along the Southern Pacific Railroad Line approximately 600 feet; thence on a line north to the intersection with High Prairie Road; thence on a line west approximately 400 feet; thence on a line north to the intersection with the northern boundary of Section 15, T21S, R3E; thence west along the northern boundary of Section 15, T21S, R3E to the intersection with the southeastern corner of Section 9, T21S, R3E approximately 1300 feet; thence on a line west approximately 1100 feet; thence on a line south to the intersection with West Oak Road; thence northwesterly along West Oak Road approximately 2000 feet; thence on a line south to the intersection with the northern boundary line of the city limits; thence westerly and northwesterly approximately 8000 feet along the city limits to the point of beginning.

(21) "Particulate Matter" has the meaning given that term in OAR 340-200-0020(82).

(22) PM10: has the meaning given that term in OAR 340-200-0020(90).

(23) "PM2.5" has the meaning given that term in OAR 340-200-0020(91). (24) "Portland AQMA" means the area within the bounds beginning at the point starting on the Oregon-Washington state line in the Columbia River at the confluence with the Willamette River, thence east up the Columbia River to the confluence with the Sandy River, thence southerly and easterly up the Sandy River to the point where the Sandy River intersects the Clackamas County-Multnomah County line, thence west along the Clackamas County-Multnomah County line to the point where the Clackamas County-Multnomah County line is intersected by H. Johnson Road (242nd), thence south along H. Johnson Road to the intersection with Kelso Road (Boring Highway), thence west along Kelso Road to the intersection with Deep Creek Road (232nd), thence south along Deep Creek Road to the point of intersection with Deep Creek, thence southeasterly along Deep Creek to the confluence with Clackamas River, thence easterly along the Clackamas River to the confluence with Clear Creek, thence southerly along Clear Creek to the point where Clear Creek intersects Springwater Road then to Forsythe Road, thence easterly along Forsythe Road to the intersection with Bradley Road, thence south along Bradley Road to the intersection with Redland Road, thence west along Redland Road to the intersection with Ferguson Road, thence south along Ferguson Road to the intersection with Thayler Road, thence west along Thayler Road to the intersection with Beaver Creek Road, thence southeast along Beaver Creek Road to the intersection with Henrici Road, thence west along Henrici Road to the intersection with State Highway 213 (Mollala Avenue), thence southeast along State Highway 213 to the point of intersection with Beaver Creek, thence westerly down Beaver Creek to the confluence with the Willamette River, thence southerly and westerly up the Willamette River to the point where the Willamette River intersects the Clackamas County-Yamhill County line, thence north along the Clackamas

County-Yamhill County line to the point where it intersects the Washington County-Yamhill County line, thence west and north along the Washington County-Yamhill County line to the point where it is intersected by Mount Richmond Road, thence northeast along Mount Richmond Road to the intersection with Patton Valley Road, thence easterly and northerly along Patton Valley Road to the intersection with Tualatin Valley State Highway, thence northerly along Tualatin Valley State Highway to the intersection with State Highway 47, thence northerly along State Highway 47 to the intersection with Dilley Road, thence northwesterly and northerly along Dilley Road to the intersection with Stringtown Road, thence westerly and northwesterly along Stringtown Road to the intersection with Gales Creek Road, thence northwesterly along Gales Creek Road to the intersection with Timmerman Road, thence northerly along Timmerman Road to the intersection with Wilson River Highway, thence west and southwesterly along Wilson River Highway to the intersection with Narup Road, thence north along Narup Road to the intersection with Cedar Canyon Road, thence westerly and northerly along Cedar Canyon Road to the intersection with Banks Road, thence west along Banks Road to the intersection with Hahn Road, thence northerly and westerly along Hahn Road to the intersection with Mountindale Road, thence southeasterly along Mountindale Road to the intersection with Glencoe Road, thence east-southeasterly along Glencoe Road to the intersection with Jackson Quarry Road, thence north-northeasterly along Jackson Quarry Road to the intersection with Helvetia Road, thence easterly and southerly along Helvetia Road to the intersection with Bishop Road, thence southerly along Bishop Road to the intersection with Phillips Road, thence easterly along Phillips Road to the intersection with the Burlington Northern Railroad Track, thence north-easterly along the Burlington Northern Railroad Line to the intersection with Rock Creek Road, thence east-southeasterly along Rock Creek Road to the intersection with Old Cornelius Pass Road, thence northeasterly along Old Cornelius Pass Road to the intersection with Skyline Boulevard, thence easterly and southerly along Skyline Boulevard to the intersection with Newberry Road, thence northeasterly along Newberry Road to the intersection with State Highway 30 (St. Helens Road), thence northeast on a line over land across State Highway 30 to the Multnomah Channel, thence east-southeasterly up the Multnomah Channel to the diffidence with the Willamette River, thence north-northeasterly down the Willamette River to the confluence with the Columbia River and the Oregon-Washington state line (the point of beginning).

(25) "Portland Metropolitan Service District Boundary" or "Portland Metro" means the boundary surrounding the urban growth boundaries of the cities within the Greater Portland Metropolitan Area. It is defined in the Oregon Revised Statutes (ORS) 268.125 (1989).

(26) "Portland Vehicle Inspection Area" means the area of the state included within the following census tracts, block groups, and blocks as used in the 1990 Federal Census. In Multnomah County, the following tracts, block groups, and blocks are included: Tracts 1, 2, 3.01, 3.02, 4.01, 4.02, 5.01, 5.02, 6.01, 6.02, 7.01, 7.02, 8.01, 8.02, 9.01, 9.02, 10, 11.01, 11.02, 12.01, 12.02, 13.01, 13.02, 14, 15, 16.01, 16.02, 17.01, 17.02, 18.01, 18.02, 19, 20, 21, 22.01, 22.02, 23.01, 23.02, 24.01, 24.02, 25.01, 25.02, 26, 27.01, 27.02, 28.01, 28.02, 29.01, 29.02, 29.03, 30, 31, 32, 33.01, 33.02, 34.01, 34.02, 35.01, 35.02, 36.01, 36.02, 36.03, 37.01, 37.02, 38.01, 38.02, 38.03, 39.01, 39.02, 40.01, 40.02, 41.01, 41.02, 42, 43, 44, 45, 46.01, 46.02, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60.01, 60.02, 61, 62, 63, 64.01, 64.02, 65.01, 65.02, 66.01, 66.02, 67.01, 67.02, 68.01, 68.02, 69, 70, 71, 72.01, 72.02, 73, 74, 75, 76, 77, 78, 79, 80.01, 80.02, 81, 82.01, 82.02, 83.01, 83.02, 84, 85, 86, 87, 88, 89, 90, 91, 92.01, 92.02, 93, 94, 95, 96.01, 96.02, 97.01, 97.02, 98.01, 98.02, 99.01, 99.02, 99.03, 100, 101, 102, 103.01, 103.02, 104.02, 104.04, 104.05, 104.06, 104.07; Block Groups 1, 2 of Tract 105; Blocks 360, 361, 362 of Tract 105; that portion of Blocks 357, 399 of Tract 105 beginning at the intersection of the Oregon-Washington State Line ("State Line") and the northeast corner of Block Group 1 of Tract 105, thence east along the State Line to the intersection of the State Line and the eastern edge of Section 26, Township 1 North, Range 4 East, thence south along the section line to the centerline of State Highway 100 to the intersection of State Highway 100 and the western edge of Block Group 2 of Tract 105. In Clackamas County, the following tracts, block groups, and blocks are included: Tracts 201, 202, 203.01, 203.02, 204.01, 204.02, 205.01, 205.02, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216.01, 216.02, 217, 218, 219, 220, 221.01, 221.02, 222.02, 223, 224, 225, 226, 227.01, 227.02, 228, 229, 230, 231, 232, 233, 234.01, 234.02, , 235, 236, 237; Block Groups 1, 2 of Tract 241; Block Groups 1, 2, 3, 4 of Tract 242; Block Groups 1, 2 of Tract 243.02. In Yamhill County, the following tract is included: Tract 301, except those areas in Tract 301 that lie within the Newberg City Limits defined as of July 12, 1996, and the

ADMINISTRATIVE RULES

following blocks within Tract 301: 102B, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121D, 122B, 122C, 123, 126, and 127B. In Washington County the following tracts, block groups, and blocks are included: Tracts 301, 302, 303, 304.01, 304.02, 305.01, 305.02, 306, 307, 308.01, 308.02, 309, 310.03, 310.04, 310.05, 310.06, 311, 312, 313, 314.01, 314.02, 315.01, 315.04, 315.05, 315.06, 315.07, 315.08, 316.03, 316.04, 316.05, 316.06, 316.07, 317.02, 317.03, 317.04, 318.01, 318.02, 318.03, 319.01, 319.03, 319.04, 320, 321.01, 321.02, 322, 323, 324.02, 324.03, 324.04, 325, 326.01, 326.02, 328, 329, 330, 331, 332, 333; Block Groups 1, 2 of Tract 327; Block Group 1 of Tract 334; Block Group 2 of Tract 335; Block Group 1 of Tract 336. In Columbia County the following tracts, block groups, and blocks are included: Tract 9710.98; Block Groups 2, 3 of Tract 9709.98; Blocks 146B, 148, 152 of Tract 9709.98.

(27) "Rogue Basin" means the area bounded by the following line: Beginning at the NE corner of T32S, R2E, W.M., thence south along range line 2E to the SE corner of T39S; thence west along township line 39S to the NE corner of T40S, R7W; thence south to the SE corner of T40S, R7W; thence west to the SE corner of T40S, R9W; thence north on range line 9W to the NE corner of T39S, R9W; thence east to the NE corner of T39S, R8W; thence north on range line 8W to the SE corner of Section 1, T33S, R8W on the Josephine-Douglas County line; thence east on the Josephine-Douglas and Jackson-Douglas County lines to the NE corner of T32S, R1W; thence east along township line 32S to the NE corner of T32S, R2E to the point of beginning.

(28) "Salem-Keizer Area Transportation Study" or "SKATS" means the area within the bounds beginning at the intersection of U.S. Interstate Highway 5 (I-5) with Battle Creek Road SE and Wiltsey Road, south along I-5 to the intersection with the western boundary of Section 24, T8S, R3W; thence due south on a line to the intersection with Delaney Road; thence easterly along Delaney Road to the intersection with Sunnyside Road; thence north along Sunnyside Road to the intersection with Hylo Road SE; thence west along Hylo Road SE to the intersection with Liberty Road; thence north along Liberty Road to the intersection with Cole Road; thence west along Cole Road to the intersection with Bates Road; thence northerly and easterly along Bates Road to the intersection with Jory Hill Road; thence west along Jory Hill Road to the intersection with Stone Hill Avenue; thence north along Stone Hill Avenue to the intersection with Vita Springs Road; thence westerly along Vita Springs Road to the Willamette River; thence northeasterly downstream the Willamette River to a point adjacent to where the western boundary of Section 30, T7S, R3W intersects the Southern Pacific Railroad Line; thence westerly along the Southern Pacific Railroad Line to the intersection with State Highway 51; thence northeasterly along State Highway 51 to the intersection with Oak Grove Road; thence northerly along Oak Grove Road to the intersection with State Highway 22; thence west on State Highway 22 to the intersection with Oak Grove Road; thence north along Oak Grove Road to the intersection with Orchard Heights Road; thence east and north along Orchard Heights Road to the intersection with Eagle Crest Drive; thence northerly along Eagle Crest Drive to the intersection with Hunt Road; thence north along Hunt Road to the intersection with Fourth Road; thence east along Fourth Road to the intersection with Spring Valley Road; thence north along Spring Valley to the intersection with Oak Knoll Road; thence east along Oak Knoll Road to the intersection with Wallace Road; thence south along Wallace Road to the intersection with Lincoln Road; thence east along Lincoln Road on a line to the intersection with the Willamette River; thence northeasterly downstream the Willamette River to a point adjacent to where Simon Street starts on the East Bank; thence east and south along Simon Street to the intersection with Salmon; thence east along Salmon to the intersection with Ravena Drive; thence southerly and easterly along Ravena Drive to the intersection with Wheatland Road; thence northerly along Wheatland Road to the intersection with Brooklake Road; thence southeast along Brooklake Road to the intersection with 65th Avenue; thence south along 65th Avenue to the intersection with Labish Road; thence east along Labish Road to the intersection with the West Branch of the Little Pudding River; thence southerly along the West Branch of the Little Pudding River to the intersection with Sunnyview Road; thence east along Sunnyview Road to the intersection with 63rd Avenue; thence south along 63rd Avenue to the intersection with State Street; thence east along State Street to the intersection with 62nd Avenue; thence south along 62nd Avenue to the intersection with Deer Park Drive; thence southwest along Deer Park Drive to the intersection with Santiam Highway 22; thence southeast along Santiam Highway 22 to the point where it intersects the Salem Urban Growth Boundary (SUGB); thence following the southeast boundary of the SUGB generally southerly and westerly to the intersection with Wiltsey

Road; thence west along Wiltsey Road to the intersection with I-5 (the point of beginning).

(29) "UGA" means Urban Growth Area.

(30) "UGB" means Urban Growth Boundary.

(31) "Umpqua Basin" means the area bounded by the following line: Beginning at the SW corner of Section 2, T19S, R9W, on the Douglas-Lane County lines and extending due south to the SW corner of Section 14, T32S, R9W, on the Douglas-Curry County lines, thence easterly on the Douglas-Curry and Douglas-Josephine County lines to the intersection of the Douglas, Josephine, and Jackson County lines; thence easterly on the Douglas-Jackson County line to the intersection of the Umpqua National Forest boundary on the NW corner of Section 32, T32S, R3W; thence northerly on the Umpqua National Forest boundary to the NE corner of Section 36, T25S, R2W; thence west to the NW corner of Section 36, T25S, R4W; thence north to the Douglas-Lane County line; thence westerly on the Douglas-Lane County line to the starting point.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 18-1996, f. & cert. ef. 8-19-96; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0500; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 5-2010, f. & cert. ef. 5-21-10

340-204-0030

Designation of Nonattainment Areas

The following areas are designated as Particulate Matter Nonattainment Areas:

(1) The Eugene Nonattainment Area for PM10 is the Eugene-Springfield UGB as defined in OAR 340-204-0010.

(2) The Oakridge Nonattainment Area for PM10 is the Oakridge UGB as defined in OAR 340-204-0010.

(3) The Klamath Falls Nonattainment Area for PM2.5 is as follows: Townships and ranges defined by T37S R9E Sections 31-32, T38S R8E Sections 1-5, 8-16, 22-26, 35-36, T38S R9E Sections 5-8, 14-15, 17-36, T39S R8E Sections 1-2, 11-13, 24, T39S R9E Sections 1-27, T39S R10E Sections 3-10, 15-20, 29-30.

(4) The Oakridge Nonattainment Area for PM2.5 is defined as a line from Township 21 South, Range 2 East, Section 11 (northwest corner), east to Township 21 South, Range 3 East, Section 11 (northeast corner), south to Township 21 South, Range 3 East, Section 23 (southeast corner), west to Township 21 South, Range 2 East, Section 23 (southwest corner) connecting back to Township 21 South, Range 2 East, Section 11 (northwest corner).

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 18-1996, f. & cert. ef. 8-19-96; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0520; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 6-2001, f. & cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 5-2010, f. & cert. ef. 5-21-10

340-206-0010

Introduction

OAR 340-206-0030, 340-206-0050 and 340-206-0060 are effective within priority I and II air quality control regions (AQCR) as defined in 40 CFR Part 51, subpart H (1995), when the AQCR contains a nonattainment area listed in 40 CFR Part 81. All other rules in this Division are equally applicable to all areas of the state. Notwithstanding any other regulation or standard, this Division is designed to prevent the excessive accumulation of air contaminants during periods of atmospheric stagnation or at any other time, which if allowed to continue to accumulate unchecked could result in concentrations of these contaminants reaching levels which could cause significant harm to the health of persons. This Division establishes criteria for identifying and declaring air pollution episodes at levels below the level of significant harm and are adopted pursuant to the requirements of the Federal Clean Air Act as amended and 40 CFR Part 51.151. Levels of significant harm for various pollutants listed in 40 CFR Part 51.151 are:

(1) For sulfur dioxide (SO₂) - 1.0 ppm, 24-hour average.

(2) For particulate matter

(a) PM₁₀ - 600 micrograms per cubic meter, 24-hour average.

(b) PM_{2.5} - 350.5 micrograms per cubic meter, 24-hour average.

(3) For carbon monoxide (CO):

ADMINISTRATIVE RULES

- (a) 50 ppm, 8-hour average.
- (b) 75 ppm, 4-hour average.
- (c) 125 ppm, 1-hour average.
- (4) For ozone (O3) - 0.6 ppm, 2-hour average.
- (5) For nitrogen dioxide (NO2):
 - (a) 2.0 ppm, 1-hour average.
 - (b) 0.5 ppm, 24-hour average.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 9-1-72; DEQ 18-1983, f. & ef. 10-24-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-027-0005; DEQ 5-2010, f. & cert. ef. 5-21-10

340-206-0030

Episode Stage Criteria for Air Pollution Emergencies

Three stages of air pollution episode conditions and a pre-episode standby condition are established to inform the public of the general air pollution status and provide a management structure to require preplanned actions designed to prevent continued accumulation of air pollutants to the level of significant harm. The three episode stages are: Alert, Warning, and Emergency. The Department shall be responsible to enforce the provisions of this Division which requires actions to reduce and control emissions during air pollution episode conditions. An air pollution alert or air pollution warning shall be declared by the Director or appointed representative when the appropriate air pollution conditions are deemed to exist. When conditions exist which are appropriate to an air pollution emergency, the Department shall notify the Governor and declare an air pollution emergency pursuant to ORS 468.115. The statement declaring an air pollution Alert, Warning or Emergency shall define the area affected by the air pollution episode where corrective actions are required. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Department determines that the accumulation of air contaminants in any place is increasing or has increased to levels which could, if such increases are sustained or exceeded, lead to a threat to the health of the public. In making this determination, the Department will be guided by the following criteria for each pollutant and episode stage:

(1) "Pre-Episode Standby" condition, indicates that ambient levels of air pollutants are within standards or only moderately exceed standards. In this condition, there is no imminent danger of any ambient pollutant concentrations reaching levels of significant harm. The Department shall maintain at least a normal monitoring schedule but may conduct additional monitoring. An air stagnation advisory issued by the National Weather Service, an equivalent local forecast of air stagnation or observed ambient air levels in excess of ambient air standards may be used to indicate the need for increased sampling frequency. The pre-episode standby condition is the lowest possible air pollution episode condition and may not be terminated.

(2) "Air Pollution Alert" condition indicates that air pollution levels are significantly above standards but there is no immediate danger of reaching the level of significant harm. Monitoring should be intensified and readiness to implement abatement actions should be reviewed. At the Air Pollution Alert level the public is to be kept informed of the air pollution conditions and of potential activities to be curtailed should it be necessary to declare a warning or higher condition. An Air Pollution Alert condition is a state of readiness. When the conditions in both subsections (a) and (b) of this section are met, an Air Pollution Alert will be declared and all appropriate actions described in Tables 1 and 4 shall be implemented:

(a) Meteorological dispersion conditions are not expected to improve during the next 24 or more hours;

(b) Monitored pollutant levels at any monitoring site exceed any of the following:

- (A) Sulfur dioxide — 0.3 ppm — 24-hour average;
- (B) Particulate matter
 - (i) PM10 — 350 micrograms per cubic meter (ug/m3) — 24-hour average;
 - (ii) PM2.5 — 140.5 micrograms per cubic meter (ug/m3) — 24-hour average;
- (C) Carbon monoxide — 15 ppm — 8-hour average;
- (D) Ozone — 0.2 ppm — 1-hour average;
- (E) Nitrogen dioxide:
 - (i) 0.6 ppm — 1-hour average; or
 - (ii) 0.15 ppm — 24-hour average.

(3) "Air Pollution Warning" condition indicates that pollution levels are very high and that abatement actions are necessary to prevent these lev-

els from approaching the level of significant harm. At the Air Pollution Warning level substantial restrictions may be required limiting motor vehicle use and industrial and commercial activities. When the conditions in both subsections (a) and (b) of this section are met, an Air Pollution Warning will be declared by the Department and all appropriate actions described in Tables 2 and 4 shall be implemented:

(a) Meteorological dispersion conditions are not expected to improve during the next 24 or more hours;

(b) Monitored pollutant levels at any monitoring site exceed any of the following:

- (A) Sulfur dioxide — 0.6 ppm — 24-hour average;
- (B) Particulate matter
 - (i) PM10 — 420 ug/m3 — 24-hour average;
 - (ii) PM2.5 — 210.5 ug/m3 — 24-hour average;
- (C) Carbon monoxide — 30 ppm — 8-hour average;
- (D) Ozone — 0.4 ppm — 1-hour average;
- (E) Nitrogen dioxide:
 - (i) 1.2 ppm — 1-hour average; or
 - (ii) 0.3 ppm — 24-hour average.

(4) "Air Pollution Emergency" condition indicates that air pollutants have reached an alarming level requiring the most stringent actions to prevent these levels from reaching the level of significant harm to the health of persons. At the Air Pollution Emergency level extreme measures may be necessary involving the closure of all manufacturing, business operations and vehicle traffic not directly related to emergency services. Pursuant to ORS 468.115, when the conditions in both subsections (a) and (b) of this section are met, an air pollution emergency will be declared by the Department and all appropriate actions described in Tables 3 and 4 shall be implemented:

(a) Meteorological dispersion conditions are not expected to improve during the next 24 or more hours;

(b) Monitored pollutant levels at any monitoring site exceed any of the following:

- (A) Sulfur dioxide 0.8 ppm — 24-hour average;
- (B) Particulate matter
 - (i) PM10 — 500 ug/m3 — 2-hour average;
 - (ii) PM2.5 — 280.5 ug/m3 — 2-hour average;
- (C) Carbon monoxide 40 ppm — 8-hour average;
- (D) Ozone 0.5 ppm — 1-hour average;
- (E) Nitrogen dioxide:
 - (i) 1.6 ppm — 1-hour average; or
 - (ii) 0.4 ppm — 24-hour average.

(5) "Termination": Any air pollution episode condition (Alert, Warning or Emergency) established by these criteria may be reduced to a lower condition when the elements required for establishing the higher conditions are no longer observed.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 9-1-72; DEQ 18-1983, f. & ef. 10-24-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-027-0010; DEQ 5-2010, f. & cert. ef. 5-21-10

Department of Fish and Wildlife Chapter 635

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

Adm. Order No.: DFW 63-2010

Filed with Sec. of State: 5-17-2010

Certified to be Effective: 5-17-10

Notice Publication Date: 3-1-2010

Rules Adopted: 635-002-0014

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

Rules Coordinator: Therese Kucera—(503) 947-6033

ADMINISTRATIVE RULES

635-002-0014

Disposal of Antlers

Antlers that come into the department's possession shall be disposed of in the following manner:

(1) Sold through competitive bid, consistent with state and, where appropriate federal, rule and statute; or

(2) Donated to nonprofit organizations, federal agencies, or Oregon cities, counties or state agencies for any purpose the department determines is consistent with the agency's mission including wildlife-related fundraising.

(a) A nonprofit organization is:

(A) An Oregon public elementary, middle or high school;

(B) An Oregon state university or community college; or

(C) An organization described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(b) "Wildlife-related fundraising" means selling antlers to raise funds for department-approved wildlife management, research, conservation or educational activities.

(c) The department may impose written conditions restricting the use of any antler it donates.

(d) Donated antlers become that organization's property, unless otherwise noted in written conditions.

(e) Donated antlers may not be used to further or fund political activities of any kind (including, but not limited to, support of or opposition to candidates or ballot measures) or litigation.

(3) Nothing in this rule limits the department's authority, on a government-to-government basis, to provide antlers to federally-recognized tribes in Oregon.

Stat. Auth.: ORS 183, 496.012 & 496.146

Stats. Implemented: ORS 183 & 496

Hist.: DFW 63-2010, f. & cert. ef. 5-17-10

Rule Caption: Adopted Rules Related to Wolves in Captivity in Oregon.

Adm. Order No.: DFW 64-2010

Filed with Sec. of State: 5-17-2010

Certified to be Effective: 5-17-10

Notice Publication Date: 5-1-2010

Rules Adopted: 635-044-0051

Rules Repealed: 635-044-0051(T)

Subject: Adopted rules regulate the holding of wolves in captivity.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-044-0051

Holding Pure-Bred Gray Wolf or Wolves in Captivity

This rule governs the holding in captivity of pure-bred wolves in Oregon, with the objective of protecting the public's native wildlife.

(1) The only persons who may hold pure-bred wolves in captivity are those who, as of December 31, 2009, held a gray wolf or wolves in captivity under previous Oregon Department of Agriculture, Class I Exotic Canine, Exotic Animal Division 603 Rules or held a valid license or registration from the U.S. Department of Agriculture, under the federal Animal Welfare Act of 1970. These persons may hold only gray wolves, and only if they obtain authority under the requirements of paragraphs (4) or (5) of this rule.

(2) Beyond the persons described in paragraph (1), the Department will not issue any new permits to hold a pure-bred wolf in captivity.

(3) For the purpose of this rule, a wolf is considered "pure-bred" so long as it does not include any hybrid cross with a domestic dog or other canine. The Department will determine pure-bred status based on written documentation that may include breeding records, records of acquisition and disposition transactions and sworn statements.

(4) To maintain the authority to hold pure-bred gray wolves in captivity, a person described in paragraph (1) must:

(a) No later than 30 days before the expiration date printed on the permit issued by either the Department or the Department of Agriculture which authorized the person to keep one or more wolves in captivity:

(A) Apply to the Department for a captive wolf holding permit, using a form provided by the Department. Such permits will have a term of two years and may include, but are not limited to, conditions designed to protect native wildlife and human safety;

(B) Pay the Department a fee of \$100 (plus a \$2.00 license agent fee);

(C) Demonstrate to the Department that the person's wolf holding facility meets the minimum special requirement standards for Class I

Exotic Canines under the Oregon Department of Agriculture rules (OAR 603-011-0725) in effect as of April 1, 2010; and

(D) Certify to the Department that the person's wolf handling facility complies with any applicable city or county ordinances and any applicable federal laws.

(b) Obtain written authorization from the Department before transferring a pure-bred gray wolf to another facility or releasing any pure-bred gray wolf into the wild;

(c) Not import, export, purchase, sell or exchange any pure-bred gray wolf; and

(d) Comply with the terms of any permit issued by the Department.

(5) Notwithstanding subparagraph (4)(a) above, a person who qualifies to hold a pure-bred gray wolf under paragraph (1) through possessing an exhibitor permit from the U.S. Department of Agriculture does not need to obtain a wolf holding permit from the Department so long as the person maintains the person's federal permit. However, the person must still comply with the requirements of subparagraphs (4)(b) and (c).

(6) The Department may revoke a wolf holding permit if the Department determines that the person has violated these rules or the terms of the permit. If the Department proposes to revoke a person's wolf holding permit, the person may request a contested case hearing within 14 days of notice of the proposal.

Stat. Auth.: ORS 498.002, 496.171 - 182

Stats. Implemented: ORS 498.002, 496.171 - 182

Hist.: DFW 152-2009(Temp), f. 12-23-09, cert. ef. 1-1-10 thru 6-29-10; DFW 64-2010, f. & cert. ef. 5-17-10

Rule Caption: Modifications to Southwest Zone Sport Chinook Salmon Regulations for the Rogue River.

Adm. Order No.: DFW 65-2010(Temp)

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-22-10 thru 5-31-10

Notice Publication Date:

Rules Amended: 635-016-0090

Subject: This amended rule allows additional opportunities for harvest of naturally-produced adult and jack spring Chinook, while continuing to ensure adequate spawning escapement of naturally-produced adult spring Chinook.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-016-0090

Inclusions and Modifications

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Southwest 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) Rogue River mainstem salmon and steelhead regulations:

(a) Upstream to Hog Creek boat landing, including tidewater, is open for Chinook salmon from 12:01 a.m. May 22 through 11:59 p.m. May 31, 2010. 2 adult Chinook and 5 jacks may be kept per day as part of the daily or annual salmon/steelhead catch limit.

(b) From Hog Creek boat landing upstream to Gold Ray Dam is open for Chinook salmon from 12:01 a.m. May 22 through 11:59 p.m. May 31, 2010. 2 adult Chinook and 5 jacks may be kept per day as part of the daily or annual salmon/steelhead catch limit.

(c) All other General, Statewide and Southwest Zone regulations, as provided in the **2010 Oregon Sport Fishing Regulations**, remain in effect.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; 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 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; 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 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 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 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; 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-

ADMINISTRATIVE RULES

2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 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 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 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; 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 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; 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 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10

Rule Caption: Metolius River Angling Allowed From May 22 Through October 31, 2010.

Adm. Order No.: DFW 66-2010(Temp)

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-22-10 thru 10-31-10

Notice Publication Date:

Rules Amended: 635-018-0090

Rules Suspended: 635-018-0090(T)

Subject: This amended rule allows angling on the upper Metolius River, above the Allingham Bridge beginning May 22, 2010, one day earlier than is published in permanent rule for this reach. All other regulations identified for the Metolius River in the 2010 Oregon Sport Fishing Regulations remain unchanged.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-018-0090

Inclusions and Modifications

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2010 Oregon Sport Fishing Regulations**.

(2) The Deschutes River from the mouth at the I-84 Bridge upstream to Sherars Falls is open to angling for trout, steelhead, and adipose fin-clipped Chinook salmon from April 1 through July 31, 2010.

(a) The catch limit is two adult adipose fin-clipped salmon and five adipose fin-clipped jack salmon per day. All non-adipose fin-clipped Chinook salmon must be released unharmed.

(b) It is unlawful to continue angling from Sherars Falls downstream to the upper railroad trestle after taking a daily bag limit of two adult Chinook salmon.

(3) The Hood River from the mouth to Powerdale Dam is open to angling for adipose fin-clipped Chinook salmon from April 15 through June 30, 2010.

(a) The catch limit for Chinook salmon is two adipose fin-clipped adults and five adipose fin-clipped jacks per day. All salmon that have not been adipose fin-clipped must be released unharmed.

(b) All other catch limits and restrictions remain unchanged from those listed for Hood River in the **2010 Oregon Sport Fishing Regulations**.

(4)(a) The Metolius River mainstem including Spring Creek, upstream from the Allingham Bridge and also in Spring Creek, is open to angling from May 22 through October 31, 2010.

(b) All other General, Statewide and Central 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 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp), f. 5-2-97, cert. ef. 5-

9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04, Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 7-10-06, cert. ef. 8-1-06 thru 10-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 18-2007(Temp), f. 3-22-07, cert. ef. 4-15-07 thru 7-31-07; DFW 55-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 10-31-07; Administrative correction 11-17-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 26-2008(Temp), f. 3-17-08, cert. ef. 4-15-08 thru 7-31-08; DFW 27-2008(Temp), f. 3-24-08, cert. ef. 5-1-08 thru 10-27-08; Administrative correction 11-18-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 16-2009(Temp), f. 2-25-09, cert. ef. 4-15-09 thru 6-30-09; DFW 61-2009(Temp), f. 6-1-09, cert. ef. 8-1-09 thru 10-31-09; DFW 104-2009(Temp), f. 8-28-09, cert. ef. 9-1-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 7-2010(Temp), f. 1-25-10, cert. ef. 4-1-10 thru 7-31-10; DFW 27-2010(Temp), f. 3-8-10, cert. ef. 4-15-10 thru 7-31-10; DFW 66-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 10-31-10

Rule Caption: Sun Creek Recreational Brook and Brown Trout Fishery with No Daily Bag Limit.

Adm. Order No.: DFW 67-2010(Temp)

Filed with Sec. of State: 5-18-2010

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: This amended rule removes all size and daily bag limits and allows the use of bait in Sun Creek from May 22 through August 15, 2010. These modifications relax angling restrictions prior to chemical treatment on August 16, 2010 to remove any remaining brook and brown trout as part of a comprehensive project to restore native bull trout to lower Sun Creek.

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.

(4) Sun Creek is open to angling for brook and brown trout from May 22 through August 15 with the following restrictions:

(a) No daily bag limit or size restrictions; and

(b) Use of bait is allowed.

[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-

ADMINISTRATIVE RULES

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; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10

Rule Caption: Columbia River Treaty Indian Commercial Hook-and-line Season Below Bonneville Dam Closes.

Adm. Order No.: DFW 68-2010(Temp)

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-19-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-041-0076

Rules Suspended: 635-041-0076(T)

Subject: This amended rule closes the Treaty Indian commercial spring Chinook salmon hook-and-line fisheries downstream of Bonneville Dam, conducted under agreements with the states of Oregon and Washington by the Yakama, Umatilla and Warm Springs tribes, effective 6:00 p.m. Wednesday, May 19 through 6:00 a.m. Wednesday, June 16, 2010. Revisions are consistent with action taken May 17, 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 anytime after fishing closes at 6:00 p.m. Wednesday, May 19, 2010.

(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. 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; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10

Rule Caption: White Sturgeon Retention in Columbia River Select Areas Spring Commercial Fisheries Prohibited.

Adm. Order No.: DFW 69-2010(Temp)

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-18-10 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 close the spring non-Indian commercial Select Area fisheries of the Columbia River to retention of white sturgeon effective 7:00 p.m. Tuesday, May 18, 2010. Modifications are consistent with the action taken May 17, 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) and the spring fishery, paragraph (B) as follows:

(A) Winter Season:

(i) Entire Youngs Bay: None scheduled.

(ii) Upstream of old Youngs Bay Bridge: None scheduled.

(iii) Walluski Area: None scheduled.

(B) Spring Season: 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.

ADMINISTRATIVE RULES

(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) Until 7:00 p.m. Tuesday, May 18, 2010 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) and (1)(a)(B), the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries. Effective 7:00 p.m. Tuesday, May 18, 2010 white sturgeon may not be retained.

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; FWC 82-1990(Temp), f. & cert. ef. 8-14-90; FWC 81-1990, f. & cert. ef. 8-7-91; FWC 86-1991, f. & 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. 5-25-92; FWC 74-1992(Temp), f. & cert. ef. 8-10-92; FWC 16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. & cert. ef. 8-9-93; FWC 21-1994(Temp), f. & cert. ef. 4-25-94; FWC 51-1994, f. & cert. ef. 8-19-94; FWC 8-9-93; FWC 64-1994(Temp), f. & cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. & cert. ef. 3-29-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. & cert. ef. 8-27-95; FWC 69-1995, f. & cert. ef. 8-27-95; FWC 8-1995, f. & cert. ef. 2-28-96; FWC 37-1996(Temp), f. & cert. ef. 6-11-96; FWC 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. & cert. ef. 8-16-96; FWC 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 8-1998(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. 3-11-98 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; FWC 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. 8-7-02 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 3-21-05; 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. 7-11-05 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. 8-3-05 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; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; FWC 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; FWC 5-2006, f. & cert. ef. 2-15-06; FWC 14-2006(Temp), f. & cert. ef. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; FWC 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; FWC 17-2006(Temp), f. & cert. ef. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; FWC 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; FWC 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; FWC 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; FWC 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; FWC 73-2006(Temp), f. & cert. ef. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; FWC 103-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; FWC 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; FWC 7-2007(Temp), f. & cert. ef. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; FWC 9-2007, f. & cert. ef. 2-14-07; FWC 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; FWC 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; FWC 25-2007(Temp), f. & cert. ef. 4-18-07 thru 7-26-07; FWC 45-2007(Temp), f. & cert. ef. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; FWC 50-2007(Temp), f. & cert. ef. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; FWC 61-2007(Temp), f. & cert. ef. 8-1-07 thru 10-31-07; FWC 108-2007(Temp), f. & cert. ef. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; FWC 6-2008(Temp), f. & cert. ef. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; FWC 16-2008(Temp), f. & cert. ef. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; FWC 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; FWC 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; FWC 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; FWC 108-2008(Temp), f. & cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; FWC 12-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; FWC 24-2009(Temp), f. & cert. ef. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; FWC 49-2009(Temp), f. & cert. ef. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; FWC 89-2009(Temp), f. & cert. ef. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; FWC 107-

2009(Temp), f. & cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; FWC 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; FWC 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; FWC 30-2010(Temp), f. & cert. ef. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; FWC 35-2010(Temp), f. & cert. ef. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; FWC 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; FWC 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; FWC 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; FWC 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; FWC 69-2010(Temp), f. & cert. ef. 5-18-10 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 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) Until 7:00 p.m. Tuesday, May 18, 2010 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. Effective 7:00 p.m. Tuesday, May 18, 2010 white sturgeon may not be retained.

(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; FWC 15-1998, f. & cert. ef. 3-3-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; 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 65-2000(Temp) f. & cert. ef. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; FWC 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; FWC 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 14-2002(Temp), f. & cert. ef. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 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 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. & 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. 4-8-04, 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 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; FWC 109-

ADMINISTRATIVE RULES

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; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 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)(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 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) Until 7:00 p.m. Tuesday, May 18, 2010 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. Effective 7:00 p.m. Tuesday, May 18, 2010 white sturgeon may not be retained.

(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. 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; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 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) Until 7:00 p.m. Tuesday, May 18, 2010 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. Effective 7:00 p.m. Tuesday, May 18, 2010 white sturgeon may not be retained.

(5) Effective 7:00 p.m. Wednesday, May 19, 2010 fishers are required to phone (360) 795-0319 within one hour after the closing of a nightly fishing period to notify Department staff of any landed catch. Fishers will make arrangements with Department staff to have the catch biologically sampled. After sampling, fishers will be issued a transportation permit by Department staff. A sampling station will be established at the boat ramp off of Miller Point on the east bank of Deep River Slough.

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

ADMINISTRATIVE RULES

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. 8-3-05 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. 10-5-05 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. 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. 10-14-07 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. 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. 9-9-08 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. 4-8-09 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, 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. 2-19-10, 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; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10

Rule Caption: Adopt and amend rules related to Tag sales after the deadline and Mandatory Hunter Reporting Incentive tags.

Adm. Order No.: DFW 70-2010(Temp)

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-18-10 thru 11-10-10

Notice Publication Date:

Rules Amended: 635-065-0015

Rules Suspended: 635-065-0015(T)

Subject: Amend rules to allow the department to sell 2009 buck/deer, elk or 2010 spring bear tags after the tag sale deadline. The hunter must provide the Department with a written affidavit certifying that the person has not yet hunted during the season for which the tag is sought.

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

635-065-0015

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)–(4)(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.

(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) A person may obtain and possess only one Rocky Mountain goat tag in a lifetime.

(9) It is unlawful for any person to issue or to possess any game mammal tag which has been backdated.

(10) 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 2009 buck/deer or elk tag with an open season from March 3 through March 31, 2010, or a 2010 spring bear 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) in addition to the usual tag fee, pays the Department the fee of:

- (i) \$6.50 for a duplicate 2009 buck/deer or elk tag;
- (ii) \$12.50 (plus a \$2.00 license agent fee) for a duplicate residents

2010 spring bear tag or;

(iii) \$15.00 (plus a \$2.00 license agent fee) for a duplicate non residents 2010 spring bear tag.

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. 12-21-00, 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. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. & cert. ef. 1-21-04, 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. 11-3-09, 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; DFW 70-2010(Temp), f. & cert. ef. 5-18-10 thru 11-10-10

Rule Caption: Columbia River Treaty Indian Commercial Platform Hook-and-line Season Above Bonneville Dam Closes.

Adm. Order No.: DFW 71-2010(Temp)

Filed with Sec. of State: 5-19-2010

Certified to be Effective: 5-21-10 thru 6-16-10

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 635-041-0076

Rules Suspended: 635-041-0076(T)

Subject: This amended rule closes the Treaty Indian platform and hook-and-line fisheries upstream of Bonneville Dam. Modifications close these fisheries effective 6:00 p.m. Friday, May 21 through 6:00 a.m. Wednesday, June 16, 2010. Revisions are consistent with action taken May 19, 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) The commercial platform and hook-and-line fisheries and the Yakama, Warm Springs and Umatilla tribal subsistence fisheries downstream of Bonneville Dam (bank fishing only) conducted under agreements with the states of Oregon and Washington close from 6:00 p.m. Wednesday, May 19, 2010 through 6:00 a.m. Wednesday, June 16, 2010. The commercial platform and hook-and-line fisheries above Bonneville Dam (Zone 6) close from 6:00 p.m. Friday, May 21, 2010 through 6:00 a.m. Wednesday, June 16, 2010.

(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) 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 salmon, steelhead, walleye, shad, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; and Big White Salmon River during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods 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. & 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; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10

.....

Rule Caption: Federal Specifications for Commercial and Sport Salmon Fisheries In the Pacific Ocean.

Adm. Order No.: DFW 72-2010

Filed with Sec. of State: 5-25-2010

Certified to be Effective: 5-25-10

Notice Publication Date: 4-1-2010

Rules Amended: 635-003-0003, 635-013-0003

Subject: The amended rules incorporate, by reference, the annual ocean commercial (OAR 635-003-0003) troll salmon and annual ocean sport (OAR 635-013-0003) salmon specifications and management measures as adopted by the Pacific Fishery Management Council in its annual Ocean Salmon Management Measures and Impacts, as finalized in April 2010. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-003-0003

Purpose and Scope

(1) The purpose of Division 003 is to provide for management of commercial salmon fisheries off the Oregon Coast over which the state has jurisdiction.

(2) Division 003 incorporates into Oregon Administrative Rules, by reference, the annual ocean troll salmon specifications and management measures as adopted by the Pacific Fishery Management Council in its annual Ocean Salmon Management Measures and Impacts, as finalized in April 2010, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H (61FR34572, July 2, 1996, as amended to incorporate the standards in the Pacific Fishery Management Council referenced document)**. Therefore, persons must consult the **Pacific Fishery Management Council referenced document** and **Federal Regulations** in addition to Division 003 to determine all applicable troll salmon fishing requirements. A copy of the Pacific Fishery Management Council referenced document and the Federal Regulations may be obtained by contacting the Pacific Fishery Management Council at www.pcouncil.org or at 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

(3) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 20-1996, f. & cert. ef. 4-29-96; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; Administrative correction, 11-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 72-2010, f. & cert. ef. 5-25-10

635-013-0003

Purpose and Scope

(1) The purpose of Division 013 is to provide for management of sport salmon fisheries off the Oregon Coast over which the State has jurisdiction.

(2) This rule incorporates by reference, the annual ocean sport salmon specifications and management measures as adopted by the Pacific Fishery Management Council in its annual Ocean Salmon Management Measures and Impacts, as finalized in April 2010, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**.

(3) This rule also incorporates by reference the 2010 Oregon Sport Fishing Regulations.

(4) A copy of the **Pacific Fishery Management Council referenced document** and the **Federal Regulations** may be obtained by contacting the Pacific Fishery Management Council at www.pcouncil.org or at 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

(5) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

ADMINISTRATIVE RULES

Hist.: FWC 44-1984(Temp), f. & cert. 8-23-84; FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 52-1989(Temp), f. & cert. ef. 7-28-89; FWC 37-1990, f. & cert. ef. 5-1-90; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; FWC 34-1998, f. & cert. ef. 5-4-98; FWC 100-1998, f. 12-23-98, cert. ef. 1-1-99; FWC 31-1999, f. & cert. ef. 5-3-99; FWC 38-2000, f. & cert. ef. 7-3-00; FWC 1-2001, f. 1-25-01, cert. ef. 2-1-01; FWC 28-2001, f. & cert. ef. 5-1-01; FWC 130-2002, f. 11-21-02, cert. ef. 1-1-03; FWC 35-2003, f. 4-30-03, cert. ef. 5-1-03; FWC 125-2003, f. 12-11-03, cert. ef. 1-1-04; FWC 32-2004, f. 4-22-04, cert. ef. 5-1-04; FWC 117-2004, f. 12-13-04, cert. ef. 1-1-05; FWC 25-2005, f. & cert. ef. 4-15-05; FWC 136-2005, f. 12-7-05, cert. ef. 1-1-06; FWC 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; Administrative correction, 11-16-06; FWC 24-2007, f. 4-16-07, cert. ef. 5-1-07; FWC 136-2007, f. 12-31-07, cert. ef. 1-1-08; FWC 36-2008, f. 4-21-08, cert. ef. 5-1-08; FWC 156-2008, f. 12-31-08, cert. ef. 1-1-09; FWC 52-2009, f. & cert. ef. 5-18-09; FWC 144-2009, f. 12-8-09, cert. ef. 1-1-10; FWC 72-2010, f. & cert. ef. 5-25-10

Rule Caption: Trask River Closure From Gold Creek, at Hatchery, Delayed Until June 16, 2010.

Adm. Order No.: DFW 73-2010(Temp)

Filed with Sec. of State: 5-27-2010

Certified to be Effective: 6-1-10 thru 9-30-10

Notice Publication Date:

Rules Amended: 635-014-0090

Rules Suspended: 635-014-0090(T)

Subject: These rule modifications delay the closure of the Trask River from Gold Creek, at the hatchery, from June 1 until June 16, 2010. Angling for spring Chinook in the Trask River has been especially productive during the early part of the run this year. In order to allow anglers this opportunity to harvest hatchery spring Chinook, we need to extend the angling season at the hatchery 200 feet upstream and 900 feet downstream.

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.

(3) The Trask River will be closed from Gold Creek, at the hatchery, 200 feet upstream and 900 feet downstream June 16 through November 30, 2010

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stat. 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; FWC 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; FWC 34-1998, f. & cert. ef. 5-4-98; FWC 69-1998, f. 8-28-98, cert. ef. 9-1-98; FWC 100-1998, f. 12-23-98, cert. ef. 1-1-99; FWC 36-1999, f. & cert. ef. 5-20-99; FWC 96-1999, f. 12-27-99, cert. ef. 1-1-00; FWC 24-2000, f. 4-28-00, cert. ef. 5-1-00; FWC 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; FWC 1-2001, f. 1-25-01, cert. ef. 2-1-01; FWC 28-2001, f. & cert. ef. 5-1-01; FWC 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; FWC 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; FWC 81-2001, f. & cert. ef. 8-29-01; FWC 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; FWC 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; FWC 123-2001, f. 12-31-01, cert. ef. 1-1-02; FWC 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; FWC 26-2002, f. & cert. ef. 3-21-02; FWC 37-2002, f. & cert. ef. 4-23-02; FWC 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); FWC 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; FWC 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; FWC 130-2002, f. 11-21-02, cert. ef. 1-1-03; FWC 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; FWC 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; FWC 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; FWC 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; FWC 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; FWC 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; FWC 125-2003, f. 12-11-03, cert. ef. 1-1-04; FWC

126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; FWC 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; FWC 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; FWC 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; FWC 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; FWC 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; FWC 117-2004, f. 12-13-04, cert. ef. 1-1-05; FWC 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; FWC 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; FWC 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; FWC 136-2005, f. 12-7-05, cert. ef. 1-1-06; FWC 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; FWC 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; FWC 79-2006, f. 8-11-06, cert. ef. 1-1-07; FWC 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; FWC 24-2007, f. 4-16-07, cert. ef. 5-1-07; FWC 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; FWC 136-2007, f. 12-31-07, cert. ef. 1-1-08; FWC 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; FWC 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; FWC 156-2008, f. 12-31-08, cert. ef. 1-1-09; FWC 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; FWC 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; FWC 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; FWC 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; FWC 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; FWC 144-2009, f. 12-8-09, cert. ef. 1-1-10; FWC 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; FWC 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10

Rule Caption: Commercial Sales of Hatchery Chinook Caught In Nez Perce Snake River Basin Tributary Fisheries Allowed.

Adm. Order No.: DFW 74-2010(Temp)

Filed with Sec. of State: 6-2-2010

Certified to be Effective: 6-2-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-041-0076

Rules Suspended: 635-041-0076(T)

Subject: This amended rule allows the commercial sales of hatchery Chinook salmon that have been caught by Nez Perce tribal fishers in the Snake River Basin tributary treaty fisheries, including fish caught in the Imnaha and Grande Ronde subbasins in lawfully conducted treaty fisheries.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0076

Spring-Summer Salmon Season

(1) The commercial platform and hook-and-line fisheries and the Yakama, Warm Springs and Umatilla tribal subsistence fisheries downstream of Bonneville Dam (bank fishing only) conducted under agreements with the states of Oregon and Washington close from 6:00 p.m. Wednesday, May 19, 2010 through 6:00 a.m. Wednesday, June 16, 2010. The commercial platform and hook-and-line fisheries above Bonneville Dam (Zone 6) close from 6:00 p.m. Friday, May 21, 2010 through 6:00 a.m. Wednesday, June 16, 2010.

(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) 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.

ADMINISTRATIVE RULES

(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 salmon, steelhead, walleye, shad, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; and Big White Salmon River during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods are allowed.

(4) Until further notice, sales of adipose fin-clipped Chinook salmon, caught in Nez Perce tributary fisheries in the Snake River Basin Tributary Treaty Area, including treaty spring fisheries in the Imnaha and Grande Ronde subbasins, may be sold during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods.

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; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10

Rule Caption: Definitions for Department use of aircraft to hunt or locate game mammals or game birds.

Adm. Order No.: DFW 75-2010(Temp)

Filed with Sec. of State: 6-2-2010

Certified to be Effective: 6-2-10 thru 11-28-10

Notice Publication Date:

Rules Amended: 635-043-0051

Subject: This rule implements ORS 498.126(4)(b), which requires definition of “emergency situation” and “necessary” in relation to use of aircraft by the Department or its agents in hunting or locating game mammal and game birds.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-043-0051

Authority to Take or Harass Wildlife

(1) In accordance with ORS 496.012, 496.162, 497.298, 498.002, and 498.006, Department staff or their agents may take or harass wildlife in the times, places and manners necessary for:

- Scientific purposes pursuant to Department programs;
- Protection against a threat to human safety;
- Protection of land or property from damage;
- Wildlife management purposes pursuant to Department programs;
- Education and display purposes; and
- Rehabilitation of sick, injured or orphaned wildlife.

(2) Harassment means acts that frighten or chase but do not kill wildlife.

(3) ORS 498.126(1) provides that a person may not hunt game mammals or game birds from or with the aid of an aircraft, nor transmit from an aircraft to a person not in the aircraft information regarding the location of any game mammals or game birds. ORS 498.126(4) provides an exception for the Department of Fish and Wildlife, and its agents, when conducting wildlife management activities necessary for scientific research or, in emergency situations, protecting human safety, wildlife species or property. ORS 498.126(4)(b) requires definition of “emergency situation” and “necessary” by rule.

(a) “Emergency situation” means that the Department has determined that prompt action is required to implement a provision of a species management plan or administrative rule adopted by the Fish and Wildlife Commission.

(b) “Necessary” means that the Department has determined that the use of aircraft in a particular instance is the most efficient method of implementing a provision of a species management plan or administrative rule adopted by the Fish and Wildlife Commission.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

Hist.: DFW 47-2001, f. & cert. ef. 6-13-01; DFW 12-2002, f. & cert. ef. 2-12-02; DFW 75-2010(Temp), f. & cert. ef. 6-2-10 thru 11-28-10

Rule Caption: Oregon Ocean Commercial, Terminal Area, and Coastal Zone Sport Salmon Fisheries.

Adm. Order No.: DFW 76-2010

Filed with Sec. of State: 6-8-2010

Certified to be Effective: 8-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 635-003-0085, 635-013-0007, 635-013-0009, 635-014-0090, 635-016-0090

Rules Repealed: 635-013-0009(T)

Subject: Amended rules for sport and commercial fishing regulations for coastal fall Chinook in Tillamook, Elk and Chetco ocean terminal areas. Amended rules for sport angling regulations for coastal fall Chinook in bays and rivers. Also amended sport angling regulations to provide terminal recreational fisheries for non adipose fin-clipped coho in the Siletz, Tenmile and Coquille basins with open areas, bag limits, seasons, and quotas. Modifications to regulations for 2010 conform to recent federal regulation changes. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-003-0085

Extended Commercial Seasons

In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for Chinook salmon as follows:

(1) Elk River Ocean Terminal Area — from October 15 through the earlier of November 30 or quota of 1,250 Chinook in the area described in section (1)(a) of this rule.

(a) The open area is all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°40'30" N. Lat. 124°29'00" W. Long., thence to shore (Humbug Mountain).

(b) During the season described in this section (1), it is *unlawful* to take Chinook salmon less than 28 inches in total length; it is *unlawful* to use multipoint or barbed hooks or to fish more than four spreads per line; it is *unlawful* to make more than one landing of Chinook per day; and it is *unlawful* to have in possession or to land more than 20 Chinook per day taken in this fishery. Landings are restricted to Port Orford.

(c) All vessels landing salmon caught in this season must report to ODFW within one hour of delivery or prior to transport away from the port of landing by either calling (541) 867-0300, ext. 252 or by e-mail to elksw.trollreport@state.or.us. Notification shall include vessel name and number, number of salmon by species, port of landing, location of delivery, and estimated time of delivery.

(2) Tillamook Bay Ocean Terminal Area — from September 1 through the earlier of October 31 or quota of 600 Chinook in the area described in section (2)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area between Pyramid Rock (45°29'48" N. Lat.) and Twin Rocks 45°35'54" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (2), it is *unlawful* to take Chinook salmon less than 28 inches in total length and it is *unlawful* to use multipoint or barbed hooks or to fish more than four spreads per line; and it is *unlawful* to have in possession or to land more than 25 Chinook per calendar week (Sunday through Saturday). Landings are restricted to Garibaldi.

(c) All vessels landing salmon caught in this season must report to the Department within one hour of delivery or prior to transport away from the port of landing by either calling (541) 867-0300, ext. 271 or by e-mail to tillsw.trollreport@state.or.us. Notification shall include vessel name and number, number of salmon by species, port of landing, location of delivery, and estimated time of delivery.

ADMINISTRATIVE RULES

(3) Chetco River Ocean Terminal Area — from October 13 through the earlier of October 31 or quota of 500 Chinook in the area described in section (3)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (3) it is unlawful to take Chinook salmon less than 28 inches in total length; it is unlawful to use multipoint or barbed hooks, or to fish more than four spreads per line; it is unlawful to make more than one landing of Chinook per day; and it is unlawful to have in possession or to land more than 20 Chinook per day taken in this fishery. Landings are restricted to Brookings.

(c) All vessels landing salmon caught in this season must report to ODFW within one hour of delivery or prior to transport away from the port of landing by either calling (541) 867-0300, ext. 252 or by e-mail to kmzortrollreport@state.or.us. Notification shall include vessel name and number, number of salmon by species, port of landing, location of delivery, and estimated time of delivery.

Stat. Auth.: ORS 496.138, 496.146, & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 48-1984(Temp), f. & ef. 8-31-84; 57-1984(Temp), f. & ef. 9-15-84; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 106-1992(Temp), f. 10-8-92, cert. ef. 10-24-92; FWC 111-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 80-1994(Temp), f. 10-25-94, cert. ef. 10-26-94; FWC 82-1994(Temp), f. 10-28-94, cert. ef. 10-30-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 85-1995(Temp), f. & cert. ef. 10-20-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 66-1997(Temp), f. 10-24-97, cert. ef. 10-26-97; FWC 67-1997(Temp), f. 10-28-97, cert. ef. 10-29-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 78-2006(Temp), f. 8-7-06, cert. ef. 9-1-06 thru 12-15-06; Administrative correction 12-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 65-2008(Temp), f. 6-20-08, cert. ef. 9-1-08 thru 12-31-08; DFW 128-2008(Temp), f. 10-9-08, cert. ef. 10-12-08 thru 12-31-08; Administrative correction 1-23-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 102-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 132-2009(Temp), f. & cert. ef. 10-19-09 thru 10-31-09; Administrative correction 11-19-09; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10

635-013-0007

Special South Coast Seasons

In addition to the open seasons prescribed in OAR 635-013-0005 there are open seasons for Chinook salmon as follows:

(1) Elk River Area.

(a) From October 15 through November 30 in all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°40'30" N. Lat. 124°29'00" W. Long., thence to shore (Humbug Mountain);

(b) During the season described for the Elk River Area in section (1)(a) of this rule it is unlawful to take Chinook salmon less than 24 inches in length. It is unlawful to use multipoint or barbed hooks.

(2) Chetco River Area.

(a) From October 1-12 in an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore.

(b) During the seasons described in section (2)(a) of this rule it is unlawful to take Chinook salmon less than 24 inches in length. No more than one Chinook salmon may be retained per day and no more than 5 fish may be retained during the October 1-12 season. It is unlawful to use multipoint or barbed hooks.

Stat. Auth.: ORS 496.138, 496.146, & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 25-1982, f. & ef. 4-30-82; FWC 62-1983(Temp), f. & ef. 11-1-83; FWC 69-1984(Temp), f. & ef. 10-2-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 77-1986(Temp), f. & ef. 11-26-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. 8-31-89, cert. ef. 9-16-89; FWC 86-1990, f. 8-24-90, cert. ef. 9-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 101-1992, f. 9-29-92, cert. ef. 10-1-92; FWC 114-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 78-1994(Temp), f. 10-20-94, cert. ef. 10-21-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 84-1995(Temp), f. 10-13-95, cert. ef. 10-16-95; FWC 86-1995(Temp), f. 10-20-95, cert. ef. 10-21-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 121-2008(Temp), f. & cert. ef. 10-2-08 thru 12-31-08; Administrative correction 1-23-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; Administrative correction 1-25-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10

635-013-0009

Tillamook Terminal Area Ocean Fishery

(1) In addition to the open seasons prescribed in OAR 635-013-0004 there are open seasons for Chinook salmon in the areas described in Section (2) of this rule.

(2) The Pacific Ocean waters inside an area south of Twin Rocks (45°35'54" N. Lat.) and north of Pyramid Rock (45°29'48" N. Lat.) and seaward three nautical miles offshore are open for Chinook salmon September 1 through October 31.

(3) During the open season for adipose fin-clipped coho salmon in the ocean, the Terminal Area described in section (2) of this rule is open to angling for salmon consistent with federal sport salmon management measures for the area from Cape Falcon to Humbug Mountain.

(4) During the period of September 1-October 31, in the area described in section (2) above no more than 1 non fin-clipped Chinook salmon may be retained per day and no more than 10 non fin-clipped Chinook salmon may be retained in the seasonal aggregate when combined with all other waters in the Northwest Zone and all state waters terminal area seasons in the Marine Zone with a 10 Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all non fin-clipped Chinook salmon retained between August 1 and December 31, except in the Nehalem Basin where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between July 1 and December 31. For purposes of this rule, adult salmon are Chinook having a length greater than 24 inches.

(5) No more than two single-point, single-shank barbless hooks are required in the ocean when these ocean waters are open for the adipose fin-clipped coho salmon fishery and in the ocean outside the Terminal Area at all times.

Stat. Auth.: ORS 496.138, 496.146, & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 45-1983(Temp), f. & ef. 9-16-84; FWC 57-1984(Temp), f. & ef. 9-15-84; FWC 64-1984(Temp), f. & ef. 9-21-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. 8-31-89, cert. ef. 9-16-89; FWC 86-1990, f. 8-24-90, cert. ef. 9-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; 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; Administrative correction 1-23-09; DFW 27-2009(Temp), f. 3-11-09, cert. ef. 3-15-09 thru 9-10-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; Administrative correction 1-25-10; DFW 33-2010(Temp), f. 3-12-10, cert. ef. 3-15-10 thru 9-10-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10

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** pamphlet.

(2) Notwithstanding all other requirements provided in the 2010 Oregon Sport Fishing Regulations pamphlet, the following additional rules apply to adult salmon angling in waters of the Northwest Zone:

(a) All waters of the Necanicum River and Tillamook Bay Basin, (including the Miami, Kilchis, Wilson, Trask, and Tillamook rivers) that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and all state waters terminal area seasons in the Marine Zone with a 10 adult non fin-clipped Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31 except in the Nehalem Basin where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between July 1 and December 31.

(b) In all waters of the Nehalem River Basin (including the North Fork) and the Nestucca River Basin (including the Little Nestucca and Three Rivers) that are open to Chinook salmon the daily catch limit may include no more than 1 adult non fin-clipped Chinook salmon per day and 2 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone with a 2 adult non fin-clipped Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31 except in the Nehalem Basin where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between July 1 and December 31.

ADMINISTRATIVE RULES

(c) Within the Nehalem Basin (including the North Fork) the following additional rules apply:

(A) Mainstem (bay) closed to all salmon/steelhead angling seaward from a line extending from Nehalem Bay State Park Boat Ramp to Fishery Point July 1 through September 30 and closed to all Chinook angling upstream of Highway 53 Bridge (RM 5.8) at Mohler September 1 through December 31.

(B) Closed to all Chinook angling above the Miami-Foley Road Bridge July 1 through December 31.

(d) Within the Nestucca Basin (including the Little Nestucca River and Three Rivers) the following rules apply:

(A) Mainstem Nestucca tidewater and bay below Cloverdale Bridge (RM 7.1) closed to all salmon and steelhead angling August 1 through September 15.

(B) Mainstem Nestucca River above Cloverdale Bridge (RM 7.1) closed to all Chinook angling August 1 through September 15.

(i) Nestucca bay downstream of ODFW sign at the southern end of Guardrail Hole (aka Fishery Point, Broton Road MP 4.5): Closed to all salmon/steelhead angling August 1 through December 31.

(C) Three Rivers closed from mouth upstream to hatchery weir deadline July 1 through September 30.

(D) Little Nestucca including all Little Nestucca tidewater: Closed to all Chinook angling August 1 through December 31.

(E) Mainstem Nestucca River upstream of Farmer Creek (RM 12.5) closed to all Chinook angling August 1 through December 31.

(e) In all waters of Salmon River, the Siletz River Basin, and Yaquina River Basin open for Chinook salmon, the daily catch limit may include no more than 1 adult non fin-clipped Chinook salmon per day and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and all state waters terminal area seasons in the Marine Zone with a 10 adult non fin-clipped Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31.

(A) Siletz River and Bay upstream to Old Mill Park Boat Launch at RM 36.0 open for all coho from September 1 through the earlier of November 30 or attainment of an adult coho quota of 400 non-finclipped coho.

(B) The catch limit may include one adult non fin-clipped coho salmon for the entire season and one non fin-clipped jack coho salmon per day during periods when retention of non fin clipped adult coho salmon is allowed, and no more than 5 total adult non fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(f) Within the Siletz River Basin the following additional rules apply:

(A) Drift Creek (Siletz River Basin) upstream of the confluence with Quarry Creek at RM 8 is closed for Chinook salmon from August 1 through December 31, 2010; and

(B) all waters of the Siletz River (including all tributaries) upstream of Old Mill Park Boat Launch at RM 36.0 are closed for Chinook salmon from August 1 through December 31, 2010.

(g) Within the Yaquina River Basin the following additional rules apply:

(A) All waters of the Yaquina River upstream of the confluence of the Yaquina River and Big Elk Creek at RM 18.3 and all waters of Big Elk Creek (Yaquina River Basin) are closed for Chinook salmon from August 1 through December 31; and

(h) Within the Alsea River Basin the following additional rules apply:

(A) All waters of Drift Creek (Alsea River Basin) within the Drift Creek Wilderness Area and upstream are closed for Chinook salmon from August 1 through December 31; and

(B) all waters of the Alsea River upstream of the confluence with Five Rivers at RM 21; and

(C) all waters of Five Rivers are closed for Chinook salmon from October 16 through December 31, 2010.

(i) Within the Siuslaw River Basin the following additional rules apply:

(A) All waters of the Siuslaw River upstream of the confluence with Lake Creek at RM 30.0 are closed for Chinook salmon from August 1 through December 31;

(B) All waters of Lake Creek closed for Chinook salmon August 1 through December 31 and all waters of Lake Creek downstream of Fish Creek are closed to all angling from September 1 through November 30.

[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; FWC 42-1998(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 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; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10

635-016-0090

Inclusions and Modifications

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Southwest 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) Notwithstanding all other requirements provided in the 2010 Oregon Sport Fishing Regulations, the following restrictions apply to angling in waters of the Southwest Zone:

(a) Within the Coos River Basin the following additional rules apply:

(A) All waters of the South Fork Coos River upstream from the head of tidewater at Dellwood at RM 10.0 are closed for Chinook salmon from August 1 through December 31 and closed for steelhead from August 1 through November 14; and

(b) Within the Coquille River Basin the following additional rules apply:

(A) Open for non fin-clipped coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 1 through the earlier of November 30 or attainment of an adult coho quota of 1,200 non fin-clipped coho. The daily catch limit may include one adult non fin-clipped coho salmon per day and one non fin-clipped jack coho salmon, and no more than 5 total adult non fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(c) Within the Tenmile Lakes Basin the following additional rules apply:

(A) Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for non fin-clipped coho salmon from October 1 through the earlier of December 31 or attainment of an adult coho quota of 500 non-finclipped coho. The daily catch limit may include one adult non fin-clipped coho salmon per day and one non fin-clipped jack coho salmon, and no more than 5 total adult non fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone. Only one rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

ADMINISTRATIVE RULES

(d) All waters of Floras Creek upstream of the County Road 124 bridge over Floras Creek at RM 5.0 are closed for Chinook salmon between August 1 and December 31.

(e) All waters of the Sixes River upstream of Edson Creek at RM 10.0 are closed for Chinook salmon between August 1 and December 31.

(f) All waters of the Chetco River mainstem upstream of the power-line crossing at RM 2.2 are closed to angling from August 1 through November 5.

(g) All waters of the Winchuck River mainstem, including tidewater, are closed to angling from August 1 through November 5.

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

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; 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 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; 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 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 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 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; 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 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 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 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 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; 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 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; 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 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10

Rule Caption: Adopt Summer and Fall Recreational Fisheries for the Columbia River.

Adm. Order No.: DFW 77-2010

Filed with Sec. of State: 6-8-2010

Certified to be Effective: 6-16-10

Notice Publication Date: 5-1-2010

Rules Amended: 635-023-0128, 635-023-0130

Subject: Amended rules relating to recreational salmon fishing in the Columbia River. Modifications to regulations for 2010 conform to recent federal regulation changes. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0128

Summer 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) Notwithstanding all other specifications and restrictions in the **2010 Oregon Sport Fishing Regulations**:

(a) Effective June 16 through July 31 the mainstem Columbia River is open to the retention of adipose fin-clipped jack and adult Chinook from the Astoria-Megler Bridge upstream to the Oregon/Washington border.

(b) The combined daily bag limit for adult salmon and steelhead is two fish. Only adipose fin-clipped fish may be retained.

[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 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 52-2005(Temp), f. 6-3-05, cert. ef. 6-16-05 thru 7-31-05; DFW 64-2005(Temp), f. 6-30-05, cert. ef. 7-1-05 thru 7-31-05; Administrative correction 8-17-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 51-2007(Temp), f. 6-29-07, cert. ef. 7-2-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 61-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 7-31-08; 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; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 69-2009(Temp), f. 6-11-09, cert. ef. 6-16-09 thru 7-31-09; Administrative correction 8-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10

635-023-0130

Fall 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) Notwithstanding all other specifications and restrictions in the **2010 Oregon Sport Fishing Regulations**:

(a) Effective August 1 through December 31, in the mainstem Columbia River from a north-south line through Buoy 10 upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank, the combined bag limit for adult Chinook salmon, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook; except: Retention of Chinook is prohibited during September 1 through December 31;

(b)(A) Effective August 1 through December 31, in the mainstem Columbia River from a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank upstream to Bonneville Dam, the combined bag limit for adult salmon and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook; except:

(B) Retention of Chinook is only allowed during August 1 through September 11 or until the harvest guideline is achieved, in the area bounded by a line projected from the Warrior Rock Lighthouse on the Oregon shore to Red Buoy #4 to a marker on the lower end of Bachelor Island, Washington, downstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank.

[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 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10

Rule Caption: Thief Valley Reservoir Sport Game Fish Harvest Opportunity Rescinded.

Adm. Order No.: DFW 78-2010(Temp)

Filed with Sec. of State: 6-10-2010

Certified to be Effective: 6-11-10 thru 9-1-10

Notice Publication Date:

Rules Amended: 635-021-0090

Rules Suspended: 635-021-0090(T)

Subject: The modifications to this rule rescind the liberalization of catch limits and reinstates length requirements for trout in Thief Valley Reservoir. Due to above average rainfall in recent weeks, Lower

ADMINISTRATIVE RULES

Powder River Irrigation District managers now forecast sufficient water in the reservoir will be maintained over the summer for a very good trout fishery. Continuation of the liberalized bag limit would lead to unnecessary depletion of the large trout (over 18 inches) that anglers prize.

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 with the following restrictions:

(a) The daily limit for trout, through June 11, 2010 is 15 fish. After June 11 the daily limit is 5 fish.

(b) Through June 11, 2010 there are no minimum length requirements for trout. After June 11 the minimum length is 8 inches.

(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.

(4) Sun Creek is open to angling for brook and brown trout from May 22 through August 15 with the following restrictions:

(a) No daily bag limit or size restrictions; and

(b) Use of bait is allowed.

[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. 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; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10; DFW 78-2010(Temp), f. 6-10-10, cert. ef. 6-11-10 thru 9-1-10

Rule Caption: Directed Commercial Sardine Fishery First Allocation Period Closes June 12, 2010.

Adm. Order No.: DFW 79-2010(Temp)

Filed with Sec. of State: 6-11-2010

Certified to be Effective: 6-12-10 thru 6-30-10

Notice Publication Date:

Rules Amended: 635-004-0017

Subject: This amended rule closes the first period of the directed commercial sardine fishery effective June 12, 2010. The directed commercial sardine fishery will remain closed through June 30, 2010. These modifications conform to federal (National Oceanic and Atmospheric Administration) rule changes posted for public inspection, by means of Docket No. 0912281446-011-02 on 6/10/10, and scheduled to be published in the Federal Register on June 15, 2010.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0017

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.

(2) The Code of Federal Regulations (CFR), Title 50, Part 660, provides requirements for commercial sardine fishing in the Pacific Ocean. 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 635-004-0016, the National Oceanic and Atmospheric Administration (NOAA), by means of Docket No. 0912281446-011-02 filed June 10, 2010 for public inspection at <http://www.federalregister.gov/inspection.aspx> with intent to publish in the Federal Register on Tuesday, June 15, 2010, announced inseason management measures effective June 12, 2010, including but not limited to, closure of the directed sardine fishery through June 30, 2010. The directed sardine fishery will open for the second allocation period on July 1, 2010.

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

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 38-2009, f. & cert. ef. 4-22-09; DFW 78-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 12-28-09; DFW 85-2009(Temp), f. 7-17-09, cert. ef. 7-18-09 thru 12-31-09; DFW 116-2009(Temp), f. & cert. ef. 9-23-09 thru 12-31-09; Administrative correction 1-25-10; DFW 79-2010(Temp), f. 6-11-10, cert. ef. 6-12-10 thru 6-30-10

Rule Caption: Columbia River Treaty Tribes Summer Salmon Commercial Fisheries Open.

Adm. Order No.: DFW 80-2010(Temp)

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 6-16-10 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 Columbia River summer Treaty Indian commercial fisheries, both above and below Bonneville Dam, which begin at 6:00 a.m. Wednesday, June 16, 2010. Allowable sales include: Chinook, coho, and sockeye salmon; steelhead; walleye; carp; yellow perch; catfish; bass; and shad. White sturgeon may be kept for subsistence in all fisheries except the platform and hook-and-line fisheries conducted below Bonneville Dam where sturgeon may not be retained. Two 60-hour (2.5 days) fishing periods were authorized for the commercial gillnet season in all of Zone 6. The platform and hook-and-line fisheries conducted above and below Bonneville are authorized from 6:00 a.m. Wednesday, June 16, 2010 until further notice. Revisions are consistent with action taken by the Columbia River Compact agencies of Oregon and Washington, in cooperation with the Yakama Nation, Warm Springs Tribes, and Umatilla Tribes on June 10, 2010.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0076

Summer Salmon Season

(1) The commercial platform and hook-and-line fisheries and the Yakama, Warm Springs and Umatilla tribal subsistence fisheries downstream of Bonneville Dam (bank fishing only) conducted under agreements with the states of Oregon and Washington open 6:00 a.m. Wednesday, June 16, 2010. The commercial platform and hook-and-line fisheries above Bonneville Dam (Zone 6) open 6:00 a.m. Wednesday, June 16, 2010.

(a) Allowable sales include Chinook, steelhead, sockeye, coho, walleye, shad, yellow perch, bass and carp. Sturgeon caught in the tribal fisheries below Bonneville Dam may not be retained or sold. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use. 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) Salmon, steelhead, walleye, shad, carp, bass and yellow perch landed during an open commercial fishing period may be sold at any time.

ADMINISTRATIVE RULES

(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. Wednesday, June 16 through 6:00 p.m. Friday, June 18, 2010 (2.5 days).

(a) No minimum mesh size restriction is in effect.

(b) Allowable sales include Chinook, steelhead, sockeye, 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 and 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 salmon, steelhead, walleye, shad, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Wind River, Big White Salmon River, Klickitat River, and Icicle Creek during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods are allowed.

(4) Until further notice, sales of adipose fin-clipped Chinook salmon, caught in Nez Perce tributary fisheries in the Snake River Basin Tributary Treaty Area, including treaty spring fisheries in the Imnaha and Grande Ronde subbasins, may be sold during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods.

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; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. 6-14-10, cert. ef. 6-16-10 thru 7-31-10

Rule Caption: Implementation of Columbia River Summer Chinook Commercial Gillnet Fishery.

Adm. Order No.: DFW 81-2010(Temp)

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 6-17-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-042-0027

Subject: This rule implements the summer Chinook salmon commercial gillnet fishery in the Columbia River mainstem beginning 7:00 p.m. June 17, 2010, consistent with provisions of the US v Oregon management agreement. Implementation is consistent with action taken June 10, 2010 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0027

Summer Salmon Season

(1) Chinook and coho salmon, white sturgeon and shad may be taken by gill net for commercial purposes in Zones 1 thru 4, from the mouth of the Columbia River upstream to the I-205 Bridge. Open fishing periods in this area are: Thursday, June 17 from 7:00 p.m. to 5:00 a.m. Friday, June 18, 2010 (10 hours).

(2) Chinook and coho salmon, white sturgeon and shad may be taken by gill net for commercial purposes in all of Zones 1 thru 5, from the mouth of the Columbia River upstream to a line projected from a deadline marker on the Oregon bank (approximately four miles downstream from

Bonneville Dam Powerhouse 1) in a straight line through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock (as identified in OAR 635-042-0001). Open fishing periods in this area are: Tuesday, June 22, from 7:00 p.m. to 5:00 a.m. Wednesday, June 23, 2010 (10 hours).

(3) It is *unlawful* to use a gill net having a mesh size less than 8 inches. It will be legal to have onboard a commercial vessel more than one net provided the nets are of mesh size legal for the fishery, or the net has a minimum mesh size of 9 inches and the length of any one net does not exceed 1,500 feet in length. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(4) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open.

(5) Allowable sales include Chinook and coho salmon, white sturgeon and shad. All steelhead must be released immediately.

(6) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-A, Cowlitz River, Kalama A, Lewis A, Washougal River and Sandy River sanctuaries are in effect during open fishing periods as applicable.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06; DFW 57-2006(Temp), f. 7-5-06, cert. ef. 7-6-06 thru 7-31-06; DFW 63-2006(Temp), f. 7-14-2006, cert. ef. 7-16-06 thru 7-31-06; DFW 68-2006(Temp), f. 7-28-06, cert. ef. 7-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 52-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; DFW 63-2008(Temp), f. 6-13-08, cert. ef. 6-24-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 75-2008(Temp), f. 7-3-08, cert. ef. 7-7-08 thru 7-31-08; Administrative correction 8-21-08; DFW 72-2009(Temp), f. 6-15-09, cert. ef. 6-18-09 thru 7-31-09; Administrative correction 8-21-09; DFW 81-2010(Temp), f. 6-14-10, cert. ef. 6-17-10 thru 7-31-10

Rule Caption: Rules regarding furbearer harvest, seasons and bag limits for the 2010–2011 and 2011–12 seasons.

Adm. Order No.: DFW 82-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 6-15-10

Notice Publication Date: 5-1-2010

Rules Amended: 635-050-0045, 635-050-0050, 635-050-0070, 635-050-0080, 635-050-0090, 635-050-0100, 635-050-0110, 635-050-0120, 635-050-0130, 635-050-0140, 635-050-0150, 635-050-0170, 635-050-0183, 635-050-0189, 635-200-0030

Subject: Amend rules regarding seasons and bag limits for the 2010–2011 and 2011–2012 furbearer harvest and pursuit seasons.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-050-0045

General Furbearer Regulations

The following general regulations apply to furbearer seasons:

(1) The appropriate furtaker's license or hunting license for furbearers must be in possession to hunt and/or trap furbearers.

(2) Any person possessing a valid furtaker's license or hunting license for furbearers is required to fill out and return a completed harvest report form to the Department at 3406 Cherry Avenue NE, Salem, Oregon 97303. The form shall be postmarked by April 15, 2011 for the 2010–2011 seasons and April 15, 2012 for the 2011–2012 seasons. Failure to do so shall deny the license holder the opportunity to purchase a hunting license for furbearers or furtaker's license for the following furbearer season.

(3) Any person may sell or exchange the hide, carcass, or any part thereof, of any legally taken furbearing or unprotected mammal.

(4) All traps and snares, whether set for furbearing or other unprotected mammals, shall be legibly marked or branded with the owner's license (brand) number that has been assigned by the Department; except that unmarked traps or snares may be set for nongame mammals unprotected by law or Department regulations by any person or member of his immediate family upon land of which he is the lawful owner. A landowner is required to register the location of such land with the Department and shall possess each year a free landowner's license before hunting or trapping furbearing mammals.

(5) No branded trap or snare may be sold unless accompanied by a uniform bill of sale.

ADMINISTRATIVE RULES

(6) Bobcat, raccoon and opossum may be hunted with the aid of an artificial light provided the light is not cast from or attached to a motor vehicle or boat.

(7) An artificial light may be used to provide light to aid in the dispatch of animals legally restrained in a trap or snare.

(8) Use of dogs is permitted to hunt or pursue bobcat, raccoon, fox, and unprotected mammals except in game bird nesting habitat during April, May, June or July, except as authorized by the Fish and Wildlife Commission.

(9) It is unlawful for any person to trap for furbearers, predatory animals or unprotected mammals using:

(a) A steel foothold trap with a jaw spread greater than 9 inches.

(b) A No. 3 or larger foothold trap or any foothold trap with an inside jaw spread at dog greater than 6" not having a jaw spacing of at least 3/16 of one inch when the trap is sprung (measurement excludes pads on padded jaw traps) and when the trap is placed in a manner that is not capable of drowning a trapped animal.

(c) The flesh of any game bird, game fish, game mammal for trap bait.

(d) Any instant-kill trap having a jaw spread of 9 inches or more in any land set.

(e) Any toothed trap, or trap with a protuberance on the facing edge of the jaws that is intended to hold the animal (except pads on padded jaw traps).

(f) Or possessing the branded traps or snares of another unless in possession of written permission from the person to whom the brand is registered.

(g) Sight bait within 15 feet of any foothold trap set for carnivores.

(10) Except for persons authorized to enforce the wildlife laws, it is unlawful to disturb or remove the traps or snares of any licensed trapper while he is trapping on public lands or on land where he has permission to trap.

(11) All traps or snares set or used for the taking of furbearing or unprotected mammals shall be inspected at least every 48 hours and all trapped animals removed. This regulation does not apply to the taking of predatory animals.

(12) Any person setting a trap for predatory animals, as defined in ORS 610.002, must check the trap as follows:

(a) For killing traps and snares, at least once every 30 days and remove all animals;

(b) For restraining traps and snares, at least once every 76 hours and remove all animals. However, restraining traps and snares set by a person owning, leasing, occupying, possessing or having charge of or dominion over any land, place, building, structure, wharf, pier or dock or their agent, and set for predatory animals damaging land, livestock or agricultural or forest crops, shall be checked at least once every 7 days. Any person(s) acting as an agent for a landowner shall have in their possession written authority from the landowner or lawful occupant of the land. Such written authority shall contain at least all of the following:

(A) The date of issuance of the authorization;

(B) The name, address, telephone number and signature of the person granting the authorization;

(C) The name, address and telephone number of the person to whom the authorization is granted; and

(D) The expiration date of the authorization, which shall be not later than one year from the date of issuance of the authorization.

(13) A "killing trap" means a device used to kill a mammal as part of a killing trap system. A killing trap system is a system set with the intent to kill a mammal comprising a combination of: equipment (the trap and trigger configuration), and set (including site modifications, lures, baits, location and other relevant requirements).

(14) A "restraining trap" means a device used to capture and restrain (but not kill) a mammal as part of a restraining trap system. A restraining trap system is a system set with the intent to capture and restrain (but not kill) a mammal comprising a combination of: equipment (the trap and the trigger configuration), and set (including site modifications, lures, baits, location and other relevant requirements).

(15) These general furbearer regulations do not apply to the trapping of gophers, moles, ground squirrels and mountain beaver.

(16) When any furbearer or raw furbearer pelt is transferred to the possession of another person, a written record indicating the name and address of the person from whom the raw pelt was obtained shall accompany such transfer and remain with same so long as preserved in raw pelt form.

(17) It is unlawful for any person to damage or destroy any muskrat house at any time except where such muskrat house is an obstruction to a private or public ditch or watercourse.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 9-2004, f. & cert. ef. 2-11-04; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0050

Definitions

(1) "Western Oregon" means all counties west of the summit of the Cascade range except Klamath and Hood River Counties.

(2) "Eastern Oregon" means all counties east of the summit of the Cascade range, including all of Klamath and Hood River Counties.

(3) "Raw pelt" means any pelt that has not been processed or converted to any usable form beyond initial cleaning, stretching, and drying.

(4) "Resident" means any person who has resided in Oregon for a period of at least six months immediately prior to the date of making application for a license or tag. Members of the armed forces assigned to permanent duty status in Oregon, including spouses and dependent children, and alien students attending school in Oregon under a foreign student exchange program may purchase a resident license and tags. All other persons are nonresidents.

(5) "River" means that portion of a natural water body lying below the level of bankfull stage. Bankfull stage means the stage or elevation at which overflow of the natural banks of a stream or body of water begins to inundate the upland.

(6) "Sight bait" means exposed flesh bait, including whole animal carcasses, within 15 feet of any foothold trap set for carnivores.

(7) "Furbearers or furbearing mammals" means beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox, and gray fox.

(8) "Predatory animals" means coyotes, rabbits and rodents which are or may be destructive to agricultural crops, products and activities.

(9) "Unprotected mammals" means, for the purposes of OAR 635-050-0015 through 635-050-0210, badger, coyote, gophers (*Thomomys botatae*, *T. bulbivorus*, *T. mazama*, *T. talpoides* and *T. townsendii*), moles (*Scapanus townsendii*, *S. orarius* and *S. latimanus*), mountain beaver (*Apolodontia rufa*), yellowbellied marmots (*Marmonta flaviventris*), nutria, opossum, porcupine, spotted skunk, striped skunk, and weasel.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 140, f. & ef. 8-29-77; FWC 44-1978, f. & ef. 9-1-78; FWC 37-1979, f. & ef. 8-29-79; FWC 35-1980, f. & ef. 7-2-80; FWC 47-1980, f. & ef. 9-17-80; FWC 21-1981, f. & ef. 6-29-81, Renumbered from 635-050-0010; FWC 43-1982, f. & ef. 7-9-82; FWC 45-1982, f. & ef. 7-12-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 46-1997, f. & cert. ef. 8-13-97; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0070

Beaver

Open Season: November 15, 2010 through March 15, 2011 and November 15, 2011 through March 15, 2012 in the following described areas:

(1) Clackamas County. All open except waters within the exterior boundaries of Mt.Hood National Forest.

(2) Crook County. All open except Prineville Reservoir below high water line and the Ochoco National Forest.

(3) Curry County. All open except the Rogue River from the east county line to the mouth.

(4) Grant County. All open except within the exterior boundaries of the Ochoco National Forest; Murderers Creek and Deer Creek, tributaries of the South Fork John Day River, within the exterior boundaries of the Malheur National Forest.

(5) Jefferson County. All open except that portion of Willow Creek and its tributaries on the National Grasslands.

(6) Josephine County. All open except Rogue River from the confluence of Grave Creek downstream to the county line.

(7) Union County. All open except:

(a) Waters inside exterior boundaries of National Forests. However, private inholdings within the National Forest remain open.

(b) Grande Ronde River above Beaver Creek.

(c) All tributaries of the Grande Ronde River above the confluence of Five Points Creek. (Five Points Creek open to the National Forest boundary.)

ADMINISTRATIVE RULES

(8) Wallowa County. All open except:

(a) Wallowa River and tributaries above Wallowa Lake.

(b) Lostine River, Hurricane Creek, Bear Creek and their tributaries above the Wallowa-Whitman National Forest boundary.

(c) Minam River and tributaries.

(d) Peavine Creek, a tributary of Chesnimnus Creek.

(9) Wheeler County. All open except within the exterior boundaries of the Ochoco National Forest and Bridge Creek at its tributaries within the exterior boundaries of Bureau of Land Management lands.

(10) Other counties: All of the following counties in their entirety: Baker, Benton, Clatsop, Columbia, Coos, Deschutes, Douglas, Gilliam, Hood River, Harney, Jackson, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington and Yamhill.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; FWC 65-1996(Temp), f. & cert. ef. 11-21-96; FWC 46-1997, f. & cert. ef. 8-13-97; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0080

Bobcat

(1) The open harvest season for bobcat is December 1, 2010 through February 28, 2011 and December 1, 2011 through February 29, 2012.

(2) The bag limit for bobcat in those counties east of the summit of the Cascade Range (including Hood River and Klamath counties) is five per season per licensed hunter or trapper.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 151, f. & ef. 10-5-77; FWC 1-1978(Temp), f. & ef. 1-17-78; FWC 10-1978, f. & ef. 3-7-78; FWC 44-1978, f. & ef. 9-1-78; FWC 37-1979, f. & ef. 8-29-79; FWC 35-1980, f. & ef. 7-2-80; FWC 47-1980, f. & ef. 9-17-80; FWC 21-1981, f. & ef. 6-29-81, Renumbered from 635-050-0022; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0090

Gray Fox

(1) Open Season: November 15, 2010 through February 28, 2011 and November 15, 2011 through February 29, 2012.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0100

Red Fox

Open Seasons and areas are as follows:

(1) Open season entire year in Baker, Gilliam, Harney, Malheur, Morrow, Umatilla, Union, Wallowa and Wheeler counties (Furtaker license is required).

(2) October 15, 2010 through January 15, 2011 and October 15, 2011 through January 15, 2012 in remainder of state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0110

Marten

(1) Open season: November 1, 2010 through January 31, 2011 and November 1, 2011 through January 31, 2012.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0120

Mink

(1) Open season: November 15, 2010 through March 31, 2011 and November 15, 2011 through March 31, 2012.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0130

Muskrat

(1) Open season: November 15, 2010 through March 31, 2011 and November 15, 2011 through March 31, 2012.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0140

Raccoon

(1) Open season: November 15, 2010 through March 31, 2011 and November 15, 2011 through March 31, 2012.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0150

River Otter

(1) Open season: November 15, 2010 through March 15, 2011 and November 15, 2011 through March 15, 2012.

(2) Open area: Entire state except for all areas closed to beaver trapping in OAR 635-050-0070.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0170

Pursuit Seasons

(1) The following pursuit seasons are authorized:

(a) Bobcat: September 1, 2010 through February 28, 2011 and September 1, 2011 through February 29, 2012.

(b) Fox: September 1, 2010 through February 28, 2011 and September 1, 2011 through February 29, 2012.

(c) Raccoon: September 1, 2010 through March 15, 2011 and September 1, 2011 through March 15, 2012.

ADMINISTRATIVE RULES

(2) License Requirements: Furtaker's license or hunting license for furbearers shall be on one's person during pursuit.

(3) No animals shall be killed except during authorized open harvest season.

(4) A bobcat record card shall be on one's person while taking or attempting to take bobcat.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 35-1980, f. & ef. 7-2-80; FWC 21-1981, f. & ef. 6-29-81, Renumbered from 635-050-0026; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 61-2001, f. & cert. ef. 7-25-01; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-2006; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0183

Bobcat and River Otter Ownership Tags

(1) The ownership tag shall be affixed by Department personnel at district and regional offices and shall remain so affixed while the pelt is in raw form.

(2) Ownership tags may be used as foreign export tags.

(3) Each ownership tag authorizes the holder to sell one bobcat or river otter.

(4) Each person shall have an ownership tag affixed to his or her bobcat or river otter pelt at a Department district or regional office within five business days after the season ends.

(5) It shall be *unlawful* to possess a 2010–2011 or 2011–2012 harvested bobcat or river otter after five business days following the season closure without an ownership tag.

(6) It shall be *unlawful* to sell or remove from the state a 2010–2011 or 2011–2012 harvested bobcat or river otter pelt without the respective year's ownership tag.

(7) A furtaker shall be responsible for surrendering to the Oregon Department of Fish and Wildlife the lower jawbone and information on sex, date of catch and county of harvest with each individual Oregon bobcat and river otter to qualify for ownership tags. A district office may, on a case-by-case basis, waive the lower jawbone requirement where the furtaker provides evidence that failure to provide the jawbone is due to unexpected circumstances beyond his or her control.

(8) The record card with the required information including species, sex, date of possession and county shall be presented to obtain an ownership tag.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-050-0189

Special Bobcat and River Otter Regulations

(1) Raw pelts taken prior to September 1, 1982 may not be sold unless they were metal-sealed by the Oregon State Police or the Department prior to that date.

(2) Those persons failing to comply with 2010–2011 or 2011–2012 Special Bobcat and River Otter Regulations shall not be issued a license for the following furbearer season and shall be subject to the penalties provided in ORS 496.992.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10

635-200-0030

Fur Dealer and Taxidermy

(1) Fur Dealer License shall cost \$50.00 (plus a \$2.00 license agent fee) and shall expire on December 31 of the year issued.

(2) Whenever a fur dealer purchases, possesses, sells, or disposes of the pelt of any furbearing mammal, the dealer must record:

(a) The date, numbers and types of pelts;

(b) For furbearing mammals requiring tags, the tag number, the state issuing the tag, the species, and the year the tag was issued; and

(c) The name and address of those from whom the pelts were obtained, and to whom they were sold or otherwise transferred;

(d) This record must be maintained at the business address of the fur dealer for a period of three years.

(3) No fur dealer may purchase, sell, or possess any raw pelt requiring a tag or seal without having a proper tag or seal affixed to the pelt.

(4) Fur buyers who are agents for companies shall have a fur dealer's license and record the company whom they represent on the fur dealer's license application.

(5) Fur dealer records and pelts are subject to inspection at any time by any Oregon State Police officer or Department representative.

(6) Failure to comply with the record keeping criteria in OAR 635-200-0030 (1) or to permit inspection of such records may result in a two year license suspension.

(7) Taxidermy License shall cost \$50.00 (plus a \$2.00 license agent fee) and shall expire on December 31 of the year issued.

(8) Licensed taxidermists may sell a client's unclaimed, legally taken, mounted wildlife, except migratory birds protected by Federal Law 16 USC 703, provided that:

(a) Upon completion, at least two written notices of intent to sell are sent to the client;

(b) Two months have passed since completion of mount;

(c) The amount realized by the sale of a mount is not to exceed the original quoted price stated contemporaneously in writing, less any deposit received;

(d) Taxidermists may mount and sell legally taken furbearing animals with a fur dealer's license.

(9) At the time of receiving wildlife for mounting, every licensed taxidermist shall:

(a) Record the date, number and kinds of wildlife received;

(b) Record the tag number and year of issuance of those furbearing mammals requiring tags;

(c) Record the date taken and county or hunting unit and state where taken and the name and address of the person who killed the wildlife;

(d) Record the name and address of the person from whom received and the quoted price for the taxidermy work;

(e) Maintain this record at the business address of the taxidermist for a three-year period;

(f) Maintain copies of the written notices, as described in 635-200-0030 (6), date of sale, amount of sale and name and address of the person purchasing the mount at the business address of the taxidermist for a three-year period.

(10) Taxidermy records and all wildlife possessed by licensed taxidermists for the purpose of taxidermy are subject to inspection at any time by any Oregon State Police officer or Department representative.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042
Stats. Implemented: ORS 496.012, 496.138, 496.146, 498.019, 498.022, 498.042
Hist.: DFW 96-1998, f. & cert. ef. 11-25-98; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 82-2010, f. & cert. ef. 6-15-10

Rule Caption: 2011 annual changes to game mammal hunting regulations, plus 2010 controlled hunt tag numbers.

Adm. Order No.: DFW 83-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 6-15-10

Notice Publication Date: 5-1-2010

Rules Adopted: 635-073-0076

Rules Amended: 635-065-0015, 635-065-0765, 635-067-0000, 635-068-0000, 635-069-0000, 635-070-0000, 635-071-0000, 635-073-0000, 635-075-0020

Rules Repealed: 635-067-0016, 635-065-0015(T), 635-065-0765(T)

Subject: Adopted the 2010 controlled hunt tag numbers and/or season regulations for the hunting of pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk.

Amended rules related to tag sales after the deadline, and landowner hunting preference tags for special seasons.

Amend the rules that ban the importation of certain cervid parts from states that have confirmed the presence of Chronic Wasting

ADMINISTRATIVE RULES

Disease. These states include but are not limited to Missouri, North Dakota, and Virginia.

Rules Coordinator: Therese Kucera—(503) 947-6033

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) 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.

(8) A person may obtain and possess only one Rocky Mountain goat tag in a lifetime.

(9) It is unlawful for any person to issue or to possess any game mammal tag which has been backdated.

(10) 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. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 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. 12-8-99, 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. 12-21-00, 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. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, 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. 11-3-09, 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; DFW 70-2010(Temp), f. & cert. ef. 5-18-10 thru 11-10-10; DFW 83-2010, f. & cert. ef. 6-15-10

635-065-0765

Tagging, Possession, Transportation and Evidence of Sex

(1) When the owner of any game mammal tag kills a game mammal for which a tag is issued, the owner shall immediately remove in its entirety only the month and day of kill and attach the tag in plain sight securely to the game mammal. The tag shall be kept attached to such carcass or remain with any parts thereof so long as the same are preserved.

(2) It is unlawful to have in possession any game mammal tag from which all or part of any date has been removed or mutilated except when the tag is legally validated and attached to a game mammal.

(3) It is unlawful to possess the meat or carcass of any pronghorn antelope, bighorn sheep, or Rocky Mountain goat without the animal’s scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, horns, and eyes if the animal is male.

(4) It is unlawful to possess the meat or carcass of any deer or elk without evidence of sex while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(a) Evidence of sex for deer and elk is: Evidence of sex for deer and elk which will be taken out of Oregon is:

(A) For Bucks and Bulls: Either the head with antlers naturally attached to at least one quarter of the carcass or testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat. For hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(B) For Does and Cows: Either the head naturally attached to at least one quarter of the carcass or vulva or udder (mammary) naturally attached to one quarter of the carcass or to another major portion of meat.

(C) For Either Sex Hunts: Either the head naturally attached to at least one quarter of the carcass or reproductive organs (testicles, scrotum, penis, vulva, udder, mammary) naturally attached to one quarter of the carcass or to another major portion of meat. For bucks or bulls killed in either sex hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(D) For hunts where only white-tailed deer and for hunts where only mule deer are legal: in addition to evidence of sex, either the head or tail shall remain naturally attached to one quarter of the carcass or to another major portion of meat as evidence of the species taken while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(b) Evidence of sex for deer and elk which will not be taken out of Oregon is either:

(A) The animal’s scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, antlers, and eyes if the animal is male, or;

(B) the head naturally attached to at least one quarter of the carcass or reproductive organs naturally attached to one quarter of the carcass or to another major portion of meat as described in (4) (a) (i)-(iv) above.

(5) When any game mammal or part thereof is transferred to the possession of another person, a written record describing the game mammal or part being transferred indicating the name and address of the person whose tag was originally attached to the carcass and the number of that tag shall

ADMINISTRATIVE RULES

accompany such transfer and shall remain with such game mammal or part so long as the same is preserved or until replaced by a tag or seal of the Department.

(6) All game mammals in possession in the field or forest or in transit more than 48 hours after the close of the open season for such mammal must be tagged with a tag or metal seal by the Department or by the Oregon State Police.

(7) All game mammals or portions thereof shipped by commercial carrier shall be tagged with a tag or metal seal provided by the Department or by the Oregon State Police.

(8) It is unlawful to receive or have in possession any game mammal or part thereof which:

(a) Is not properly tagged;

(b) Was taken in violation of any wildlife laws or regulations; or

(c) Was taken by any person who is or may be exempt from the jurisdiction of such laws or regulations.

(9) No person shall possess any game mammal or part thereof which has been illegally killed, found or killed for humane reasons, except shed antlers, unless he has notified and received permission from the Department or personnel of the Oregon State Police prior to transporting.

(10) No person shall possess the horns of bighorn sheep or Rocky Mountain goat that were not taken legally during an authorized season. Any horns of bighorn sheep or Rocky Mountain goat obtained by the Department may be made available to scientific and educational institutions and for ceremonial purposes.

(11) Except for the following parts, importation of a cervid carcass or parts of a cervid carcass is prohibited if the cervid was killed in a state or province with a documented case of Chronic Wasting Disease:

(a) Meat that is cut and wrapped commercially or privately;

(b) Meat that has been boned out;

(c) Quarters or other portions of meat with no part of the spinal column or head attached;

(d) Hides and/or capes with no head attached;

(e) Skull plates with antlers attached that have been cleaned of all meat and brain tissue;

(f) Antlers with no tissue attached;

(g) Upper canine teeth (buglers, whistlers, ivories);

(h) Finished taxidermy heads.

(12) For the purposes of the parts and carcass import ban in subsection (11), the states or provinces with a documented case of Chronic Wasting Disease (CWD) are Alberta, Colorado, Illinois, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Oklahoma, South Dakota, Wisconsin, Wyoming, Utah, Virginia, West Virginia, and Saskatchewan. The Department shall add by temporary rule any additional states or provinces when any new cases of CWD arise.

(13) The parts and carcass import ban in subsection (11) does not apply to parts or carcasses shipped to the National Fish and Wildlife Forensics Laboratory (Ashland, Oregon) for the purpose of law enforcement investigations and also does not apply to parts or carcasses of reindeer/caribou.

(14) Cervid carcasses or parts of cervid carcasses found in Oregon in violation of the parts and carcass ban in subsection (11) shall be disposed of in a manner as follows:

(a) Brain tissue, spinal columns, and whole heads or heads minus the cleaned skull plate and attached antlers, shall be disposed of either by incineration at temperatures exceeding 800° F or at lined landfills registered by Oregon Department of Environmental Quality capable of accepting animal carcasses without environmental contamination; rendering is not an allowed means of disposal.

(b) The person(s) who imported parts in violation of the parts and carcass ban in subsection (11) shall pay for appropriate disposal of cervid carcasses or parts of cervid carcasses.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1988, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 41-1987, f. & ef. 7-6-87; FWC 13-1988, f. & ef. 3-10-88; FWC 63-1989, f. & ef. 8-15-89; FWC 24-1990, f. & ef. 3-21-90; FWC 9-1997, f. & ef. 2-27-97; FWC 49-1998, f. & ef. 6-22-98; FWC 1-1999, f. & ef. 1-14-99; FWC 92-1999, f. & ef. 1-1-00; FWC 82-2000, f. & ef. 1-1-01; FWC 90-2002(Temp), f. & ef. 8-16-02 thru 2-11-03; FWC 114-2002(Temp), f. & ef. 10-18-02 thru 2-11-03; FWC 126-2002, f. & ef. 11-12-02; FWC 127-2002(Temp), f. & ef. 11-14-02 thru 2-11-03; FWC 2-2003, f. & ef. 1-17-03; FWC 50-2003, f. & ef. 6-13-03; FWC 61-2003, f. & ef. 7-16-03; FWC 118-2003, f. & ef. 12-4-03, cert. ef. 1-1-04; FWC 53-2005, f. & ef. 6-14-05; FWC 111-2005(Temp), f. & ef. 9-23-05 thru 10-31-05; Administrative correction 11-18-05; FWC 128-2005, f. & ef. 1-1-05, cert. ef. 1-1-06; FWC 135-2008, f. & ef. 10-17-08; FWC 2-2009, f. & ef. 1-9-09; FWC 8-2010(Temp), f. & ef. 1-25-10 thru 7-24-10; FWC 21-2010(Temp), f. & ef. 2-26-10 thru 8-24-10;

DFW 36-2010(Temp), f. & cert. ef. 3-30-10 thru 9-25-10; DFW 83-2010, f. & cert. ef. 6-15-10

635-067-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods, and other restrictions for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 067 incorporates, by reference, the requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat set out in the document entitled "2010 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2010 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

(3) Controlled hunt tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. Permitted arms and ammunition are established in OAR chapter 635, division 065. Controlled hunt tag numbers for 2010 are listed in Tables 1, 2, and 3 and are adopted and incorporated into OAR chapter 635, division 067 by reference.

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

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 65-1989, f. & cert. ef. 8-15-89; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; FWC 49-1998, f. & cert. ef. 6-22-98; FWC 1-1999, f. & cert. ef. 1-14-99; FWC 47-1999, f. & cert. ef. 6-16-99; FWC 92-1999, f. & cert. ef. 1-1-00; FWC 30-2000, f. & cert. ef. 6-14-00; FWC 82-2000, f. & cert. ef. 1-21-00, cert. ef. 1-1-01; FWC 47-2001, f. & cert. ef. 6-13-01; FWC 121-2001, f. & cert. ef. 1-24-01, cert. ef. 1-1-02; FWC 59-2002, f. & cert. ef. 6-11-02; FWC 2-2003, f. & cert. ef. 1-17-03; FWC 50-2003, f. & cert. ef. 6-13-03; FWC 118-2003, f. & cert. ef. 1-1-04; FWC 53-2004, f. & cert. ef. 6-16-04; FWC 122-2004, f. & cert. ef. 1-1-05; FWC 53-2005, f. & cert. ef. 6-14-05; FWC 128-2005, f. & cert. ef. 1-1-06; FWC 41-2006, f. & cert. ef. 6-14-06; FWC 127-2006, f. & cert. ef. 1-1-07; FWC 42-2007, f. & cert. ef. 6-14-07; FWC 118-2007, f. & cert. ef. 1-31-07, cert. ef. 1-1-08; FWC 60-2008, f. & cert. ef. 6-12-08; FWC 150-2008, f. & cert. ef. 1-1-09; FWC 66-2009, f. & cert. ef. 6-10-09; FWC 140-2009, f. & cert. ef. 1-1-10; FWC 83-2010, f. & cert. ef. 6-15-10

635-068-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting western Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2010 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 068 by reference.

(3) OAR chapter 635, division 068 incorporates, by reference, the requirements for hunting western Oregon deer set out in the document entitled "2010 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2010 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon deer. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 39-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; FWC 49-1998, f. & cert. ef. 6-22-98; FWC 1-1999, f. & cert. ef. 1-14-99; FWC 47-1999, f. & cert. ef. 6-16-99; FWC 92-1999, f. & cert. ef. 1-1-00; FWC 30-2000, f. & cert. ef. 6-14-00; FWC 82-2000, f. & cert. ef. 1-21-00, cert. ef. 1-1-01; FWC 47-2001, f. & cert. ef. 6-13-01; FWC 121-2001, f. & cert. ef. 1-24-01, cert. ef. 1-1-02; FWC 59-2002, f. & cert. ef. 6-11-02; FWC 3-2003, f. & cert. ef. 1-17-03; FWC 50-2003, f. & cert. ef. 6-13-03; FWC 121-2003, f. & cert. ef. 1-19-04; FWC 53-2004, f. & cert. ef. 6-16-04; FWC 124-2004, f. & cert. ef. 1-1-05; FWC 53-2005, f. & cert. ef. 6-14-05; FWC 131-2005, f. & cert. ef. 1-1-05, cert. ef. 3-1-06; FWC 41-2006, f. & cert. ef. 6-14-06; FWC 125-2006, f. & cert. ef. 3-1-07; FWC 42-2007, f. & cert. ef. 6-14-07; FWC 116-2007, f. & cert. ef. 10-31-07, cert. ef. 3-1-08; FWC 60-2008, f. & cert. ef. 6-12-08; FWC 13-2009, f. & cert. ef. 2-19-09, cert. ef. 3-1-09; FWC 66-2009, f. & cert. ef. 6-10-09; FWC 14-2010, f. & cert. ef. 2-16-10, cert. ef. 3-1-10; FWC 83-2010, f. & cert. ef. 6-15-10

635-069-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting eastern Oregon deer pursuant to ORS Chapter 496.

ADMINISTRATIVE RULES

(2) Controlled hunt tag numbers for 2010 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 069 by reference.

(3) OAR chapter 635, division 069 incorporates, by reference, the requirements for hunting eastern Oregon deer set out in the document entitled “2010 Oregon Big Game Regulations,” into Oregon Administrative Rules. Therefore, persons must consult the “2010 Oregon Big Game Regulations” in addition to OAR chapter 635, to determine all applicable requirements for hunting eastern Oregon deer. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 40-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 32-1999(Temp), f. & cert. ef. 5-4-99 thru 10-31-99; DFW 34-1999(Temp), f. & cert. ef. 5-12-99 thru 10-31-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 20-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 7-2003, f. 1-17-03, cert. ef. 2-1-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. 12-4-03, cert. ef. 2-2-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. 12-1-05, cert. ef. 2-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 4-2010, f. 1-12-10, cert. ef. 2-1-10; DFW 83-2010, f. & cert. ef. 6-15-10

635-070-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Cascade and Coast elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2010 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 070 by reference.

(3) OAR chapter 635, division 070 incorporates, by reference, the requirements for hunting western Oregon elk set out in the document entitled “2010 Oregon Big Game Regulations,” into Oregon Administrative Rules. Therefore, persons must consult the “2010 Oregon Big Game Regulations” in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 41-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; 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. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 119-2003, f. 12-4-03, cert. ef. 4-1-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 8-2004(Temp), f. & cert. ef. 2-2-04 thru 7-31-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 2-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 4-2010, f. 1-12-10, cert. ef. 2-1-10; DFW 83-2010, f. & cert. ef. 6-15-10

635-071-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2010 are listed in Tables 1 and 2 and are adopted and incorporated in OAR chapter 635, division 071 by reference.

(3) OAR chapter 635, division 071 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled “2010 Oregon Big Game Regulations,” into Oregon Administrative Rules. Therefore, persons must consult the “2010 Oregon Big Game Regulations” in addition to OAR chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big

Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 42-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; 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. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 1-2004(Temp), f. & cert. ef. 1-13-04 thru 7-9-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04, Administrative correction 11-22-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 31-2009, f. 3-23-09, cert. ef. 4-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 22-2010, f. 3-1-10, cert. ef. 4-1-10; DFW 31-2010, f. 3-12-10, cert. ef. 4-1-10; DFW 83-2010, f. & cert. ef. 6-15-10

635-073-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for bow and muzzleloader hunting and controlled deer and elk youth hunts; pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2010 for deer and elk bow and muzzleloader hunting and deer and elk youth hunts are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 073 by reference.

(3) OAR chapter 073 incorporates, by reference, the requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts set out in the document entitled “2010 Oregon Big Game Regulations,” into Oregon Administrative Rules. Therefore, persons must consult the “2010 Oregon Big Game Regulations,” in addition to OAR chapter 635, to determine all applicable requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 44-1988, f. & cert. ef. 6-13-88; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; 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. 12-8-99, cert. ef. 1-1-00; DFW 21-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. 12-4-03, cert. ef. 2-2-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. 12-1-05, cert. ef. 2-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 4-2010, f. 1-12-10, cert. ef. 2-1-10; DFW 83-2010, f. & cert. ef. 6-15-10

635-073-0076

Late Western Oregon Bowhunting Seasons

General Bowhunting Seasons — Western Oregon.

(1) Open Season: November 27–December 12, 2010.

(2) Bag Limit and Hunt Area: The bag limit is One Antlerless Elk in the Alsea, McKenzie, and Stott Mt units, that part of the Indigo Unit in the Willamette Rvr drainage, (includes Middle Fork Willamette Rvr, Brice Cr, Sharp Cr, Mosby Cr, Big Rvr, Little Rvr, and Lost Cr), and Linn and Marion Co, portions of Santiam Units EXCLUDING Mt Hood NF lands in Marion Co.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: DFW 83-2010, f. & cert. ef. 6-15-10

635-075-0020

Landowner Hunting Preference Tags in Special Seasons

(1)(a) Landowner hunting preference tags are not available for the long duration youth elk hunts (August 1 - December 31) or the Melrose 223T (August 1 - March 31, 2011) youth elk hunt.

(b) Landowner preference tags for North Warner Hunt 174A shall be limited to 39 tags and landowner preference tags for the Maury Unit Hunt 136 shall be limited to 84 tags.

ADMINISTRATIVE RULES

(c) During deer hunts 141C, 142B, 154C, 165R, 168R2 and 170R3, and controlled elk hunts with a bag limit of spike or better in units where the usual bag limit for bull elk is spike only, landowner hunting preference tags shall be limited to five tags or 10 percent of the total controlled hunt tags whichever is greater; the bag limit for these elk tags shall be spike or better.

(2) If landowner preference tags remain from the controlled hunts described in 635-075-0020(1)(b) or (1)(c) after the game mammal controlled hunt drawing, the Department will issue remaining tags to qualified landowners in the following manner:

- (a) The tags shall be issued on a first-come, first-served basis.
- (b) The Department will set the time and date for the sale of the tags.

(c) Tags issued are additional tags. A qualified landowner may purchase only one first-come, first-served tag per hunt series. Such a tag may be for the landowner or for someone other than the landowner listed on their tag distribution form.

(d) For the purposes of OAR 635-075-0020(2), "qualified landowner" is a landowner who registered their land through the landowner preference program for the Wildlife Management Unit which includes the controlled hunt and who has a current tag distribution form filed with the Department.

(3) A hunter who received a tag of his or her choice through the original game mammal controlled hunt drawing process may exchange that tag for a remaining tag in the first-come, first-served process while tags remain available. Tag purchases and exchanges may be obtained only through ODFW Salem Headquarters and must be made before the start of the seasons for which the tags are issued. The tag being exchanged shall not be reissued.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.151 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.151 & 496.162
Hist.: FWC 10-1994, f. & cert. ef. 2-24-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 4-2003, f. 1-17-03, cert. ef. 4-1-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 83-2010, f. & cert. ef. 6-15-10

Department of Forestry Chapter 629

Rule Caption: Forestland Classification.

Adm. Order No.: DOF 1-2010

Filed with Sec. of State: 5-19-2010

Certified to be Effective: 5-19-10

Notice Publication Date: 2-1-2010

Rules Adopted: 629-045-0020, 629-045-0025, 629-045-0030, 629-045-0035, 629-045-0040, 629-045-0045, 629-045-0050, 629-045-0055, 629-045-0060, 629-045-0065

Rules Repealed: 629-045-0005, 629-045-0010

Subject: The proposed rules reflect changes made by the Legislative Assembly through chapter 69, Oregon Laws 2009. These rules include; how lands are to be classified, classification requirements and limitations, the requirements for maps used in the process, when to hold community meetings, requirements for the formal written order and limitations of the protection district and State Forester. The proposed rulemaking also repeals the current rules.

Rules Coordinator: Sabrina Perez—(503) 945-7210

629-045-0020

Definitions

(1) The definitions set forth in ORS 477.001, 477.205, 526.005, and 526.305 shall apply to OAR 629, division 045, unless the context requires otherwise.

(2) The following words and phrases, when used in OAR 629, division 045, shall mean the following unless the context requires otherwise:

(a) "Actively managed" means that vegetation management activities are conducted on a continuing, annual basis and periodically through a calendar year, as is necessary to accomplish the landowner's objectives.

(b) "Class 1" means timber class, and includes forestland suitable for the production of timber and may include lands on which structures are present.

(c) "Class 2" means timber and grazing class, and includes forestland suitable for joint use for timber production and the grazing of livestock and may include lands on which structures are present.

(d) "Class 3" means agricultural class, and includes forestland suitable for grazing of livestock or other agricultural use and may include lands on which structures are present.

(e) "Forest Patrol Assessment roll" means the assessment roll process and the direct billing process described in ORS 477.270(1).

(f) "Locale" means the general geographic area which is contiguous to or which surrounds a specific site.

(g) "Periodically" means at least once every five years.

(h) "Potential" means the ability of a site to grow vegetation, notwithstanding current or past uses of the site nor the current or past presence of structures on the site, and regardless of how the site is zoned or taxed.

(i) "Routinely" means at least once each calendar year.

(j) "USDA" means the United States Department of Agriculture.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009

Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370

Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0025

Identification of Forestland by a Committee

(1) A committee shall periodically identify all lands which meet the following criteria:

(a) Is within the county or counties of its jurisdiction; and

(b) Is a woodland, brushland, timberland, grazing land or clearing that, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed. As used in this subsection, "clearing" means any grassland, improved area, lake, meadow, mechanically or manually cleared area, road, rocky area, stream or other similar opening that is surrounded by or contiguous to land described in the first sentence of this subsection

(c) And that has been included in areas classified as forestland under ORS 526.305 to 526.370.

(2) All lands which meet the criteria set forth in section (1) of this rule shall be considered to be forestland.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009

Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370

Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0030

Classification of Forestland by a Committee

(1) All lands identified as forestland, pursuant to OAR 629-045-0025, within a forest protection district, shall be classified by a committee as:

(a) Class 1, in accordance with the criteria set forth in section (2) of this rule;

(b) Class 2, in accordance with the criteria set forth in section (3) of this rule; or

(c) Class 3, in accordance with the criteria set forth in section (4) of this rule.

(2) Forestland shall be classified as Class 1 if:

(a) It is located west of the summit of the Cascade Mountains, or

(b) East of the summit of the Cascade Mountains, located in Wasco County and is primarily used for timber production.

(3) Forestland shall be classified as Class 2 if:

(a) It is located east of the summit of the Cascade Mountains; and

(b) It has a potential site productivity of at least 20 cubic feet per acre per year, at culmination of mean annual increment, for one or more tree species native to the locale.

(4) Notwithstanding the requirements of sections (2) and (3) of this rule, forestland may be classified as Class 3 if at least one of the following criteria applies:

(a) The forestland has a potential site productivity of less than 20 cubic feet per acre per year, at culmination of mean annual increment, for one or more tree species native to the locale;

(b) The forestland is actively managed to support vegetation that does not include tree species native to the locale; or

(c) The forestland routinely contains enough flammable vegetation to meet the definition of "forestland" but historically has not supported natural growth of a tree species native to the locale.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009

Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370

Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0035

Classification Requirements and Limitations

In classifying lands pursuant to OAR 629-045-0030:

(1) A committee may determine potential site productivity:

(a) Directly, by tree growth and stocking measurements made in a locale; or

(b) Indirectly, by using applicable USDA Natural Resources Conservation Service soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue site class maps, or other information determined by the State Forester to be of comparable quality.

ADMINISTRATIVE RULES

(2) If western juniper is present in a locale, a committee may consider western juniper to be a tree species which is native to the locale.

(3) If trees that meet the definition of "Christmas tree" in ORS 571.505 are present in a locale, a committee shall consider such "Christmas trees" to be a tree species which is native to the locale.

(4) A committee may not consider the existence of structures, improvements, or clearings, when making classification decisions.

(5) A committee may not consider the existence of city limits, urban growth boundaries, zoning, or the absence or presence of an organized structural fire protection provider, when making classification decisions.

(6) Notwithstanding the requirements of OAR 629-045-0025 and 629-045-0030, if lands are actively managed for an agricultural purpose, such as by irrigation, plowing, or other practices that result in a substantially reduced likelihood of wildfire spread across the lands, such that the lands do not meet the definition of "forestland," a committee is not required to classify such lands.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0040

Mapping Requirements and Boundary Recommendations

(1) On the maps required by ORS 526.324 and 526.328, a committee shall set forth the outer boundaries of all forestland classified by the committee pursuant to OAR 629-045-0030 and 629-045-0035.

(a) Natural geographic features, human-made land features, public land survey lines, or political boundary lines shall be used to describe the outer boundaries.

(b) No outer boundaries shall enclose an area of less than 40 acres in size.

(c) No outer boundaries shall extend outside of a forest protection district.

(2) A committee shall recommend to the State Forester any changes to the boundary of a forest protection district it believes are warranted.

(3) A committee shall recommend to the appropriate county governing body the creation of or changes to the boundary of Zone 1 lands, which have been or may be established pursuant to ORS 476.310 to 476.320, if the committee believes such creation or changes are warranted.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0045

Community Meetings

(1) Prior to holding the public hearing required by ORS 526.328(1), a committee shall hold one or more community meetings in each county of its jurisdiction.

(2) At a community meeting required by section (1) of this rule, a committee shall:

(a) Present to any interested persons information about its:

(A) Forestland identification process, completed pursuant to ORS 526.320 and OAR 629-045-0025; and

(B) Preliminary classification decision process, completed pursuant to ORS 526.324 and OAR 629-045-0030 and 629-045-0035.

(b) Make available for inspection the preliminary classification maps required by ORS 526.324.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0050

Formal Written Order Requirements

A committee shall file the formal written order required by ORS 526.328(2) with the county clerk(s) within thirty days of its adoption by the committee. Any delay in meeting this thirty day requirement shall be promptly reported in writing to the State Forester. The State Forester may thereafter extend, in writing, the thirty day limitation.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0055

Limitations and Requirements for Forest Protection District Actions

(1) The forester shall make adjustments to the forest patrol assessment rolls to give effect to all forestland classification or reclassification decisions made by a committee, pursuant to OAR 629-045-0030 and 629-045-0035, within six months of the date the applicable formal written order was filed with a county clerk pursuant to ORS 526.328(2). Any delay in meeting this six month requirement shall be promptly reported in writing to the

State Forester. The State Forester may thereafter extend, in writing, the six month limitation.

(2) Forest patrol assessment rolls shall be continuously maintained to reflect correct information with regard to ownership, acreage, subdivision of lots, lot line adjustments, combination of contiguous lots as provided in ORS 477.295, etc., however, neither the forester nor a county assessor is authorized to change the classification of forestland applied to a parcel of land, as filed with the county clerk by a forestland classification committee under ORS 526.328, or by the State Forester under ORS 526.340, except:

(a) As provided in section (1) of this rule;

(b) As necessary to correct obvious or minor administrative errors; or

(c) As necessary to reflect court decisions arising from an appeal made pursuant to ORS 526.332.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0060

Limitations and Classification by the State Forester

(1) Pursuant to ORS 526.340, the State Forester may identify and classify forestland in a county, consistent with ORS 526.324 and 526.328, if:

(a) The governing body of a county has failed to establish a committee within two years after the State Forester made a request for such establishment pursuant to ORS 526.310(1);

(b) A committee failed to adopt and file a final classification, pursuant to ORS 526.328, within five years after the committee was first established; or

(c) A committee failed to act in a manner consistent with ORS 526.310 to 526.328.

(2) Prior to identifying and classifying forestland in a county, pursuant to ORS 526.340(1)(b), the State Forester shall:(a) Allow a committee to work for at least two years after the committee was first established, before approaching the county governing body to identify and resolve any issue which might be creating an unreasonable delay in the committee's progress toward fulfillment of its responsibilities.(b) Work with the county governing body to identify and resolve any issue which might be creating an unreasonable delay in the committee's progress toward fulfillment of its responsibilities.

(3) Prior to identifying and classifying forestland in a county, pursuant to ORS 526.340(1)(c), the State Forester shall work with the county governing body to identify and resolve any issue which might be causing the committee to act in a manner inconsistent with ORS 526.310 to 526.328.

(4) If the State Forester determines it is desirable or necessary to remove and replace some or all of a committee's members in order to properly or timely fulfill a committee's responsibilities, the State Forester shall request the appropriate appointing authority to remove and replace such members, pursuant to ORS 526.310(2).

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0065

Length of Committee Member Terms

The amendments to ORS 526.310(2), which become effective January 1, 2010, establish a four-year term for members of forestland classification committees, in the absence of other direction from the appointing authority. Unless otherwise provided for by the appointing authority, a committee member serving on January 1, 2010 may not serve more than four years after that date unless the member is reappointed. If a member is reappointed after January 1, 2010, the term of the reappointed member shall be four years, unless the appointing authority provides otherwise.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

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

Rule Caption: Amending the "Community Mental Health Housing Fund" rules to update and expand the rules.

Adm. Order No.: MHS 7-2010

Filed with Sec. of State: 6-7-2010

Certified to be Effective: 6-7-10

ADMINISTRATIVE RULES

Notice Publication Date: 5-1-2010

Rules Adopted: 309-036-0130, 309-036-0135, 309-036-0140

Rules Amended: 309-036-0100, 309-036-0105, 309-036-0110, 309-036-0115, 309-036-0120

Rules Repealed: 309-036-0125

Subject: The Addictions & Mental Health (AMH) Division is adopting, amending and repealing rules in OAR 309-036 "Community Mental Health Housing Fund" in order to update and expand rules, including standardizing the application process, revising the finding and monitoring processes and specifically addressing uses of real property. Other "housekeeping" revisions are also being made.

Rules Coordinator: Richard Luthe—(503) 947-1186

309-036-0100

Statement of Purpose

These rules prescribe standards for the development, renovation and administration of the Community Mental Health Housing Program and the Community Mental Health Housing Fund under ORS 426.502–426.508. The Community Mental Health Housing Fund, supported in part by the Community Housing Trust Account, shall be administered by the Department of Human Services (DHS), through its Addictions and Mental Health (AMH) Division.

Stat. Auth.: ORS 409.050 & 430.640

Stats. Implemented: ORS 426.502–426.508

Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03; MHS 7-2010, f. & cert. ef. 6-7-10

309-036-0105

Definitions

As used in these rules:

(1) "Assistant Director" means the Assistant Director of the Addictions and Mental Health (AMH) Division.

(2) "Care provider" means an individual or entity that provides services and support for a person or persons with serious mental illness under a residential service agreement, contract or other similar arrangement.

(3) "Community housing" means real property, improvements and related equipment that are used or could be used to house persons with a serious mental illness in community-based settings consistent with ORS 426.502. It includes single-family housing, multiple-unit residential housing and residential facilities. It does not include hospitals, nursing homes, correctional facilities and other institutional housing except as provided in these rules. Consistent with the designated housing model, community housing may include accommodations for care providers and resident managers.

(4) "Community Housing Development" means efforts or assistance, financial or otherwise, that result in the establishment of community housing as defined in OAR 309-036-0105.

(5) "Community Mental Health Housing Fund" or "Fund" means the fund established by ORS 426.506

(6) "Community Housing Renovation" means efforts that result in the improvement of real property, the use of which is restricted to community housing for persons with serious mental illness. Such improvement includes, but is not limited to, replacing worn or non-functional components, making repairs to improve health and safety, expanding the building to accommodate more residents or provide more adequate living quarters, and installing equipment necessary to the operation of the community housing.

(7) "Construct" includes, but is not limited to building, installing, assembling, expanding, altering, converting, repairing, replacing or relocating community housing development, renovation or administration. It can also mean to install equipment and necessary infrastructure to prepare a site.

(8) "Division" means the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

(9) "Equipment" means permanently installed fixtures or appliances acquired for the community housing.

(10) "Institutional housing" means housing located at an Oregon State Hospital campus or the Blue Mountain Recovery Center, including buildings, grounds, leased facilities, infrastructure and ancillary facilities.

(11) "Person with serious mental illness" means an individual who is:

(a) Diagnosed by a Qualified Mental Health Professional as suffering from a chronic mental disorder as defined by ORS 426.495 which includes, but is not limited to, conditions such as chronic schizophrenia, chronic affective disorder, chronic paranoid disorder, and other disorders which manifest symptoms that are not solely a result of mental retardation or other developmental disabilities, epilepsy, drug abuse, or alcoholism; which con-

tinue for more than one (1) year, or on the basis of a specific diagnosis, are likely to continue for more than one (1) year; and

(b) Is impaired to an extent which substantially limits the person's consistent functioning in one (1) or more of the following areas:

(A) Home environment: independently attending to shelter needs, personal hygiene, nutritional needs and home maintenance;

(B) Community negotiation: independently and appropriately utilizing community resources for shopping, recreation and other needs;

(C) Social relations: establishing and maintaining supportive relationships;

(D) Vocational: maintaining employment sufficient to meet personal living expenses or engaging in other age appropriate activities.

(12) "Qualified Mental Health Professional (QMHP)" means a Licensed Medical Practitioner (LMP) or any other person meeting one (1) or more of the following minimum qualifications as authorized by the Local Mental Health Authority or designee:

(a) Bachelor's degree in nursing and licensed by the State of Oregon;

(b) Bachelor's degree in occupational therapy and licensed by the State of Oregon;

(c) Graduate degree in psychology;

(d) A Graduate degree in social work;

(e) A Graduate degree in recreational, art, or music therapy; or

(f) A Graduate degree in a behavioral science field.

Stat. Auth.: ORS 409.050 & 430.640

Stats. Implemented: ORS 426.502–426.508

Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03; MHS 7-2010, f. & cert. ef. 6-7-10

309-036-0110

Community Mental Health Housing Fund, Community Mental Health Housing Trust Account, Income and Expenditures

(1) Community Mental Health Housing Fund. The Community Mental Health Housing Fund shall be maintained in the State Treasury. All earnings on investments of moneys in the Fund, including earnings in the Community Housing Trust Account, shall accrue to the Fund. All moneys in the Fund shall be continuously appropriated to the Division to carry out the provisions of ORS 426.504 for the purpose of providing housing for persons with serious mental illness.

(a) Income to the Fund shall consist of:

(A) The proceeds, less costs to the state, received from the sale of the F.H. Dammasch State Hospital property under ORS 426.508;

(B) Moneys appropriated to the Fund by the Legislative Assembly;

(C) Proceeds from the sale, transfer or lease of any surplus real property owned, operated or controlled by the Division and used for community housing;

(D) Money reallocated from other areas of the Division's budget;

(E) Interest and earnings credited to the fund; and

(F) Gifts of money or other property from any source, to be used for the purposes of developing housing for persons with serious mental illness. Except as provided by ORS 426.506, income to the fund may be restricted to deposit in the Community Housing Trust Account or may be available for expenditure.

(b) Gifts and other deposits may be designated by the contributor to be used for community housing purposes or institutional housing purposes. Such deposits may also be restricted to the Community Housing Trust Account or may be non-restricted and available for expenditure from the Fund, or may be designated for a specific expenditure purpose in the Fund. Any gifts restricted or designated by a contributor shall not be available for re-allocation except as may be specified by the contributor.

(c) When it is determined that community housing established or assisted consistent with ORS 426.504 is no longer suitable for continued use as community housing, any proceeds realized from the disposition of the property shall be deposited into the Fund and used for community housing purposes.

(2) Community Housing Trust Account. The Community Housing Trust Account exists within the Community Mental Health Housing Fund and shall consist of:

(a) At least ninety-five (95) percent of the proceeds received from the sale of the F.H. Dammasch State Hospital property under ORS 426.508; and

(b) Any other funds deposited into the account for the restricted purpose of staying in the Fund for perpetuity.

(3) Amounts Available for Expenditure. Amounts available from the Fund for expenditure shall consist of:

(a) Up to five (5) percent of the sale proceeds received by the Department of Human Services for credit to the account from the Oregon

ADMINISTRATIVE RULES

Department of Administrative Services from the sale of the F.H. Dammasch State Hospital property under ORS 426.508; and

(b) All other deposited, unrestricted funds or account earnings unless a specific deposit is designated by its maker to be placed in the restricted portion of the Community Housing Trust Account.

(4) Expenditure of Community Housing Trust Account Interest Earnings. Interest earned on moneys in the Community Housing Trust Account may be expended in the following manner: Seventy (70) percent of interest earned on deposits in the Community Housing Trust Account shall be expended for community housing purposes in accordance with these rules. Thirty (30) percent of interest earned on deposits in the Community Housing Trust Account shall be expended for institutional housing purposes in accordance with these rules.

(5) Limitations on Expenditure. Interest earned on deposits in the account shall not be used to support operating expenses of the Division.

Stat. Auth.: ORS 409.050 & 430.640

Stats. Implemented: ORS 426.502-426.508

Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03; MHS 7-2010, f. & cert. ef. 6-7-10

309-036-0115

Funds for Community Housing

(1) General Provision. In general, the Division will work through community partners to develop community housing and not acquire or operate community housing directly. In circumstances where a particular type of community housing is desired and no community partner has been identified, the Division may acquire or directly operate community housing.

(2) Eligible Uses for Community Housing. The community housing to be assisted with funds from the Community Mental Health Housing Fund shall include a variety of types of housing integrated into residential neighborhoods of local communities throughout Oregon. The Division may establish priorities for the types of housing to be assisted based on an analysis of housing needs of persons with serious mental illness. The community housing types to be considered for funding include, but are not limited to, single-family housing, multiple-unit residential housing, residential facilities and other residences for persons with serious mental illness. Housing for persons with serious mental illness may include improvements and related equipment to enable a provider to offer services on site. Where services are not offered on site, the community housing provider must demonstrate that access to services is available elsewhere in the community.

(a) New and Existing Community Housing. Funds may be used to develop new community housing or to preserve or renovate existing community housing for persons with serious mental illness. To this end, funding may be used toward acquisition, remodeling, maintenance, repair, permanently installed fixtures or appliances and equipment.

(b) Occupancy of Community Housing. The community housing to be assisted with funds from the Community Mental Health Housing Fund must be made available for occupancy by persons with serious mental illness. Consistent with the designated housing model, additional individuals, such as resident managers, care providers, family members and roommates, may also reside in the housing to the extent allowed under ORS 426.502.

(c) Exclusions. Funds from the Community Mental Health Housing Fund cannot be used to support service provision at the community housing.

(3) Allocation of Funds for Community Housing Purposes. The Assistant Director shall annually identify the amount of funds available in the Community Mental Health Housing Fund for community housing purposes.

(a) Allocation Plan. The Assistant Director or designee shall establish, with advice and input from the Community Mental Health Housing Fund Advisory Committee (CMHHFAC), a plan for allocating funds. This allocation plan shall designate amounts available for new development and renovation awards, geographic distribution goals and any desired housing types or resident population priorities.

(b) Distribution Plan. As funds become available, it shall be the intent of the Department to distribute funds in a fair and equitable manner with respect to geographic and service population considerations. To this end, regional distribution goals will be established by the Department with input from the CMHHFAC. These goals will be established based upon the general population distribution in Oregon, Division data on the number of persons with serious mental illness served in each region of the state and other factors relating to housing needs. The distribution plan goals will be published in the application materials. If after considering all applications for a region, the resulting awards do not award all funds in accordance with these goals, then remaining funds may be re-allocated to other regions.

(4) Housing Needs Assessment. Unless targeted for a specific purpose by the Oregon Legislative Assembly, financial assistance for community housing by the Division shall be based on the assessment of housing needs for people with serious mental illness. In assessing housing needs, the Division will conduct surveys, review available data, and seek input from advisory bodies that include consumers, family members, service providers, housing providers, citizens and other interested persons. The Division may prioritize types of housing and specify subpopulations of persons with serious mental illness for occupation in the community housing that will receive financial assistance.

(5) Application Process and Award of Funds. The Division shall implement an application and award process which may include, but is not limited to, an open process such as a first come – first reviewed solicitation, a demonstration program, or a competitive application process. The Division may also award emergency funds when necessary to insure the completion of development or continued operation of community housing. The application and award process will be consistent with the following guidelines:

(a) Notification: For the open application process, the Division shall announce the availability of funding from the Community Mental Health Housing Fund and provide instructions for applying for such funding. The announcement of funding shall include a description of the fund, the allocation plan, eligible community housing, application rating criteria, and application materials.

(b) Application. An application for funding shall contain all information required by the department, including, but not limited to:

(A) A description of the proposed community housing project, including, but not limited to, type of unit or units, number of residents who will be persons with serious mental illness, proposed rents, site location, the services to be available to residents and project amenities;

(B) Documentation of the applicant's experience with developing and operating housing;

(C) A statement identifying the length of time the unit or units will be dedicated for use by persons with serious mental illness;

(D) An operating budget showing anticipated revenues and expenses;

(E) The development plan, including a development budget with all sources of funding identified; and

(F) Documentation describing how the proposed community housing is consistent with allocation plan priorities. Applicants will have a minimum of sixty (60) days to complete and return applications.

(c) Funding Decision. Completed applications shall be submitted to the Assistant Director or designee.

(A) Applications shall be reviewed and rated by a review panel established by the Assistant Director or designee. The review panel will include at least three (3) members of the Community Mental Health Housing Fund Advisory Committee. The review panel shall make recommendations for funding decisions to the Assistant Director.

(B) For applications made on an emergency basis under these rules, the Division may use an expedited review process that includes review and comment by at least three (3) members of the Community Mental Health Housing Fund Advisory Committee. Results of the review will be presented to the Assistant Director who will make the final funding decisions. Applicants will receive written notice of funding decisions.

(d) Appeal of Funding Decisions. Applicants who do not agree with funding decisions are encouraged to discuss their application with Division staff. If the issue is not resolved, applicants may submit a request for appeal of the decision to the Deputy Assistant Director or designee, as follows:

(A) The applicant requesting an appeal will submit a written request to the Deputy Assistant Director or designee within seven (7) business days after receiving the written funding decision.

(B) Division Review and Notification: The Deputy Assistant Director will approve or deny the request for an appeal and will notify the applicant in writing of the decision to approve or deny the requested appeal, within fifteen (15) business days of receipt of the appeal.

(C) Appeal to the Assistant Director: Appeal of the decision of the Deputy Assistant Director will be made in writing to the Assistant Director of the Division, whose decision will be final and will be provided in writing within fifteen (15) business days of receipt of the appeal.

(D) The decision to grant the appeal in favor of the applicant for one (1) request does not set a precedent that must be followed by the Division when evaluating subsequent requests for appeal.

(6) Disbursement of Funds. The Division will develop procedures for the disbursement of funds consistent with prudent accounting practices and the Division's financial procedures.

ADMINISTRATIVE RULES

(7) Security of Investment. All funds disbursed in amounts greater than five thousand dollars (\$5,000) for the purpose of community housing shall be secured by a trust deed or other instrument to secure the investment and insure continuing use of the property, improvements and related equipment in accordance with the purposes of the award.

(8) Non-discrimination. Recipients of funding for community housing shall ensure that all eligible persons with serious mental illness shall be considered for residency without regard to:

- (a) Race;
- (b) Color;
- (c) Sex or sexual orientation, except as may be limited by room arrangement;
- (d) Religion;
- (e) Creed;
- (f) National origin;
- (g) Age;
- (h) Familial status;
- (i) Marital status;
- (j) Source of income; or
- (k) Disability in addition to the serious mental illness.

Stat. Auth.: ORS 409.050 & 430.640

Stats. Implemented: ORS 426.502-426.508

Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03; MHS 7-2010, f. & cert. ef. 6-7-10

309-036-0120

Funds for Institutional Housing

(1) Eligible Uses for Institutional Housing. The institutional housing to be assisted with thirty (30) percent of interest earnings from the Community Housing Trust Account and any other funds restricted to institutional housing purposes shall be for occupancy by persons with serious mental illness.

(2) Allocation of Funds for Institutional Housing Purposes. The Department's Assistant Director or designee will annually identify the amount of funds available in the Community Mental Health Housing Fund for institutional housing purposes.

(a) Allocation Plan. The superintendents of the state psychiatric hospital facilities shall submit prioritized requests for funding of institutional housing improvements to the Assistant Director or designee. The Assistant Director or designee shall create an allocation plan based on a consolidated prioritized list of requests.

(b) Distribution of Funds for Institutional Housing Purposes. As funds become available, they will be distributed to state psychiatric hospital facilities for improvements in accordance with the allocation plan.

(3) Advisory Committee Review. The Community Mental Health Housing Fund Advisory Committee shall review the allocation plan and make recommendations to the Assistant Director regarding distribution of funds for institutional housing purposes; the Assistant Director shall make the final funding decisions.

Stat. Auth.: ORS 409.050 & 430.640

Stats. Implemented: ORS 426.502-426.508

Hist.: MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03; MHS 7-2010, f. & cert. ef. 6-7-10

309-036-0130

Real Property for Community Housing

(1) Property Reserved under ORS 426.508. In accordance with ORS 426.508, the Oregon Department of Administrative Services, in coordination with the City of Wilsonville and the Division, shall reserve not more than ten (10) acres from the sale of the property formerly known as the F.H. Dammasch State Hospital for transfer to the Division. The Division will use the reserved land to develop community housing for persons with serious mental illness. The Division will coordinate with the City of Wilsonville to identify the specific real property reserved from the sale. Development of the land reserved for community housing will be consistent with the Dammasch Area Transportation Efficient Land Use Plan described in ORS 426.508.

(2) Application Process. When one (1) or more specific lots of land reserved for community housing are confirmed on the proposed subdivision plat, the Division will distribute the property through a process which may include, but is not limited to, an open process such as a first come-first reviewed solicitation, a demonstration program, a competitive review process, or as emergency funds when necessary to ensure development or continued operation of community housing on the site.

(3) Applications shall be reviewed and rated by a review panel established by the Assistant Director or designee. The review panel will include at least three (3) members of the Community Mental Health Housing Fund Advisory Committee. The review panel shall make recommendations for

funding decisions to the Assistant Director who shall make the final funding decisions.

(4) The applicant selected as a result of the application process will own the community housing site. The selected applicant will be responsible for coordinating the development of the community housing designated for the site with oversight by the Division.

(5) Award to Selected Applicant. In awarding the reserved land to the selected applicant, the Division will restrict the property's use to community housing for people with serious mental illness. The Division will transfer the property title with a deed restriction, or another legal restriction approved by the Oregon Department of Justice.

(6) Title Transfers. When the property title is transferred to the selected applicant, the terms of the property transfer agreement, promissory note and trust deed shall restrict the property's use to community housing for people with serious mental illness and provide the Division with a right to reclaim the property in the event of non-performance.

(7) Disbursement of Funds. The Division will develop procedures for the disbursement of funds consistent with prudent accounting practices and the Division's financial procedures.

(8) Security of Investment. All funds disbursed in amounts greater than five thousand dollars (\$5,000) for the purpose of community housing shall be secured by a trust deed or other instrument to secure the investment and insure continuing use of the property, improvements and related equipment in accordance with the purposes of the award.

(9) Non-discrimination. Recipients of funding for community housing shall ensure that all eligible persons with serious mental illness shall be considered for residency without regard to:

- (a) Race;
- (b) Color;
- (c) Sex or sexual orientation, except as may be limited by room arrangement;
- (d) Religion;
- (e) Creed;
- (f) National origin;
- (g) Age;
- (h) Familial status;
- (i) Marital status;
- (j) Source of income; or
- (k) Disability in addition to the serious mental illness.

Stat. Auth.: ORS 409.050 & 430.640

Stats. Implemented: ORS 426.502-426.508

Hist.: MHS 7-2010, f. & cert. ef. 6-7-10

309-036-0135

Monitoring of Community Housing Awarded Financial Assistance

(1) Monitoring. The Division will confirm annually, or more frequently at its discretion, that the community housing developed with financial assistance from the Division continues to operate according to the agreed terms of the financial assistance.

(2) Non-performance. If the Division determines through its monitoring or otherwise that the community housing is not operating according to the agreed terms, the owner will be provided with an opportunity for remedy. If the remedy proves unsuccessful, the Division will consider the project in default.

(3) Default. A project shall be considered in default when it is no longer operated consistent with the terms of the financial assistance after the operator has been provided an opportunity for remedy. When a project is in default, the Division will take action to recover any payment or settlement owed per the terms of the executed security document or contractual agreement.

Stat. Auth.: ORS 409.050 & 430.640

Stats. Implemented: ORS 426.502-426.508

Hist.: MHS 7-2010, f. & cert. ef. 6-7-10

309-036-0140

Community Mental Health Housing Fund Advisory Committee

(1) Membership and Term. The Community Mental Health Housing Fund Advisory Committee (CMHFFAC) shall be comprised of not less than eleven (11) members who shall be appointed by the Assistant Director or designee. Each member shall be appointed for a term of four (4) years. Members may be reappointed for two (2) additional four (4) year terms.

(2) Committee Composition. CMHFFAC members shall consist of at least one (1) Division employee who shall be responsible for convening the committee. The Division shall provide clerical support to the committee. Additional members shall include, but not be limited to, at least one (1) state psychiatric hospital representative, three (3) consumer advocates, one (1) family advocate, one (1) representative from the Housing and

ADMINISTRATIVE RULES

Community Services Department, one (1) community mental health service provider, one (1) nonprofit housing provider, and two (2) members of the public at large.

(3) Meeting Schedule. The CMMHFAC shall meet not less than two (2) times per year.

(4) Responsibilities. The CMHFFAC shall be responsible for:

(a) Recommending an allocation plan for funding awards from the Community Mental Health Housing Fund;

(b) Recommending maximum award amounts;

(c) Reviewing and evaluating the award decisions for community housing and institutional housing awards and making recommendations regarding the award process;

(d) Making policy recommendations for the operation and investment of the fund; and

(e) Such other advisory actions as might be assigned by the Assistant Director.

Stat. Auth.: ORS 409.050 & 430.640
Stats. Implemented: ORS 426.502-426.508
Hist.: MHS 7-2010, f. & cert. ef. 6-7-10

Rule Caption: Update and combine the “Medicaid Payments” rules with portions of the “Other Contract Services” rules.

Adm. Order No.: MHS 8-2010(Temp)

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 7-1-10 thru 8-28-10

Notice Publication Date:

Rules Adopted: 309-016-0600, 309-016-0605, 309-016-0610, 309-016-0615, 309-016-0620, 309-016-0625, 309-016-0630, 309-016-0635, 309-016-0640, 309-016-0645, 309-016-0650, 309-016-0660, 309-016-0665, 309-016-0670, 309-016-0675, 309-016-0680, 309-016-0685, 309-016-0690, 309-016-0695, 309-016-0700, 309-016-0705, 309-016-0710, 309-016-0715, 309-016-0720, 309-016-0725, 309-016-0730, 309-016-0735, 309-016-0740, 309-016-0745, 309-016-0750, 309-016-0755

Rules Suspended: 309-016-0000(T), 309-016-0005(T), 309-016-0010(T), 309-016-0015(T), 309-016-0020(T), 309-016-0030(T), 309-016-0035(T), 309-016-0040(T), 309-016-0070(T), 309-016-0072(T), 309-016-0075(T), 309-016-0077(T), 309-016-0080(T), 309-016-0085(T), 309-016-0088(T), 309-016-0095(T), 309-016-0100(T), 309-016-0102(T), 309-016-0105(T), 309-016-0110(T), 309-016-0115(T), 309-016-0120(T), 309-016-0140(T), 309-016-0220(T)

Subject: The Addictions and Mental Health Division is updating the “Medicaid Payments” rules to reflect changes made to service delivery by the new “Integrated Services and Supports” Rule (ISSR), which is being developed in conjunction with this rule revision. This revision also combines rules in OAR 309-016 (“Medicaid Payments”) and OAR 309-034 (“Other Contract Services”) for clarity and to reduce repetition.

Rules Coordinator: Richard Luthe—(503) 947-1186

309-016-0600

Scope

These rules specify standards for authorized appropriate reimbursement of Medicaid or State Children’s Health Plan funded addictions and mental health services and supports and those payments made for acute inpatient services in a general medical setting or a freestanding facility meeting the federal definition as an institute for mental disease reimbursed as a result of a request for payment. The requirements set forth here in OAR 309-016-0600 through 309-016-0755 and referenced rules must be met in order for Medicaid payment to have been made appropriately.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0605

Definitions

(1) “Action” means:

(a) The denial, limitation or restriction of a requested covered service including the type or level of service;

(b) The reduction, suspension or termination of a previously authorized service; or

(c) The failure to provide services in a timely manner, as defined by the Addictions and Mental Health Division (AMH) of the Department of Human Services (DHS).

(2) “Active Treatment” means a service provided as prescribed in a professionally developed and supervised Individual Services and Supports Plan to address or improve a condition.

(3) “Addictions and Mental Health Division” (AMH) means the division of the Division of Human Services (DHS) responsible for the administration of addictions and mental health services provided in Oregon or to it’s residents.

(4) “Allowable Cost” means the cost of treatment services based on cost finding principles found in the appropriate OMB Circular such as “Cost Principles for Non-Profit Organization” (OMB Circular A-122) or “Cost Principles for State, Local, and Indian Tribal Governments” (OMB Circular A-87) and including allowable costs incurred for interest on the acquisition of buildings and improvements thereon.

(5) “Appeal” means a request by an Individual or their representative to review an Action as defined in this rule.

(6) “Certificate of Approval” means the document awarded by AMH signifying that a specific, named organization is judged by the Division to operate in compliance with applicable rules. A “Certificate of Approval” for mental health services is valid only when signed by the Assistant Administrator of the Office of Mental Health Services and, in the case of a subcontract provider of a CMHP, the CMHP director.

(7) “Certification of Need” means the procedures established by the Addictions and Mental Health Division (AMH) to certify in writing a child’s need for psychiatric residential treatment services.

(8) “Child” or “Children” means a person under the age of 18. An individual with Medicaid eligibility, who is in need of services specific to children, adolescents, or young adults in transition, will be considered a child until age 21 for purposes of these rules.

(9) “Children, Adults and Families” (CAF) means the Division serving as Oregon’s child welfare agency.

(10) “Clean Claim(s)” means a claim that can be processed without obtaining additional information from the provider of the service or from a third party. It includes a claim with errors originating in the State’s claims system. It does not include a claim from a provider who is under investigation for fraud or abuse, or a claim under review for medical necessity.

(11) “Commission on Accreditation of Rehabilitation” (CARF) means an organization that accredits behavioral health care and community providers based on the current edition of the “CARF Behavioral Health” standards manual.

(12) “Community Mental Health Program” (CMHP) means an entity that is responsible for planning and delivery of services for persons with substance use disorders, mental health diagnosis, or developmental disabilities, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Addictions and Mental Health Division.

(13) “Complaint” means an expression of dissatisfaction from an Individual or their representative to a Practitioner or Provider about any matter other than an Action.

(14) “Council on Accreditation of Services for Families and Children Facilities” (COA) means an organization that accredits behavioral health care and social service programs based on the current edition of the COA “Standards for Behavioral Health Care Services and Community Support and Education Services Manual.”

(15) “Division” means the Department of Human Services, Addictions and Mental Health Division.

(16) “Division of Medical Assistance Programs” (DMAP) means the division of the Department of Human Services (DHS) responsible for coordinating the medical assistance programs within the State of Oregon including the Oregon Health Plan (OHP) Medicaid demonstration, the State Children’s Health Insurance Program (SCHIP -Title XXI), and several other programs.

(17) “DMAP/AMH” means the Division of Medical Assistance or Addictions and Mental Health Division. Both DMAP and AMH have delegated responsibilities for the administration of Medicaid funded addictions and mental health services and supports. A lead agency will be identified to each entity involved in any process when the delegation of such is necessary.

(18) “Diagnostic and Statistical Manual” (DSM) means the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(19) “Grievance System” means the overall system in which an Individual can express dissatisfaction and that expression acted on if nec-

ADMINISTRATIVE RULES

essary. The Grievance System includes a Complaint process, and Appeals process and access to the Division of Medical Assistance Programs (DMAP) Administrative Hearing process.

(20) "Individual" means any person being considered for or receiving services and supports.

(21) "Individual Service and Support Plan" (ISSP) means a comprehensive plan for services and supports provided to or coordinated for an individual and his or her family, as applicable, that is reflective of the assessment and the desired outcomes of service.

(22) "Interdisciplinary Team" means the group of people designated to advise in the planning and provision of services and supports to individuals receiving Intensive Treatment Services (ITS) and Enhanced Care Services (ECS) and may include multiple disciplines or agencies. For ITS programs, the composition of the interdisciplinary team must be consistent with the requirements of 42 CFR Part 441.156.

(23) "Joint Commission on Accreditation of Healthcare Organizations" (JCAHO) means the Joint Commission on Accreditation of Healthcare Organizations. The Joint Commission accredits psychiatric residential treatment facilities according to its current edition of the "Comprehensive Accreditation Manual for Behavioral Health Care."

(24) "Letter of Approval" means the document awarded to service providers under OAR 309-012-0010 which states that the provider is in compliance with applicable administrative rules of the Division. Letters of Approval issued for mental health services are obsolete upon their expiration date, or upon the effective date of 309-012-0140, whichever is later.

(25) "Licensed Medical Practitioner" (LMP) means a person who meets the following minimum qualifications as documented by the LMHA or designee:

- (a) Physician licensed to practice in the State of Oregon; or
- (b) Nurse practitioner licensed to practice in the State of Oregon; or
- (c) Physician's Assistant licensed to practice in the State of Oregon.

(d) In addition, whose training, experience and competence demonstrate the ability to conduct a mental health assessment and provide medication management.

(e) For ICTS and ITS providers, a "Licensed Medical Practitioner" or "LMP" means a board-certified or board-eligible child and adolescent psychiatrist licensed to practice in the State of Oregon.

(26) "Local Mental Health Authority" (LMHA) means one of the following entities:

(a) The board of county commissioners of one or more counties that establishes or operates a Community Mental Health Program (CMHP);

(b) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(c) A regional local mental health authority comprised of two or more boards of county commissioners.

(27) "Medicaid" means the federal grant-in-aid program to state governments to provide medical assistance to eligible persons, under Title XIX of the Social Security Act.

(28) "Medicaid Management Information System" The mechanized claims processing and information retrieval system that all states are required to have according to section 1903(a)(3) of the Social Security Act and defined in regulation at 42 CFR 433.111. All states operate an MMIS to support Medicaid business functions and maintain information in such areas as provider enrollment; client eligibility, including third party liability; benefit package maintenance; managed care enrollment; claims processing; and prior authorization.

(29) "Medically Appropriate" means services and medical supplies required for prevention, diagnosis or treatment of a physical or mental health condition, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an individual or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to an individual.

(30) "National Provider Identifier" (NPI) means a unique 10-digit identifier mandated by the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (HIPAA) for all healthcare providers that is good for the life of the provider.

(31) "Non-Contiguous Area Provider" means a provider located more than 75 miles from Oregon and enrolled with AMH.

(32) "Plan of Care" (PoC) means a tool within the Medicaid Management Information System used to authorize certain Medicaid funded services for Individuals.

(33) "Provider" means an organizational entity, or qualified person, that is operated by or contractually affiliated with, a community mental health program, or contracted directly with the Division, for the direct delivery of addictions, problem gambling or mental health services and supports.

(34) "Psychiatric Residential Treatment Facility" means facilities that are structured residential treatment environments with daily 24-hour supervision and active psychiatric treatment, Psychiatric Residential Treatment Services (PRTS), Secure Children's Inpatient Treatment Programs (SCIP), Secure Adolescent Inpatient Treatment Programs (SAIP), and Sub-acute psychiatric treatment for children who require active treatment for a diagnosed mental health condition in a 24-hour residential setting.

(35) "Psychiatric Residential Treatment Services" means services delivered in a PRTF that include 24-hour supervision for children who have serious psychiatric, emotional or acute mental health conditions that require intensive therapeutic counseling and activity and intensive staff supervision, support and assistance.

(36) "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 LMHA or designee:

(a) A bachelor's degree in a behavioral sciences field; or

(b) A combination of at least three year's relevant work, education, training or experience; and

(c) Has the competencies necessary to:

(A) Communicate effectively;

(B) Understand mental health assessment, treatment and service terminology and to apply the concepts; and

(C) Provide psychosocial skills development and to implement interventions prescribed on a Treatment Plan within the scope of his or her practice.

(37) "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) Graduate degree in psychology;

(b) Bachelor's degree in nursing and licensed by the State of Oregon;

(c) Graduate degree in social work;

(d) Graduate degree in a behavioral science field;

(e) Graduate degree in recreational, art, or music therapy; or

(f) Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(g) Whose education and experience demonstrates the competencies to identify precipitating events; gather histories of mental and physical disabilities, alcohol and drug use, past mental health services and criminal justice contacts; assess family, social and work relationships; conduct a mental status examination; document a multi-axial DSM diagnosis; write and supervise a Treatment Plan; conduct a Comprehensive Mental Health Assessment; and provide individual, family, and/or group therapy within the scope of his or her practice.

(38) "Representative" means a person who acts on behalf of an individual at the individual's request with respect to a grievance, including, but not limited to a relative, friend, employee of the Division, attorney or legal guardian.

(39) "System Of Care" means the comprehensive array of mental health and other necessary services which are organized to meet the multiple and changing needs of children with severe emotional disorders and their families.

(40) "Usual and Customary Charge" means the lesser of the following unless prohibited from billing by federal statute or regulation:

(a) The Provider's charge per unit of service for the majority of non-medical assistance users of the same service based on the preceding month's charges;

(b) The Provider's lowest charge per unit of service on the same date that is advertised, quoted or posted. The lesser of these applies regardless of the payment source or means of payment;

(c) Where the Provider has established a written sliding fee scale based upon income for individuals and families with income equal to or less than 200% of the federal poverty level, the fees paid by these individuals and families are not considered in determining the usual charge. Any amounts charged to Third Party Resources (TPR) are to be considered.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stat. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

ADMINISTRATIVE RULES

309-016-0610

Clinical Documentation

Providers shall comply with clinical documentation as required in the Integrated Services and Supports Rule (OARs 309-032-1525 through 309-032-1535)

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0615

Billing

Billing Requirements. Providers shall meet all requirements in Oregon Administrative Rule 410-120-1280 Medical Assistance Programs Billing

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & RS 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0620

Submission

(1) Timely Submission. Providers shall meet all requirements in Oregon Administrative Rule 410-120-1300 Medical Assistance Programs Timely Submission of Claims

(2) Submission Process.

(a) Services may be received directly from any appropriately enrolled AMH or DMAP Provider;

(b) All services shall be billed directly to DMAP/AMH in accordance with billing instructions contained in the DMAP/AMH administrative rules and supplemental information;

(c) DMAP/AMH shall pay at the AMH FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate DMAP and AMH administrative rules and supplemental information.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0625

Allowable and Non-Allowable Costs

(1) Costs of a services will be subject, but not limited to the allowable and non-allowable costs as determined by cost finding principles found in "Cost Principles for a Non-Profit Organization" (OMB Circular A-122) or "Cost Principles for State, Local, and Indian Tribal Governments" (OMB Circular A-87) with the exception of interest: Mortgage interest on the acquisition of buildings and improvements, which is necessary and proper, will be classified as an allowable cost for a non-profit psychiatric residential treatment facility:

(a) "Necessary" requires that the interest be incurred on a loan made for a purpose reasonably related to patient care.

(b) "Proper" requires that interest be incurred at a rate not in excess of what a prudent borrower would have had to pay in the money market existing at the time the loan was made.

(2) In accord with the Deficit Reduction Act of 1984, as outlined in the Social Security Act, Section 1851(V)(I)(O), for determining the allowance for depreciation and interest on capital indebtedness with respect to a non-profit psychiatric residential treatment facility which has undergone a change of ownership, this rule provides that the valuation of the asset after such a change of ownership has occurred shall be the lesser of the allowable acquisition cost of such an asset to the owner of record as of July 18, 1984, or the acquisition cost of such an asset to the new owner. In the case where the asset was in existence prior to July 18, 1984, the value of the asset will be based on the allowable acquisition cost to the first owner of record after July 18, 1984, thereby eliminating upward revaluation of an asset. The recapture of depreciation only up to the full value of the initial asset is allowed.

(3) Non-allowable costs include but are not limited to:

(a) Room and Board except when providing Psychiatric Residential Treatment Services for children and adolescents reimbursed under the Inpatient psychiatric Services for Individuals Under Age 21 section of the Code of Federal Regulations (42CFR440.160).

(b) Educational program services as defined by the Department of Education.

(c) Costs of services otherwise reimbursed as payment(s) in full through DMAP medical programs.

(d) Costs (including legal fees, accounting and administrative costs, travel costs, and costs of feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or

merger) for which any payment made as payment(s) in full has previously been made.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0630

Payment

(1) The Division of Medical Assistance Programs or the Addictions and Mental Health Division (DMAP/AMH) will make payment in compliance with 42CFR447.10. Any contracted Billing Agent or Billing Service submitting claims on behalf of a Provider but not receiving payment in the name of or on behalf of the Provider does not meet the requirements for Billing Provider enrollment. If electronic transactions will be submitted, Billing Agents and Billing Services must register and comply with Department of Human Services (DHS) Electronic Data Interchange (EDI) rules, OAR 407-120-0100 through 407-120-0200. DMAP/AMH may require that payment for services be made only after review by DMAP/AMH.

(2) AMH sets Fee-for-Service (FFS) payment rates.

(3) All FFS payment rates are the rates in effect on the date of service that are the lesser of the amount billed, the AMH maximum allowable amount or the reimbursement specified in the individual program Provider rules:

(a) AMH's maximum allowable rate setting process uses a methodology that is based on the existing Medicaid fee schedule with adjustments for legislative changes and payment levels. The rates are updated periodically and posted on the AMH web site at <http://egov.oregon.gov/DHS/mentalhealth/tools-providers.shtml>

(b) Provider rules may specify reimbursement rates for particular services or items. Provider specific rates are determined based on the Provider's allowable costs of providing the service.

(4) DHS sets payment rates for out-of-state institutions and similar facilities, such as psychiatric and rehabilitative care facilities at a rate that is:

(a) Consistent with similar services provided in the State of Oregon; and

(b) The lesser of the rate paid to the most similar facility licensed in the State of Oregon or the rate paid by the Medical Assistance Programs in that state for that service.

(5) DMAP/AMH will not make payment on claims that have been assigned, sold, or otherwise transferred or when the Billing Provider, Billing Agent or Billing Service receives a percentage of the amount billed or collected or payment authorized. This includes, but is not limited to, transfer to a collection agency or individual who advances money to a Provider for accounts receivable.

(6) Payment for DMAP Clients with Medicare and Medicaid, excluding qualified Medicare beneficiary programs:

(a) DMAP/AMH limits payment to the Medicaid allowed amount less the Medicare payment up to the Medicare co-insurance and deductible, whichever is less. DMAP/AMH payment cannot exceed the co-insurance and deductible amounts due;

(b) DMAP/AMH pays the DMAP/AMH allowable rate for DMAP/AMH covered services that are documented to be not covered by Medicare.

(7) For Clients with Third-Party Resources (TPR), DMAP/AMH pays the DMAP/AMH allowed rate less the TPR payment but not to exceed the billed amount.

(8) DMAP/AMH payments, including contracted Prepaid Health Plan (PHP) payments, unless in error, constitute payment in full, except in limited instances involving allowable spend-down or copayments. For DMAP/AMH such payment in full includes:

(a) Zero payments for claims where a third party or other resource has paid an amount equivalent to or exceeding the DMAP/AMH allowable payment; and

(b) Denials of payment for failure to submit a claim in a timely manner, failure to obtain Payment Authorization in a timely and appropriate manner, or failure to follow other required procedures identified in the individual Provider rules.

(9) AMH will reimburse providers consistent with all requirements in 42CFR447.45 Timely Claims Payment including but not limited to:

(a) The Division must pay 90 percent of all clean claims from Providers within 30 days of the date of receipt.

(b) The Division must pay 99 percent of all clean claims from Providers within 90 days of the date of receipt.

ADMINISTRATIVE RULES

(c) The Division must pay all other claims within 12 months of the date of receipt except in various circumstances listed in 42CFR447.45(4).

(10) Payment by DMAP/AMH does not limit DHS or any state or federal oversight entity from reviewing or auditing a claim before or after the payment. Payment may be denied or subject to recovery if medical review, audit or other post-payment review determines the service was not provided in accordance with applicable rules or does not meet the criteria for quality of care, or medical appropriateness of the care or payment.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0635

Overpayment

(1) DHS Identified. Notwithstanding Oregon Administrative Rule 410-120-1397 when DHS determines an overpayment has been made to a Provider, the amount of overpayment is subject to recovery by DHS. The overpayment amount will be determined at DHS' discretion through direct examination of claims, through statistical sampling and extrapolation techniques or other means. Procedures for recovery of funds are as described in the Office of Medical Assistance Programs General Rules for Oregon Medical Assistance Programs (OAR 410-120-1505) or by applicable contract language.

(2) Provider identified. When a provider discovers that they requested and may have received reimbursement not in compliance with all applicable rules they must contact AMH Medicaid Policy Unit and Office of Payment Accuracy and Recovery (OPAR) promptly to report the possible inappropriate payment and discuss the manner by which the appropriateness will be determined as well as programmatic changes and other notifications to be made.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0640

Notice of Action Requirements of Providers

When a Provider (or authorized staff acting with authority to determine the Individual's needs) takes or intends to take any Action the Individual shall be mailed a written client Notice of Action in accordance with Oregon Administrative Rule 410-141-0263.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0645

Administrative Hearing

A Division of Medical Assistance Programs (DMAP) Member or their representative that disagrees with a Notice of Action may request a DMAP Administrative Hearing consistent with Oregon Administrative Rule 410-120-1865 Denial, Reduction or Termination of Services.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0650

Provider Appeals

Providers have the right to file an appeal consistent with Oregon Administrative Rule 410-120-1560 Provider Appeals, 410-120-1570 Claims Re-determinations, 410-120-1580 Provider Appeals — Administrative Review and 410-120-1600 Provider Appeals — Contested Case Hearings.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0660

Program

Conditions of Provider Participation. Provider shall meet the following requirements:

(1) Possess the appropriate current and valid License, Letter of Approval and/or Certificate of Approval issued by AMH for the mental health and addictions services provided.

(2) Develop a Cost Allocation Plan to support the Provider's Usual and Customary Charge

(3) Provide services in accordance with the Civil Rights Act of 1964, the Americans with Disabilities Act and any other state and federal laws and regulations listed in the contract with AMH.

(4) Participate in the claim review process outlined in OAR 410-120-1397

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0665

Individual Provider Enrollment

Providers shall meet all requirements in Oregon Administrative Rule 410-120-1260 Medical Assistance Programs Provider Enrollment and 407-120-0310 Provider Requirements and 407-120-0320 Provider Enrollment.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0670

Sanctions

Sanctions will be imposed on Providers when necessary in accordance with Oregon Administrative Rule 410-120-1400 through 410-120-1460 Medical Assistance Programs Provider Sanctions and Types and Conditions of Sanction

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0675

Prior Authorization

Authorization of Payment.

(1) Some of the services or items covered by the Addictions and Mental Health Division (AMH) require authorization before payment will be made. Some services require authorization before the service can be provided. Services requiring prior authorization can be found on the MH Procedure Codes and Reimbursement Rates Table located at <http://www.oregon.gov/DHS/mentalhealth/tools-providers.shtml>. The procedure for receiving authorization is detailed in the Provider Manual found on the same website.

(2) Documentation submitted when requesting authorization must support the medical justification for the service. A complete request is one that contains all necessary documentation and meets any other requirements as described in the appropriate Provider rules.

(3) AMH will authorize for the level of care or type of service that meets the Individual's medical need. Only services which are Medically Appropriate and for which the required documentation has been supplied may be authorized. The authorizing agency may request additional information from the Provider to determine medical appropriateness or appropriateness of the service.

(4) The Division and its authorizing agencies are not required to authorize services or to make payment for authorized services under the following circumstances:

(a) The individual was not eligible for Medicaid at the time services were provided. The provider is responsible for checking the individual's eligibility each time services are provided;

(b) The Provider does not hold a valid Certificate of Approval from AMH for the service;

(c) The Provider cannot produce appropriate documentation to support medical appropriateness, or the appropriate documentation was not submitted to AMH;

(d) The service has not been adequately documented (see 309-016-0610.); that is, the documentation in the Provider's files is not adequate to determine the type, medical appropriateness, or frequency and duration of services provided and required documentation is not in the Provider's files;

(e) The services billed or provided are not consistent with the information submitted when authorization was requested or the services provided are determined retrospectively not to be medically appropriate;

(f) The services billed are not consistent with those provided;

(g) The services were not provided within the timeframe specified on the authorization of payment document;

(h) The services were not authorized or provided in compliance with these rules, the General Rules and in the appropriate Provider rules.

(i) The provider was not eligible to receive reimbursement from Medicaid at the time the service was rendered.

(5) Payment made for services described in subsections (a)-(h) of this rule will be recovered (see also Basis for Mandatory Sanctions and Basis for Discretionary Sanctions).

(6) Retroactive Eligibility:

(a) In those instances when Individuals are made retroactively eligible, authorization for payment may be given if:

(A) The Individual was eligible on the date of service;

(B) The services provided meet all other criteria and Oregon Administrative Rules, and;

ADMINISTRATIVE RULES

(C) The request for authorization is received by AMH within 90 days of the date of service;

(b) Services provided when a Medicaid-eligible Individual is retroactively disenrolled from a Prepaid Health Plan (PHP) or services provided after the Individual was disenrolled from a PHP may be authorized if:

(A) The Individual was eligible on the date of service;

(B) The services provided meet all other criteria and Oregon Administrative Rules; and

(C) The request for authorization is received by AMH within 90 days of the date of service;

(c) Any requests for authorization after 90 days from date of service require documentation from the Provider that authorization could not have been obtained within 90 days of the date of service.

(7) AMH will process requests for prior authorization that do not require additional information from the provider or third party consistent with timeliness of payments for clean claims described in 42CFR447.45 and included in 309-016-0630(9).

(8) Prior Authorization is valid for the time period specified on the authorization notice, but not to exceed 12 months, unless the Individual's benefit package no longer covers the service, in which case the authorization will terminate on the date coverage ends.

(9) Prior Authorization for Individuals with other insurance or for Medicare beneficiaries:

(a) When Medicare is the primary payer for a service, no Prior Authorization from AMH is required, unless specified in the appropriate program Provider rules;

(b) For Individuals who have private insurance or other Third Party Resources (TPRs), such as Blue Cross, Tri-Care, etc., AMH requires Prior Authorization as specified above and in the appropriate Provider rules when the other insurer or resource does not cover the service or when the other insurer reimburses less than the AMH rate;

(c) For Individuals in a Medicare's Social Health Maintenance Organization (SHMO), the SHMO requires Payment Authorization for some services. AMH requires Prior Authorization for services which are covered by AMH but which are not covered under the SHMO as specified above and in the appropriate Provider rules.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0680

Limitations

(1) Published Payment Schedule

(a) Payment will be made at each Provider's usual and customary charge or AMH's published reimbursement upper payment limit, whichever is less, minus payments received or due from other payors. Payments to other specified Providers will be made according to other approved schedules:

(A) Limitations contained in the Medicaid Rehabilitative Services Procedure Codes and Reimbursement Rates Schedule, such as the maximum rate and the amount, duration, and scope of services provided, are subject to change at the discretion of AMH. Providers will be notified of such changes in writing;

(B) Payment will be made for services listed in the Medicaid Rehabilitative Services Procedure Codes and Reimbursement Rates Schedule which are rendered to Medicaid-eligible Individuals by qualified staff meeting the definition of OAR 309-032-1520 during the period in which the Provider is enrolled in the Oregon Medical Assistance Program.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0685

Variations

A variance from those portions of these rules that are not derived from federal regulations, Oregon's Medicaid State Plan or the General Rules for Oregon Medical Assistance Programs may be granted to an applicant for a period of up to one year in the following manner:

(1) The applicant shall submit to the DHS/AMH Medicaid Policy Unit a written request which includes:

(a) The section(s) of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) The alternative practice proposed; and

(d) A plan and timetable for compliance with the section of the rule from which the variance is sought unless under the discretion of AMH the practice detailed in the variance will be ongoing to be renewed annually.

(2) The Deputy Assistant Director of the Addictions and Mental Health Division shall approve or deny the request for variance in writing.

(3) The DHS/AMH Medicaid Policy Unit shall notify the Provider of the decision in writing within 30 days of receipt of the request.

(4) Appeal of the denial of a variance request shall be to the DHS/AMH Assistant Director, whose decision shall be final.

(5) Variances may only be granted for up to one year. A Provider requesting a Variance to be continued beyond one year must re-apply.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0690

Individual Eligibility

(1) To be eligible for State Plan Personal Care services under these rules, a person must require assistance from a qualified provider due to a disabling mental health condition with one or more of the Personal Assistance Services identified in OAR 411-034-0020(2)(a)-(f). The qualified provider must be providing these services, paid by the Division in accordance with an authorized service plan.

(2) A person eligible for State Plan Personal Care services under these rules must be a current recipient of at least one of the following programs defined in OAR 461-101-0010:

(a) Extended Medical (EXT);

(b) Medical Assistance Assumed (MAA);

(c) Medical Assistance to Families (MAF);

(d) Oregon Health Plan (OHP);

(e) Oregon Supplemental Income Program Medical (OSIPM);

(f) Temporary Assistance to Needy Families (TANF); or

(g) Refugee Assistance (REF).

(3) State Plan Personal Care services are not available for individuals in a prison, hospital, sub-acute care facility, nursing facility or other medical institution.

(4) The Division or its designee has the authority to close the eligibility and authorization for State Plan Personal Care services if an individual fails to employ a qualified provider or to receive Personal Assistance Services from a qualified provider paid by the Division for thirty continuous calendar days or longer.

(5) Individuals served under the Medicaid 1915(c) Home and Community-Based Services waiver for the aged and physically disabled, or the 1115(c) Independent Choices waiver, are not eligible to receive State Plan Personal Care services.

(6) Individuals receiving medical and long-term care services through the Program of All-inclusive Care for the Elderly (PACE), as described in OAR chapter 411, division 045, must not also receive State Plan Personal Care services under these rules.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0695

Covered Services

Specific personal care services must be prescribed by a physician or licensed practitioner of the healing arts in accordance with a plan of treatment or authorized for the individual in accordance with a service plan approved by the State or designee. The services are provided by an individual who is qualified to provide such services and who is not a legally responsible relative of the Individual. The services may be furnished in a home or other allowable location.

(1) Personal Care tasks include:

(a) Basic personal hygiene — providing or assisting with:

(A) Bathing (tub, bed bath, shower);

(B) Shampoo, hair grooming;

(C) Shaving;

(D) Nail care — hands;

(E) Nail care — feet;

(F) Foot care;

(G) Dressing; and

(H) Skin care — application of emollients if approved by physician, repositioning (see 5b).

(b) Bowel and bladder care:

(A) Assisting on and off toilet, commode or bedpan, diapering;

(B) External cleansing of perineal area;

(C) External cleansing of Foley catheter — after demonstrating technique to RN;

(D) Emptying catheter drainage bag — after demonstrating technique to RN;

ADMINISTRATIVE RULES

(E) Changing colostomy or ileostomy bag for individual with stabilized condition;

(F) Encouraging adequate fluid intake; and

(G) Maintenance bowel care;

(c) Assisting individual to take medications:

(A) Open and properly reseal medication containers if individual unable to do so;

(B) Observe to assure individual taking medication as ordered by physician;

(C) Remind appropriate person when prescription refill needed; and

(D) Administration of stabilized, maintenance medication(s).

(d) Assist oxygen:

(A) Maintain clean equipment; and

(B) Assist with maintaining adequate supply.

(e) Assist with mobility, transfers and comfort:

(A) Assist with ambulation with or without aids. Assure repositioning every two hours or more often for bedridden or wheelchair-using individuals

(B) Encourage active range-of-motion exercises when indicated;

(C) Assist with passive range-of-motion exercise if ordered by physician and RN has observed and approved technique; and

(D) Assist with transfers with or without mechanical devices.

(f) Nutrition:

(A) Prepare nutritional meals;

(B) Plan and prepare special diets as ordered by physician;

(C) Assure adequate fluid intake; and

(D) Feed if necessary.

(g) Care of disoriented, mentally or physically disabled individual:

(A) Assure maximum safety of individuals; and

(B) Provide or assist with approved activities.

(h) First aid and handling of emergencies;

(A) Discussed and approved at time of first visit; and

(B) Maintain and prioritize emergency notification system.

(i) Perform housekeeping tasks necessary to maintain a healthy and safe environment for the individual.

(j) Arrange and assist individual to and from necessary appointments.

(k) Observation of individual status and reporting of any significant changes to the appropriate case manager or other person as designated by the care plan.

(1) Tasks delegated by a nurse (reference nurse delegation act).

(2) Providers of personal care services must document the services provided in a manner consistent with the Integrated Services and Supports Rule (OAR 309-032-1525 through 309-032-1535).

Stat. Auth.: ORS 409.010, 409.050, RS 430.640; 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0700

Qualified Provider

(1) A qualified provider is a person who, in the judgment of the Division or its designee, can demonstrate by background, skills and abilities the capability to safely and adequately provide the services authorized.

(2) A qualified provider must maintain a drug-free work place and must be approved through the criminal history check process described in OAR chapter 407, division 007.

(3) A qualified provider paid by the Division must not be the parent, or step-parent of an eligible minor child, the eligible individual's spouse or another legally responsible relative consistent with 42CFR440.167.

(4) A qualified provider must be authorized to work in the United States, in accordance with U.S. Department of Homeland Security, Bureau of Citizenship and Immigration rules.

(5) A qualified provider must be enrolled as a PCA with an individual provider number

(6) Criminal History Re-checks:

(a) Criminal history re-checks may be conducted at the discretion of the Division or designee, in accordance with OAR chapter 407, division 007 and will be conducted at least every two years.

(b) Providers must comply with criminal history re-checks by completing a new criminal history authorization form when requested to do so by the Division.

(c) The provider's failure to complete a new criminal history check authorization will result in the inactivation of the provider enrollment. Once inactivated, a provider must reapply and meet all of the standards described in this rule to have their provider enrollment reactivated.

(7) Provider must not be included on any US Office of Inspector General Exclusion lists

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0705

Personal Care Attendant Enrollment Standards

(1) The Division, Division or designee may deny or terminate a Personal Care Attendant's provider enrollment and provider number if the Personal Care Attendant:

(a) Has been appointed the legal guardian of the individual;

(b) Is denied as the result of a weighing test performed as part of the criminal history check process described in OAR chapter 407, division 007;

(c) Lacks the skills, knowledge, or ability to adequately or safely perform the required work;

(d) Violates protective service and abuse rules in OAR chapter 411, division 020, or OAR chapter 413, division 015 or OAR chapter 407, division 045;

(e) Commits fiscal improprieties;

(f) Fails to provide the authorized services required by the eligible individual;

(g) Has been repeatedly late in arriving to work or has absences from work not authorized in advance by the individual;

(h) Has been intoxicated by alcohol or drugs while providing authorized services to the individual or while in the individual's home;

(i) Has manufactured or distributed drugs while providing authorized services to the individual or while in the individual's home; or

(j) Has been excluded as a provider by the U.S. Department of Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare or any other federal health care programs.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0710

Employment Relationship

(1) The relationship between the eligible individual and his or her Personal Care Attendant is that of employer and employee.

(a) The eligible individual carries primary responsibility for locating, interviewing, screening, hiring, scheduling work periods, training and terminating his or her own employees. The individual is also responsible for tracking and confirming the service hours worked by his or her employee.

(b) The eligible individual exercises control as the employer and directs the employee in the provision of the services.

(c) The Division or designee determines whether the employee meets the minimum qualifications to provide the services authorized by the Division and makes direct service payment(s) to the provider on behalf of the individual.

(2) In order to receive State Plan Personal Care services from a Personal Care Attendant, the individual must be able to:

(a) Meet the employer responsibilities described in section (1)(a) of this rule; or

(b) Designate a natural support as the individual's representative to meet these employer responsibilities.

(3) Termination and the grounds for termination of employment are determined by the employer. Eligible individuals have the right to terminate their employment relationships with their providers at any time and for any reason. It is the responsibility of the employer to establish an employment agreement at the time of hire. The employment agreement may include grounds for dismissal and any requirements for the employee to provide advance notice before resigning.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0715

Mandatory Reporting

All reporting requirements mandated under ORS 430.735 through ORS 430.768 must be followed.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0720

Service Entry

(1) Mental Health Provider Responsibilities:

(a) Assessment and Re-Assessment:

(A) The provider or designated person will meet in person with the individual to assess the individual's ability to perform the tasks listed in OAR 309-016-0705.

ADMINISTRATIVE RULES

(B) The individual's natural support persons may participate in the assessment if requested by the individual.

(C) The Mental Health Provider will assess the individual's service needs, identify the resources meeting any, some or all of the person's needs, and determine if the individual is currently eligible for Personal Care services.

(D) The Mental Health Provider will meet with the individual in person at least once every 365 days to review the individual's service needs.

(E) The assessment must be approved by a practitioner recognized by AMH as a Qualified Mental Health Professional.

(b) Service Planning:

(A) The Mental Health Provider will prepare a service plan identifying those tasks for which the individual requires assistance and the monthly number of approved hours of service. Not to exceed 20 hours per Individual per month.

(B) The service plan will describe the tasks to be performed by the qualified provider and will approve the maximum monthly hours that can be reimbursed for those services.

(C) When developing service plans, Mental Health Providers will consider the cost effectiveness of services that adequately meet the individual's service needs.

(D) The service plan must be approved by a practitioner recognized by AMH as a Qualified Mental Health Professional.

(E) Payment for State Plan Personal Care services must be approved by the Mental Health Provider and submitted to AMH based on the service needs of the individual as documented in the written service plan.

(c) Ongoing Monitoring and Approval:

(A) When there is an indication that the individual's Personal Assistance Service needs have changed, the Mental Health Provider will conduct a re-assessment in person with the individual (and any natural supports if requested by the individual).

(B) Following annual re-assessments and those conducted after a change in Personal Assistance Service needs, the Mental Health Provider will review service eligibility, the cost effectiveness of the service plan and whether the services provided are meeting the identified service needs of the individual. The Mental Health Provider may adjust the hours or services in the plan and will approve a new service plan, if appropriate, based on the individual's current service needs. The Mental Health Provider will then submit the adjusted service plan to AMH.

(d) Ongoing Case Management: The Mental Health Provider will provide ongoing coordination of Personal Care services, including approving changes in service providers and service hours, addressing risks, and providing information and referral to the individual when indicated.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0725

Service Entry

(1) Program Provider Responsibilities:

(a) Assessment and Re-Assessment:

(A) Program staff will meet in person with the individual to assess the individual's ability to perform the tasks listed in OAR 309-016-0695.

(B) The individual's natural support persons may participate in the assessment if requested by the individual.

(C) Program staff will assess the individual's service needs, identify the resources meeting any, some or all of the person's needs, and determine if the individual is currently eligible for Personal Care services.

(D) Program staff will meet with the individual in person at least once every 365 days to review the individual's service needs.

(b) Service Planning:

(A) The program staff will prepare a Plan of Care identifying those tasks for which the individual requires assistance and the monthly number of requested hours of service.

(B) The Plan of Care will describe the tasks to be performed by the Program staff and will request a maximum monthly number of hours of service.

(C) When developing Plans of Care, Program staff will consider the cost effectiveness of services that adequately meet the individual's service needs.

(D) Payment for Personal Care services must be prior authorized by AMH based on the service needs of the individual as documented in the written Plan of Care.

(c) Ongoing Monitoring and Approval:

(A) When there is an indication that the individual's Personal Assistance Service needs have changed, the provider will conduct a re-

assessment in person with the individual (and any natural supports if requested by the individual).

(B) Following annual re-assessments and those conducted after a change in Personal Assistance Service needs, the Provider will review service eligibility, the cost effectiveness of the Plan of Care and whether the services provided are meeting the identified service needs of the individual. The Provider may adjust the hours or services in the plan and will submit a new Plan of Care, if appropriate, based on the individual's current service needs. The Provider will submit the adjusted Plan of Care to AMH.

(d) Ongoing Case Management: The Provider will provide ongoing coordination of Personal Care services, including changes in service hours, addressing risks, and providing information and referral to the individual when indicated.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0730

Conditions of Service Provider Participation

Service provider must:

(1) Provide psychiatric residential treatment services to children eligible for Medicaid benefits under the terms of a written agreement with the Division. The agreement must require that the psychiatric residential treatment facility and the services provided comply with all applicable state and federal requirements.

(2) Support and protect the fundamental human, civil, constitutional, and statutory rights of each child.

(3) Be accredited as a psychiatric residential treatment facility for children under age 21 by JCAHO, CARF, COA, or any other accrediting organization, with comparable standards, that is recognized by the State; be licensed by CAF; hold a Certificate of Approval per OAR 309-012-0130 through 309-012-0220 from the Division and be in compliance with the treatment services standards described in the ISSR.

(4) Provide a program consistent with standards set by JCAHO, CARF, COA, or any other accrediting organization, with comparable standards, that is recognized by the State.

(5) Provide a physical facility suitable for treatment of children with attention to proper safety and sanitation, housekeeping, and general environment. Buildings shall comply with all applicable building, occupancy, electrical, plumbing, and zoning codes.

(6) Obtain certification for the admission of children to the psychiatric residential treatment facility following the Division's Certification of Need procedures.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0735

Eligibility and Admission Policy

(1) In considering a child for admission for psychiatric residential treatment services, Certification of Need procedures will certify that:

(a) Other treatment resources available in the community do not meet the treatment needs of the child;

(b) Proper treatment of the child's psychiatric condition requires services on a psychiatric residential treatment basis under the direction of licensed medical practitioner;

(c) The services can reasonably be expected to improve the child's condition or prevent further regression so that psychiatric residential treatment services may no longer be needed; and

(d) The child has a principal diagnosis on Axis I of a completed 5-Axes DSM diagnosis that is not solely a result of mental retardation or other developmental disabilities, epilepsy, drug abuse, or alcoholism.

(2) The child must be eligible for medical assistance under Medicaid, according to procedures established by the Division, and meet the criteria for admission to psychiatric residential treatment services as defined by these rules.

(3) The Division shall authorize payment for psychiatric residential treatment services for children upon the approval of a certificate of need by the Division or its agent.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715

Stats. Implemented: ORS 414.025, 414.065 & 430.640

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0740

Admission Procedures Related to Payment

(1) Admission procedures for children eligible for Medicaid will be reviewed through an independent psychiatric review process established by the Division to certify the need for services.

ADMINISTRATIVE RULES

(2) The referring source or the facility will make available for the Certificate of Need (CONS) process, the following information about the referred child:

- (a) Letter of support for admission from the identified county of responsibility or qualified tribal representative;
- (b) Level of Need Determination screening outcome;
- (c) Child and Adolescent Service intensity instrument (CASII) or Early Childhood Service Intensity Instrument (ECSII);
- (d) Identified Intensive Community Treatment and Support (ICTS) provider;
- (e) ICTS care coordinator;
- (f) Child and family team members, and
- (g) Copies of related available clinical documents such as updated mental health assessments, individual plan of care and service coordination plans.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0745 Service Criteria

Children shall be served in the least restrictive, least intensive setting based on their treatment history, degree of impairment, current symptoms and the extent of family and other supports. The provider must recommend the appropriate level of care to the child and parent or guardian when a more restrictive or less restrictive level of care is determined to be medically necessary.

(1) The following criteria are used to determine the appropriateness of continued stay:

- (a) The child is making observed progress toward identified treatment goals as documented in the individual plan of care, but the measurable treatment objectives necessary to reach the goals have not been completed;
- (b) The child made no documented progress toward treatment goals, but the individual plan of care and measurable objectives necessary to reach the goals have been reviewed by the LMP and modified in order to reevaluate the child's treatment needs, clarify the nature of the identified problems, and/or initiate new therapeutic interventions; or
- (c) The child exhibits new symptoms or maladaptive behaviors that justify continuation and can be safely and effectively treated at a community-based residential level of care. The individual plan of care has been revised accordingly.

(2) A planned discharge will occur when the following criteria are met:

- (a) The child's targeted symptoms and maladaptive behaviors have abated to an established baseline level as documented by the attainment of specific goals and measurable objectives in the individual plan of care; or
- (b) The child exhibits new symptoms and maladaptive behaviors which may not be safely or effectively treated at this level of care; or
- (c) The child is not benefiting from treatment and made no progress toward specific treatment goals or measurable objectives even though appropriate individual plan of care reviews and revisions were conducted.

(3) Planned service conclusion will be consistent with the service conclusion criteria established by the interdisciplinary team and documented in the ISSP. In addition:

(a) Providers will not conclude services unless the interdisciplinary team, in consultation with the child's parent or guardian and the next provider, agree that the child requires a more or less restrictive level of care; and

(b) If the determination is made to admit the child to acute care, the provider will not conclude services during the acute care stay unless the interdisciplinary team, in consultation with the child's parent or guardian and the next provider, agree that the child requires a more or less restrictive level of care following the acute care stay.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0750 Payments

(1) Payments will be made for the provision of active psychiatric residential treatment services, including approved leave for children eligible for such services under Medicaid. If active treatment is not documented during any period in which Division payments are made on behalf of a child, the Division may recoup such payments.

(2) The Division will pay for the day of admission but not for the day of discharge.

(3) Medicaid eligible children receiving psychiatric residential treatment services will be subject to periodic review by a professional review organization to determine medical appropriateness and quality of services. If a review reveals that a child received an inappropriate level of care, i.e., less than active treatment, payment will not be allowed under these rules.

(4) Payment for planned absences from the program such as home care visits, and transitions shall be allowed if the absences are:

- (a) Based on the individual clinical needs of the child; and
- (b) Specified in the child's Individual Service and Support Plan's measurable objectives and/or discharge plan; and
- (c) Documented in individual service notes; and
- (d) The duration of any single planned absence is no more than three consecutive days, unless a longer duration is authorized in writing by the Division.

(5) Payment for unplanned absences from the program such as run-away, hospitalization, and detention (check on eligibility) shall be allowed if:

(a) The provider clearly documents in the child's individual service record regular and ongoing case coordination efforts undertaken by the program during the unplanned absence; and

(b) The provider clearly documents in the child's individual service record that the child will be returned to the program when the unplanned absence is resolved; and

(c) The duration of any single unplanned absence is no more than seven consecutive days, unless longer duration is authorized in writing by the Division.

(6) Payment for unplanned absences from the program shall be disallowed if the child is not returned to the program, unless the interdisciplinary team, in consultation with the child's parent(s) or guardian or provider of the next level of care determines that the child requires a more or less restrictive level of care.

(7) Planned absences from the program which are not indicated in the child's Individual Services and Supports Plan and/or discharge plan shall be considered unplanned absences and payment will be disallowed.

(8) Payments for planned absences must be made consistent with 42CFR447.40.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

309-016-0755 Conditions of Service Provider Participation

(1) Provider shall meet all requirements for Medicaid payment in general and specifically for PRTS providers as stated in OAR 309-016-0730 through 309-016-0750.

(2) The admitting physician must have authorized the admission and that authorization is evident in record.

(3) Children's Sub-Acute Psychiatric Care services must be provided consistent with the general standards outlined above (OAR 309-016-0605 through 309-016-0650) and the Rehabilitative mental Health Services requirements outlined above (OAR 309-016-0660 through 309-016-0685).

(4) The cost of Room and Board is not an allowable cost of Children's Sub-Acute Psychiatric Care services.

Stat. Auth.: ORS 409.010, 409.050, 430.640, 430.705 & 430.715
Stats. Implemented: ORS 414.025, 414.065 & 430.640
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10

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

Rule Caption: Changing OARs affecting Child Welfare programs.
Adm. Order No.: CWP 5-2010(Temp)

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 6-15-10 thru 12-12-10

Notice Publication Date:

Rules Amended: 413-015-0115, 413-015-1105, 413-015-1110, 413-015-1120

Subject: OAR 413-015-0115 about the definitions used in the Department's rules regarding Child Protective Services (which identifies child safety threats and assures protection of children after a report of alleged child abuse or neglect is received by a screener) is

ADMINISTRATIVE RULES

being amended to restate the definitions for CPS worker and safety service provider.

OAR 413-015-1105 about the purpose of allowing law enforcement data system (LEDS) access in local child welfare offices is being amended to state that one of the primary purposes in allowing such access is to assist child welfare staff in making decisions about child safety regarding safety service providers (participants in a protective action or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety).

OAR 413-015-1110 about the definitions used in the Department's rules regarding local child welfare office access to the law enforcement data system (LEDS) is being amended to state the definition for safety service provider.

OAR 413-015-1120 about when and how a local Child Welfare office may conduct criminal records checks on a subject individual using the law enforcement data system (LEDS) and the timelines under which the Department must provide written notice to a subject individual when a criminal records check is conducted for a Child Protective Services purpose is being amended to restate that the term subject individual includes an individual being assessed as a safety service provider (a participant in a protective action or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety) and that a safety service provider must be given notice of a criminal records check before the check is conducted.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-0115

Definitions

Unless the context indicates otherwise, these terms are defined for use in OAR chapter 413, division 015:

(1) "Caregiver" means a guardian, legal custodian, or other person acting in loco parentis, who exercises significant authority over and responsibility for a child.

(2) "Child" means a person under 18 years of age.

(3) "Child abuse or neglect" means any form of abuse, including abuse through neglect and abuse or neglect by a third party, of a person under age 18.

(4) "Child protective services (CPS)" means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.

(5) "Child protective services assessment" means activities and interventions that identify and analyze safety threats, determine if there is reasonable cause to believe child abuse or neglect occurred, and assure child safety through protective actions or ongoing safety planning.

(6) "Child protective services supervisor (CPS supervisor)" means an employee of Child Welfare trained in child protective services and designated as a supervisor.

(7) "CPS worker" means a Child Protective Services (CPS) worker who is an employee of Child Welfare and has completed the mandatory Department training for child protective service workers.

(8) "Child Safety Meeting" means a facilitated meeting held at the conclusion of a CPS assessment for the purpose of developing an ongoing safety plan.

(9) "Children's Care Provider (CCP)" means a CAF licensed Residential Care Agency, Day Treatment Program, Foster Care Agency, Therapeutic Boarding School, or Outdoor Youth Program that has assumed responsibility for all or a portion of the care of a child. The term includes the CCP's employees, agents, contractors and their employees, and volunteers.

(10) "Day Care Facility" means each of the following:

(a) A Registered Family Child Care Home, which is the residence of a provider who has a current Family Child Care Registration at that address and who provides care in the family living quarters.

(b) A Certified Family Child Care Home, which is a child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 16 children at any one time.

(c) A Certified Child Care Center, which is certified to care for 13 or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single family dwelling.

(d) A Listed Facility, which is a child care provider who is exempt from CCD licensing and who receives subsidy payments for child care on behalf of clients of the Department of Human Services.

(11) "Department" means the Department of Human Services, Child Welfare.

(12) "Department response" means how the Department intends to respond to information that a child is unsafe after a report of alleged abuse or neglect is received.

(13) "Designated medical professional" means (as defined in ORS 418.747(8)) a physician, physician assistant, or nurse practitioner who has been designated by the local multi-disciplinary team and trained to conduct child abuse medical assessments (as defined in ORS 418.782), and who is — or who may designate another physician, physician assistant, or nurse practitioner who is — regularly available to conduct these medical assessments.

(14) "Face-to-face" means an in-person interaction between individuals.

(15) "FACIS" means the Family and Child Information System.

(16) "Former foster child" means a person under 21 years of age, who was in substitute care in Oregon, including substitute care provided by the Federally Recognized Tribes, after the age of 14 and remained in substitute care for an accumulative 180 days or longer.

(17) "Guided Assessment Process (GAP)" is a tool used to document the CPS assessment.

(18) "Harm" means any kind of impairment, damage, detriment, or injury to a child's physical, sexual, emotional, or mental development or functioning. Harm is the result of child abuse or neglect and may vary from mild to severe.

(19) "ICWA" means the Indian Child Welfare Act.

(20) "Initial contact" means the first face-to-face contact between a CPS worker and a family. The initial contact includes face-to-face contact with the alleged child victim, his or her siblings, parent or caregiver, and other children and adults living in the home; accessing the home environment; identifying safety threats; and determining if a protective action is needed.

(21) "Legal guardian" means a person or agency having the powers and responsibilities of a parent to make binding decisions for a child, including the authority to:

(a) Authorize surgery for the child;

(b) Authorize enlistment in the armed forces;

(c) Consent to the child's adoption when the child is in the permanent custody of the agency; and

(d) Make other decisions of substantial legal significance concerning the child (but a guardian is not a conservator of the child's property or estate).

(22) "Multi-disciplinary team (MDT)" means a county investigative team described in ORS 418.747 that includes law enforcement personnel, child protective service workers, district attorneys, school officials, health department staff, and juvenile department personnel.

(23) "Observable" means specific, definite, real, can be seen and described. Observable does not include suspicion and gut feeling.

(24) "OIT" means Department of Human Services, Office of Investigations and Training.

(25) "Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more safety threats to which the child is vulnerable and determined the parent or caregiver is unable or unwilling to protect the child. An ongoing safety plan can be in-home or out-of-home and is adjusted when necessary to provide the least intrusive interventions.

(26) "Out of control" means family behaviors, conditions, or circumstances that can affect a child are unrestrained, unmanaged, without limits or monitoring, not subject to influence or manipulation within the control of the family, resulting in an unpredictable and chaotic family environment.

(27) "Personal representative" means a person who is at least 18 years of age and is selected to be present and supportive during the CPS assessment by a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the crime. The personal representative may not be a person who is a suspect in, party or witness to, the crime.

(28) "Private child-caring agency" is defined by the definitions in ORS 418.205, and means a "child caring agency" that is not owned, operated, or administered by any governmental agency or unit.

(a) A "child-caring agency" means an agency or organization providing:

(A) Day treatment for disturbed children;

ADMINISTRATIVE RULES

- (B) Adoption placement services;
- (C) Residential care, including but not limited to foster care or residential treatment for children;
- (D) Outdoor youth programs as defined in OAR 413-215-0911; or
- (E) Other similar services for children.

(b) A child-caring agency does not include residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830, and 443.835 for children receiving developmental disability services.

(29) "Protective action" means an immediate, same day, short-term plan sufficient to protect a child from a safety threat in order to allow completion of the CPS assessment.

(30) "Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability and willingness to care for and keep a child safe.

(31) "Protective custody" means custody authorized by ORS 419B.150.

(32) "Reasonable suspicion" means a reasonable belief given all of the circumstances, based upon specific and describable facts, that the suspicious physical injury may be the result of abuse. Explanation: The belief must be subjectively and objectively reasonable. In other words, the person subjectively believes that the injury may be the result of abuse, and the belief is objectively reasonable considering all of the circumstances. The circumstances that may give rise to a reasonable belief may include, but not be limited to, observations, interviews, experience, and training. The fact that there are possible non-abuse explanations for the injury does not negate reasonable suspicion.

(33) "Referral" means a report that has been assigned for the purpose of CPS assessment.

(34) "Report" means an allegation of child abuse or neglect provided to Child Welfare that the screener evaluates to determine if it constitutes a report of child abuse or neglect as defined in ORS 419B.005.

(35) "Reporter" means an individual who makes a report.

(36) "Safe" means there is an absence of safety threats, the child is not vulnerable to identified safety threats, or there is sufficient parent or caregiver protective capacity to protect the vulnerable child from the identified safety threats.

(37) "Safety service provider" means a participant in a protective action or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(38) "Safety services" mean the actions, assistance, and supervision provided by safety service providers to manage the identified safety threats to a child.

(39) "Safety threat" means family behavior, conditions, or circumstances that could result in harm to a child.

(40) "Screener" means a Child Welfare employee with training required to provide screening services.

(41) "Screening" means the process used by a screener to determine the Department response when information alleging abuse or neglect is received.

(42) "Severe harm" means 'substantial', as used in ORS 419B.005; immobilizing impairment; life-threatening damage; or significant or acute injury to a child's physical, sexual, psychological, or mental development or functioning.

(43) "Substance" means any controlled substance as defined by ORS 475.005, prescription medications, over the counter medications, or alcoholic beverages.

(44) "Suspicious physical injury" (as defined in 2007 Oregon Laws Chapter 674) includes, but is not limited to:

- (a) Burns or scalds;
- (b) Extensive bruising or abrasions on any part of the body;
- (c) Bruising, swelling, or abrasions on the head, neck, or face;
- (d) Fractures of any bone in a child under the age of three;
- (e) Multiple fractures in a child of any age;
- (f) Dislocations, soft tissue swelling, or moderate to severe cuts;
- (g) Loss of the ability to walk or move normally according to the child's developmental ability;
- (h) Unconsciousness or difficulty maintaining consciousness;
- (i) Multiple injuries of different types;
- (j) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or
- (k) Any other injury that threatens the physical well-being of the child.

(45) "Third-party abuse" means abuse by a person who is not the child's parent, not the child's caregiver or other member of the child's

household, and not a person responsible for the child's care, custody, and control. Examples of persons who could be considered as a third-party under this definition include school personnel, day-care providers, coaches, and church personnel.

(46) "Unsafe" means there is a safety threat to which the child is vulnerable and there is insufficient parent or caregiver protective capacity to protect a vulnerable child from the identified safety threats.

(47) "Vulnerable child" means a child who is unable to protect him or herself. This includes a child who is dependent on others for sustenance and protection. A vulnerable child is defenseless, exposed to behavior, conditions, or circumstances that he or she is powerless to manage, and is susceptible and accessible to a threatening parent or caregiver. Vulnerability is judged according to physical and emotional development, ability to communicate needs, mobility, size, and dependence.

Stat. Auth.: ORS 147.425, 409.185, 418.005, 418.015, 418.747 & 419B.005 - 419B.050
Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747 & 419B.005 - 419B.050
Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 14-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08; CWP 22-2007(Temp), f. & cert. ef. 12-3-07 thru 4-11-08; CWP 24-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 5-2010(Temp), f. & cert. ef. 6-15-10 thru 12-12-10

413-015-1105

Purpose

(1) The primary purposes of LEDS access in local Child Welfare offices are to assist staff in making decisions about child safety, specifically related to child protective services, safety service providers, and emergency certification as outlined in these rules (OAR 413-015-1100 to 413-015-1125). Criminal history information obtained from LEDS will be considered, along with other safety-related information, to:

- (a) Identify safety threats; or
- (b) Determine if behavior that is revealed by criminal history is inconsistent with providing care to children or having access to children.

(2) These rules do not address criminal records checks for non-emergency certification or adoption approval. Criminal records checks for non-emergency certification or adoption approval are governed by OAR 413-120-0400 to 413-120-0470.

Stat. Auth.: ORS 181.537, 409.010, 409.050, 418.005 & 419B.020
Stats. Implemented: ORS 181.537, 409.010, 409.050, 418.005 & 419B.020
Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 5-2010(Temp), f. & cert. ef. 6-15-10 thru 12-12-10

413-015-1110

Definitions

The following definitions apply to OAR 413-015-1100 to 413-015-1125:

(1) "LEDS" means Law Enforcement Data System, the computerized criminal history information system maintained by the Oregon State Police.

(2) "LEDS representative" means the staff person in the local Department office who has been designated under OAR 257-015-0050(5) by the Assistant DHS Director for the Children, Adults and Families Division and who has completed the training required by the Oregon State Police in order to train other employees to be LEDS users.

(3) "LEDS user" means a staff person in the local Department office who has been trained by a LEDS representative and has been certified by the Oregon State Police to access LEDS information.

(4) "Notice" means a written statement hand delivered to the subject individual or sent via U.S. mail to his or her last known address informing the subject individual of subsections (a) through (c) below. Notice does not imply consent or permission on the part of the subject individual.

(a) The Department may conduct, or has already conducted, criminal records checks.

(b) The subject individual has the right to obtain a copy of his or her LEDS record and challenge information in the record by contacting the Oregon State Police.

(c) The subject individual may have rights under Title VII of the Civil Rights Act of 1964 and may obtain information about these rights by contacting the Oregon Bureau of Labor and Industries or the U.S. Equal Employment Opportunity Commission.

(5) "Safety service provider" means a participant in a protective action or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

Stat. Auth.: ORS 181.537, 181.557, 409.010, 409.050, 418.005 & 419B.020
Stats. Implemented: ORS 181.537, 181.557, 409.010, 409.050, 418.005 & 419B.020

ADMINISTRATIVE RULES

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 27-2008, f. & cert. ef. 10-3-08; CWP 5-2010(Temp), f. & cert. ef. 6-15-10 thru 12-12-10

413-015-1120

LEDS Use for Child Protective Service Purposes

(1) The local Child Welfare office may conduct criminal records checks on a subject individual using the LEDS system available in the local office and use LEDS information pertaining to a subject individual for the purpose of making decisions about child safety specifically related to Child Protective Services when a:

- (a) Child abuse allegation is being assessed; or
- (b) Child Welfare case is open.

(2) When conducting criminal records checks for a Child Protective Services purpose under this rule, a subject individual is defined as a person:

(a) Alleged to be the perpetrator of child abuse or neglect when the allegation is being assessed by Child Protective Services;

(b) Residing in or frequenting a household where the alleged victim of child abuse resides on a full- or part-time basis;

(c) Being assessed as a safety service provider; or

(d) In the household to which a child is being returned.

(3) Timelines for providing written notice to a subject individual when a criminal records check is conducted for a Child Protective Services purpose:

(a) Prior to the conclusion of an assessment of a child abuse allegation: Notice as defined at OAR 413-015-1110(4) must be provided to:

(A) The subject individual defined in subsection (2)(a), (b), or (d) of this rule no later than seven working days after the date the check was conducted.

(B) The subject individual defined in subsection (2)(c) of this rule before the check is conducted.

(b) After the conclusion of an assessment of a child abuse allegation and while a Child Welfare case is still open: Notice as defined at OAR 413-015-1110(4) must be provided to the subject individual before the check is conducted.

Stat. Auth.: ORS 181.537, 181.557, 409.010, 409.050, 418.005 & 419B.020

Stats. Implemented: ORS 181.537, 181.557, 409.010, 409.050, 418.005 & 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 27-2008, f. & cert. ef. 10-3-08; CWP 5-2010(Temp), f. & cert. ef. 6-15-10 thru 12-12-10

.....

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 6-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 6-15-10

Notice Publication Date: 4-1-2010

Rules Adopted: 413-070-0919, 413-070-0969, 413-070-0979, 413-100-0335, 413-100-0345

Rules Amended: 413-070-0900, 413-070-0905, 413-070-0909, 413-070-0917, 413-070-0925, 413-070-0970, 413-100-0000, 413-100-0010, 413-100-0020, 413-100-0030, 413-100-0060, 413-100-0070, 413-100-0080, 413-100-0090, 413-100-0110, 413-100-0120, 413-100-0130, 413-100-0135, 413-100-0150, 413-100-0160, 413-100-0170, 413-100-0180, 413-100-0190, 413-100-0210, 413-100-0230, 413-100-0240, 413-100-0250, 413-100-0270, 413-100-0320

Rules Repealed: 413-070-0915

Rules Ren. & Amend: 413-070-0920 to 413-070-0929, 413-070-0930 to 413-070-0939, 413-070-0935 to 413-070-0949, 413-070-0937 to 413-070-0959, 413-070-0940 to 413-070-0974, 413-070-0945 to 413-070-0964, 413-070-0955 to 413-070-0964, 413-070-0960 to 413-070-0944, 413-070-0965 to 413-070-0934

Subject: OAR 413-070-0900 about the purpose of the Department's Guardianship Assistance program rules, OAR 413-070-0905 about the definitions used in the Department's Guardianship Assistance program rules, OAR 413-070-0909 about how the Department funds guardianship assistance, OAR 413-070-0917 about the requirements for a child to be eligible for guardianship assistance, OAR 413-070-0925 about when the Department may approve guardianship assistance, and OAR 413-070-0970 about social and support services available to the child and the guardian program are being amended; OAR 413-070-0915 about the requirements for a child to be eligible for guardianship assistance is being repealed; OAR 413-070-0920 about when guardianship is determined to be the most appropriate

permanency plan for a child is being amended and renumbered to OAR 413-070-0929; OAR 413-070-0930 about the requirements for income and payment standards and medical benefits in the Guardianship Assistance program is being amended and renumbered to OAR 413-070-0939; OAR 413-070-0935 about the formulation of a guardianship assistance agreement between the Department and a guardian is being amended and renumbered to OAR 413-070-0949; OAR 413-070-0937 about court orders for guardianship is being amended and renumbered to OAR 413-070-0959; OAR 413-070-0940 about the suspension or termination of guardianship assistance benefits is being amended and renumbered to OAR 413-070-0974; OAR 413-070-0945 about annual reviews of guardianship assistance eligibility and required reporting by a guardian and OAR 413-070-0955 about changes a guardian must report are being amended and renumbered to OAR 413-070-0964; OAR 413-070-0960 about special payments to vendor attorneys and for legal expenses is being amended and renumbered to OAR 413-070-0944; OAR 413-070-0965 about the application requirements for guardianship assistance is being amended and renumbered to OAR 413-070-0934; and OAR 413-070-0919 about the requirements for a tribe and a child in the care and custody of a tribe to be eligible for guardianship assistance, OAR 413-070-0969 about the renegotiation of a guardianship assistance agreement between the Department and a guardian, and OAR 413-070-0979 about the Guardianship Assistance Review Committee and procedures for appealing guardianship assistance decisions are being adopted to clarify the Department's policies for this program, include definitions used throughout the Guardianship Assistance program rules, reflect current Department terminology, and bring the Guardianship Assistance program into compliance with federal requirements. These rules also are being adopted and amended to make permanent temporary changes adopted on December 16, 2009 and February 1, 2010.

OAR 413-100-0000 about the purpose of the Department's Title IV-E Foster Care and General Assistance funding eligibility rules, OAR 413-100-0010 about the Title IV-E funding eligibility requirements, OAR 413-100-0020 about the definitions used in the Department's Title IV-E Foster Care and General Assistance funding eligibility rules, OAR 413-100-0030 about the requirements for documenting the certification or licensure of foster homes, OAR 413-100-0060 about which placements of and payments for children are Title IV-E reimbursable, OAR 413-100-0070 about which children's cases are referred for Title IV-E eligibility determinations, OAR 413-100-0080 about the effective date of Title IV-E eligibility, OAR 413-100-0090 about retroactive Title IV-E eligibility, OAR 413-100-0110 about how the Department determines the effective date for closure of Title IV-E eligibility, OAR 413-100-0120 about how the Department verifies Title IV-E eligibility, OAR 413-100-0130 about how Title IV-E eligibility determinations are made under the Aid to Families with Dependent Children (AFDC) administrative rules in effect on July 16, 1996 had an application for AFDC program benefits been made, OAR 413-100-0135 about Title IV-E eligibility requirements for a child to be living with a specified relative and how the child was removed from his or her home, OAR 413-100-0150 about the Title IV-E eligibility requirement that a child suffer from parental deprivation, OAR 413-100-0160 about the financial need eligibility requirement of the AFDC program, OAR 413-100-0170 about how the Department treats resources when determining AFDC program eligibility, OAR 413-100-0180 about how the Department treats the earned income of a student when determining AFDC program eligibility, OAR 413-100-0190 about how the Department treats unearned income when determining AFDC program eligibility, OAR 413-100-0210 about citizenship and immigration status requirements for Title IV-E eligibility, OAR 413-100-0230 about the age limitations on a child's Title IV-E eligibility, OAR 413-100-0240 about which judicial findings must be made for a child to be Title IV-E eligible, OAR 413-100-0250 about how the Department treats voluntary custody and voluntary placement agreements when determining Title IV-E eligibility, OAR 413-100-0270 about when and how the

ADMINISTRATIVE RULES

Department redetermines a child's Title IV-E eligibility, and OAR 413-100-0320 about the requirements for a child's Title XIX Medicaid eligibility are being amended; and OAR 413-100-0335 about Title IV-E eligibility determinations for children eligible for adoption assistance benefits and OAR 413-100-0345 about Title IV-E eligibility determinations for children eligible for guardianship assistance benefits are being adopted to clarify the Department's policies for this program, include definitions used throughout the Title IV-E Foster Care and General Assistance funding eligibility rules, reflect current Department terminology, and bring the Title IV-E Foster Care and General Assistance funding eligibility rules into compliance with federal requirements. These rules also are being adopted and amended to make permanent temporary changes adopted on December 16, 2009.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-070-0900

Purpose

The purpose of these rules, OAR 413-070-0900 to 413-070-0979, is to describe Department criteria for program eligibility and receipt of *guardianship assistance* for Title IV-E eligible children in Oregon. *Guardianship assistance* for a child from another state placed with a guardian in Oregon is the responsibility of the sending state.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0905

Definitions

The following definitions apply to OAR 413-070-0900 to 413-070-0979:

(1) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of integrating information on a *child* or young adult's needs and strengths for the purposes of case planning, service planning, and determining the supervision needs of the *child* or young adult. The Department uses two versions of the CANS Comprehensive Screening Tool, one version for an individual birth through five years old and another version for an individual six through twenty years old.

(2) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which he or she resides, to a *child* or young adult in the care or custody of the Department.

(3) "Child" means a person less than 18 years of age.

(4) "Enhanced supervision" means the additional support, direction, observation, regulation, and guidance provided by a *certified family* to a *child* or young adult to promote and ensure the safety and well-being of the *child* or young adult, beyond the level of supervision that typically is required for a *child* or young adult of the same age.

(5) "Guardianship assistance" means financial assistance or medical benefits to a child's guardian on behalf of an eligible child under guardianship. *Guardianship assistance* may be in the form of a monthly *guardianship assistance payment*, Medicaid coverage, and nonrecurring legal costs incurred in establishing the guardianship.

(6) "Guardianship assistance agreement" means a written agreement between the Department and the guardian of an eligible *child* setting forth the assistance the Department is to provide the *child*, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(7) "Guardianship assistance payment" means a monthly cash payment made by the Department to the guardian on behalf of the eligible *child*.

(8) "Guardianship Assistance Review Committee" means a committee composed of local and central office staff who have expertise in the area of guardianship.

(9) "Indian child's tribe" means the Indian tribe of which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, *Indian child's tribe* means the Indian tribe with which the child has the most significant contacts.

(10) "Nonrecurring expenses" means a one-time payment of up to \$2,000, which the Department will make to a guardian with a *guardianship*

assistance agreement to assist with the expenses associated with obtaining legal guardianship of the child. *Nonrecurring expenses* are the reasonable and necessary fees and may include the cost of a home study, court costs, attorney fees, physical and psychological examinations, and other expenses related directly to the legal guardianship of the child.

(11) "Parent" means the biological or adoptive mother or the legal father of the *child*. A legal father is a man who has adopted the *child* or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian *child* under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the *child* by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(12) "Participating tribe" means a federally recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(13) "Permanency Committee" means a group of three individuals, responsible for making a recommendation regarding a child's permanency plan when the *child* likely is not returning to his or her *parent*.

(a) The committee must:

(A) Include two Department staff and may include a community partner, all of whom are approved by the District Manager or designee; and

(B) When the *child* is an ICWA child, and a *Permanency Committee* is appropriate, identify an individual from a federally recognized tribe as one of the three individuals on the committee; and

(C) Have an identified chairperson approved by the District Manager or designee.

(b) The *Permanency Committee* members must:

(A) Be knowledgeable of permanency issues;

(B) Be knowledgeable of the importance of cultural connections;

(C) Have no personal or professional relationship to the *child* or prospective placement resource; and

(D) Represent multiple child welfare offices.

(14) "Qualified alien" means an alien described in 8 USC 1641(b) or (c), and as described in OAR 413-130-0045.

(15) "Registered Domestic Partner" means an individual joined in a domestic partnership that is registered with a county clerk in accordance with ORS 106.300 to 106.340.

(16) "Relative" means:

(a) An individual with one of the following relationships to the *child* or young adult through the child or young adult's *parent*:

(A) Any blood *relative* of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood *relative* of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological *parent* are half-blood relatives).

(C) A *sibling*, also to include an individual with a *sibling* relationship to the child through a putative father.

(D) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(E) A spouse of anyone listed in paragraphs (A) to (D) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by death or divorce. To be considered a *relative* under this paragraph, the *child* or young adult must have had a relationship with the spouse prior to the *child* or young adult entering *substitute care*.

(F) For the purposes of an international adoption, "relative" means an individual described in paragraphs (A) to (D) of this subsection.

(b) An individual with one of the following relationships to the *child* or young adult:

(A) An individual defined as a relative by the law or customs of the *child* or young adult's tribe if the *child* or young adult is an Indian *child* under the Indian Child Welfare Act or in the legal custody of a tribe.

(B) An individual defined as a relative of a refugee *child* or young adult under Child Welfare Policy I-E.2.2, "Placement of Refugee Children," (OAR 413-070-0300 to OAR 413-070-0380).

(C) A stepparent described in OAR 413-100-0020(27)(c) or a former stepparent if the *child* or young adult had a relationship with the former stepparent prior to the *child* or young adult entering *substitute care*; a stepbrother, or a stepsister.

(D) The registered domestic partner of the *child* or young adult's *parent* or former registered domestic partner of the *child* or young adult's *parent* if the *child* or young adult had a relationship with the former domestic partner prior to the *child* or young adult entering *substitute care*.

ADMINISTRATIVE RULES

(E) The adoptive *parent* of a *child* or young adult's *sibling*.

(F) The unrelated legal or biological father or mother of a child's half-*sibling* when the child's half-*sibling* is living with the unrelated legal or biological father or mother.

(c) An individual identified by the *child* or young adult or the *child* or young adult's family, or an individual who self-identifies, related to the *child* or young adult through the *child* or young adult's *parent* by blood, adoption, or marriage to a degree other than an individual specified as a *child* or young adult's relative in paragraphs (A) to (D) of subsection (a) of this section.

(d) An individual, although not related by blood, adoption, or marriage, identified as:

(A) A member of the family by the *child* or young adult or the *child* or young adult's family; and

(B) Who had an emotionally significant relationship with the *child* or young adult or the *child* or young adult's family prior to the time the Department placed the *child* in *substitute care*.

(e) For the purposes of these rules, OAR 413-070-0900 to 413-070-0979:

(A) A stepparent is considered a *parent* and is not a *relative* under these rules unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the child's adoptive or biological *parent* has been terminated by divorce or death:

(B) A foster parent may be considered a relative under these rules when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a *child* in the legal custody of the Department who has a permanency plan or concurrent permanency plan of guardianship;

(iii) The foster parent has cared for the *child* for at least the past 12 consecutive months; and

(iv) A Permanency Committee has recommended the foster parent for consideration as a guardian.

(17) "Sibling" means one of two or more children or young adults related:

(a) By blood or adoption through a common legal *parent*;

(b) Through the marriage of the children or young adults' legal or biological parents; or

(c) Through a legal or biological *parent* who is the *registered domestic partner* of the children or young adults' legal or biological *parent*.

(18) "Substitute care" means the out-of-home placement of a *child* or young adult who is in the legal or physical custody and care of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0909

Funding of Guardianship Assistance

(1) Non-relative *guardianship assistance* established under the Title IV-E Waiver Project is funded by Title IV-E waiver funds until the waiver expires or is terminated. At that time the Oregon general fund provides monies for any current and new non-relative *guardianship assistance* for Title IV-E eligible children.

(2) Effective January 1, 2009, newly established *relative caretaker guardianship assistance* for Title IV-E children is funded with Guardianship Assistance program funds as authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0917

Eligibility: Child

(1) To be eligible for *guardianship assistance* a child must:

(a) Be a United States citizen or *qualified alien*.

(b) Have been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the *child*.

(c) Have been eligible for Title IV-E foster care maintenance payments during a six consecutive month period during which the *child* resided in the home of the prospective guardian who was licensed, certified, or approved as meeting the licensure or certification requirements of a foster family home in the state where the home is located or a participating tribe. The Department determines a child's eligibility for a Title IV-E maintenance payment under Child Welfare Policy I-E.6.1, "Title IV-E Foster Care and General Assistance" OAR 413-100-0000 to 413-100-0345.

(d) Have been in the Department's or participating tribe's legal custody for a minimum of:

(A) Six months, if the prospective guardian is the child's *relative*; or

(B) Twelve months, if the prospective guardian is not the child's *relative* or is a foster parent who meets the definition of a relative under OAR 413-070-0905(16)(e)(B).

(e) Be:

(A) 10 years of age or older if the prospective guardian is not a *relative* or is a foster parent who meets the definition of a *relative* under OAR 413-070-0905(16)(e)(B).

(B) Any age if the prospective guardian is a *relative* as defined under OAR 413-070-0905(16)(a) to (d).

(C) The Department waives the age requirement when the *child* is:

(i) A member of a *sibling* group placed together for guardianship with a non-relative or a foster parent who meets the definition of a *relative* under OAR 413-070-0905(16)(e)(B) if at least one member of the group is 10 years of age or older and meets all other *guardianship assistance* eligibility criteria under this rule; or

(ii) An Indian Child Welfare Act (ICWA) identified *child* in the care and custody of the Department if the *Indian child's tribe* supports the plan of guardianship with the current caretaker.

(f) Have a stable positive relationship with the prospective guardian.

(g) Demonstrate a strong attachment to the prospective guardian.

(h) The Department or participating tribe determines return to a *parent* or adoption are not in the child's best interest.

(i) If the *child* is a Title IV-E eligible Indian *child* as defined by the ICWA and in the care and custody of the Department, have a permanency plan for guardianship approved by the child's *tribe*.

(2) The *child* and any non-Title IV-E eligible *sibling* may be placed in the same guardianship if the Department or participating tribe and the prospective guardian agree on the appropriateness of the arrangement for the siblings. *Guardianship assistance* may be provided for the non-Title IV-E eligible *sibling* if the Title IV-E child meets all *guardianship assistance* eligibility criteria under this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0919

Eligibility: Child in the Custody and Care of a Participating Tribe

In addition to the other Guardianship Assistance program criteria under these rules, OAR 413-070-0900 to 413-070-0979, the following requirements apply to a *child* in the care and custody of a *participating tribe*:

(1) The *participating tribe* must have a Title IV-E agreement with the Department allowing the tribe to participate in the Guardianship Assistance program.

(2) The *participating tribe* must:

(a) Conduct and prepare a written home study of the guardian;

(b) Document how continued placement with the prospective guardian is in the best interests of the *child* and meets the child's needs for safety and permanency.

(c) Notify the Department's Adoption and Guardianship Program within 30 days if the *tribe* reestablishes custody of a *child* in a guardianship placement established under these rules, OAR 413-070-0900 to 413-070-0979; and

(d) When applicable, provide the Department's Adoption and Guardianship Program with a copy of the court order terminating the guardianship within 30 days of the termination.

(3) The *child* must be placed in a tribal foster home meeting the participating tribe's certification and licensing standards.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

ADMINISTRATIVE RULES

413-070-0925

Eligibility: Prospective Guardian

(1) The Department may approve a prospective guardian for *guardianship assistance* when the prospective guardian meets the requirements of all of the following subsections:

(a) Meets one of the following requirements:

(A) Has a current Certificate of Approval from the Department under Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents" OAR 413-200-0301 to 413-200-0396.

(B) Currently is certified as a foster home by the *participating tribe* as meeting the tribe's certification and licensing standards; or

(C) Currently is certified or otherwise approved by the state in which the prospective guardian resides and approved as a placement for the *child* under the Interstate Compact on Placement of Children (ICPC).

(b) Agrees with the Department or tribe, and the Department or tribe documents in the child's case record, that the *child* and the prospective guardian can maintain a stable relationship and function effectively without Department supervision.

(c) Has an updated home study documenting how the prospective guardian's skills and abilities meet the child's best interests and needs for safety and permanency.

(d) Has adequate means of financial support and connections to community resources.

(e) Has a strong commitment to caring permanently for the *child* for whom the prospective guardian has cared as a foster parent.

(2) The Department may consider a non-related individual as a potential guardian for the *child* when the individual has an emotionally significant relationship with the *child* and the requirements of one of the following subsections are met:

(a) In making the determination to consider the non-related individual as a potential guardian for the *child*, the Department considered and determined that the unique current and life-long needs of the *child* will best be met by guardianship with the individual who has an emotionally significant relationship with the *child*.

(b) When the individual being considered is the current foster parent of the *child*, the time caring for the *child* and the subsequent relationship that develops is not sufficient in making the determination under subsection (a) of this section. The Department must consider and document the reasons described in subsection (a) of this section when determining if the foster parent will be considered as a potential guardian for the *child*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0929

Determination of Permanency Plan: Guardianship

(1) The Department or a *participating tribe* may consider guardianship as the permanency plan for a *child* when all of the following conditions are met:

(a) The Department determines that adoption is not an appropriate permanency plan under Child Welfare Policies I-F.2, "Determining the Appropriateness of Adoption as a Permanency Plan for a Child" OAR 413-110-0300 to 413-110-0360 and I-F.3.2.1, "Termination of Parental Rights" OAR 413-110-0200 to 413-110-0252;

(b) The eligibility requirements in OAR 413-070-0915, 413-070-0917, 413-070-0919, and 413-070-0925 have been met for the purpose of *guardianship assistance*.

(c) The Department or *participating tribe* has consulted with the *child*, if 14 years of age or older, regarding guardianship as the permanency plan.

(d) The Department and the prospective guardian agree, and the Department documents in the child's case record, that the *child* and the prospective guardian can maintain a stable relationship and function effectively without Department supervision.

(e) A Permanency Committee has recommended:

(A) Guardianship as an appropriate permanency plan for the *child*; and

(B) Guardianship is in the child's best interests because the prospective guardian meets the safety, permanency, and well-being needs of the *child*.

(f) The court approves a guardianship permanency plan for the child under Child Welfare Policy I-E.3.6, "Achieving Permanency" OAR 413-070-0500 to 413-070-0517.

(2) Each *parent* with legal rights or standing consents to the permanency plan of guardianship or has been given adequate notice of the permanency plan under state or tribal law when the Department or *participating tribe* requests a court order establishing guardianship.

(3) When guardianship has been approved as a child's permanency plan, and *guardianship assistance* is being considered, the child's case plan must include:

(a) How the *child* meets the eligibility requirements described in OAR 413-070-0917.

(b) The steps taken by the Department or *participating tribe* to determine that it is not appropriate for the *child* to return home or be adopted.

(c) The efforts made by the Department or *participating tribe* to discuss with the substitute caregiver adoption rather than guardianship as the preferred permanency plan and why adoption was not chosen.

(d) The efforts made by the Department or *participating tribe* to discuss the guardianship plan with each parent of the *child* or the reasons why efforts were not made.

(e) The reasons why permanent placement with a fit and willing guardian through a *guardianship assistance* arrangement is in the child's best interests.

(f) The efforts made by the Department or *participating tribe* to discuss with each parent of the *child* the *guardianship assistance* arrangement or the reasons why no such efforts were made.

(g) The reasons, if any, that siblings were separated during placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0920, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0934

Application Requirements

(1) A prospective guardian is not required to apply for *guardianship assistance*. An applicant may withdraw an application for *guardianship assistance* at any time before the court establishes the guardianship.

(2) When all applicable program eligibility criteria have been met, a prospective guardian may apply for *guardianship assistance* by completing and signing a *guardianship assistance* application and returning it to the local Department child welfare office or *participating tribe* office providing case management for review and eligibility determination.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; Suspended by CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0965, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0939

Determination of Guardianship Assistance Payments and Medical Benefits

(1) The *guardianship assistance* benefits are negotiated when the Department's Adoption and Guardianship program approves a *guardianship assistance* application. The total amount of the *guardianship assistance payment* may not exceed the amount of the base foster care rate the *child* is eligible to receive while in foster care and, when applicable, the current level of care payment for enhanced supervision as determined by a CANS *screening* under Child Welfare Policies I-B.1.6, "Enhanced Supervision" OAR 413-020-0200 to 413-020-0255 and I-E.5.1 "Payment for Foster Care Base Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy" OAR 413-090-0000 to 413-090-0050.

(2) The base *guardianship assistance payment* for a *child* residing outside of the State of Oregon may not exceed the base foster care rate determined by Child Welfare Policy I-E.5.1, "Payment for Foster Care Base Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy" OAR 413-090-0000 to 413-090-0050.

(3) The base *guardianship assistance payment* is determined through negotiation between the Adoption and Guardianship program and the prospective guardian prior to the completion of the *Guardianship Assistance Agreement*. The *guardianship assistance payment* is established and paid as follows:

ADMINISTRATIVE RULES

(a) The monthly *guardianship assistance payment* negotiation takes into consideration relevant factors which include, but are not limited to:

- (A) The needs of the *child*;
- (B) The services required to meet the needs of the *child*;
- (C) The cost of the services required to meet the needs of the *child*;
- (D) The guardian's ability to provide the services required to meet the needs of the *child*; and
- (E) The community resources available to the *child* and guardian.

(b) Medicaid coverage, private insurance, public education, and all community resources must be considered as resources for the *child* and the guardian when determining the amount of the *guardianship assistance payment*.

(c) The Department considers all sources of income, except tribal dividend payments, available to the *child* when negotiating the monthly *guardianship assistance payment*. A child's income from sources such as Social Security and Veterans benefits are considered in determining the *guardianship assistance payment*, but are not deducted necessarily dollar-for-dollar from the amount of the *guardianship assistance payment*.

(4) When the child is receiving a level of care payment, as indicated by a Child and Adolescent Needs and Strengths (CANS) screening under Child Welfare Policy I-E.5.1, "Payment for Foster Care Base Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy" OAR 413-090-0000 to 413-090-0050, at the time of negotiation, the full amount of the level of care payment is provided as part of the *guardianship assistance payment*.

(5) Except for tribal dividend payments, the guardian must be the designated payee for any benefit the child receives, such as Social Security benefits.

(6) The *guardianship assistance payment* begins when:

(a) All parties have signed the *guardianship assistance agreement*; and

(b) The court has issued an order of guardianship.

(7) A *guardianship assistance payment* to a guardian who was a Department certified foster parent for the child prior to becoming a court designated guardian is inalienable, not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon, as long as the payment can be identified as a Guardianship Assistance program payment and is kept separate from other money in the guardian's possession.

(8) A *child* eligible for and receiving *guardianship assistance* with a relative caretaker is eligible for medical benefits in the child's state of residence. If a *child* is eligible for *guardianship assistance*, resides in a state other than Oregon with a non-relative guardian, and is not able to obtain medical benefits in his or her state of residence the Department provides medical benefits under Child Welfare Policy I-E.6.2, "Title XIX and General Assistance Medical Eligibility" OAR 413-100-0400 to 413-100-0610.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0930, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0944

Special Payments: Legal Expenses

(1) To the extent the total cost of such expenses does not exceed \$2,000, the Department will pay for *nonrecurring expenses* incurred by the guardian in the establishment of an assisted guardianship of a *child*.

(2) The Department may not authorize payment for legal services provided:

(a) For the prospective guardian or guardian in connection with a contested case hearing; or

(b) To defend or retain a guardianship upon challenge by another party once a guardianship is established.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0960, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0949

Guardianship Assistance Agreement Requirements

(1) Before a guardian may receive *guardianship assistance*, there must be a negotiated written *guardianship assistance agreement* between the Department and the guardian signed by all parties prior to the court order establishing the legal guardianship.

(2) The *guardianship assistance agreement* must include the following:

(a) A statement indicating that a *guardianship assistance payment* remains in effect without regard to the state of residency of the guardian.

(b) The amount of the *guardianship assistance* and the manner in which it is to be provided.

(c) The basis and requirements for periodic changes in the *guardianship assistance payment*, in consultation with the guardian, based on the circumstances of the guardian and the needs of the *child*.

(d) The additional services and assistance for which the *child* and guardian are eligible under the agreement and the procedure by which the guardian may apply for such services.

(e) A statement that the Department will pay the *nonrecurring expenses* associated with obtaining legal guardianship of the *child*, to the extent the *nonrecurring expenses* do not exceed \$2,000.

(f) A statement indicating the effective date of the *guardianship assistance agreement* is the date of the court order of guardianship.

(g) A statement that no retroactive *guardianship assistance payment* may be authorized except as provided under OAR 413-070-0969.

(h) A statement indicating that the guardian understands that a *guardianship assistance payment* may be terminated or suspended under OAR 413-070-0974.

(i) A statement indicating that the *child* for whom the Department is providing the *guardianship assistance payment* remains eligible for medical assistance once the guardianship is established.

(j) A statement indicating that the guardian understands that the provisions of ORS 192.520 allow the Department of Human Services' Oregon Health Plan (OHP) and the OHP managed care plans to exchange the following protected health information without the guardian's authorization for the purpose of treatment activities related to the behavioral or physical health of the *child* when the *child* is the recipient of OHP services:

- (A) The child's name and Medicaid recipient number;
- (B) The name of the child's hospital or medical provider;
- (C) The hospital or medical provider's Medicaid number;
- (D) Each diagnosis for the *child*;
- (E) Each treatment activity's date of service;
- (F) Each treatment activity's procedure or revenue code;
- (G) The quantity of units or services provided; and
- (H) Information about medication prescription and monitoring.

(k) A statement indicating that the guardian agrees to comply with the Guardianship Assistance program reporting requirements under OAR 413-070-0964 and 413-070-0969(5).

(3) The Department must provide the guardian with a copy of the *guardianship assistance agreement*.

(4) The Department may review any *guardianship assistance agreement* at any time.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0935, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0959

Court Order of Guardianship

(1) The Department or *participating tribe* may not pursue a court order establishing an assisted guardianship until both of the following requirements are met:

(a) The Department's Adoption and Guardianship Program Office approves a *guardian assistance* application for the *child*; and

(b) A signed *guardianship assistance agreement* between the Department and the prospective guardian has been completed.

(2) *Guardianship assistance* may be provided for legal guardianships established under ORS 419B.365 or ORS 419B.366, as provided under ORS 419B.367 to 419B.369, or as provided by the statutory code or laws of a *participating tribe*.

(3) The Department or *participating tribe* must request a court order establishing the guardianship and directing one of the following:

ADMINISTRATIVE RULES

(a) Termination of Department or tribal care, custody, and supervision of the *child*; or

(b) If the *child* has been committed permanently to the Department, set aside or modify the order of permanent commitment, relieving the Department of responsibility for the *child*.

(4) The guardian is not eligible for foster care payments provided under Child Welfare Policies I-E.5.1, "Payment for Foster Care Base Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy" OAR 413-090-0000 to 413-090-0050 and I-E.5.1.2, "Personal Care Services" OAR 413-090-0100 to 413-090-0210 once the guardianship is effective and the Department's or participating tribe's custody of the *child* is terminated by court order.

(5) The Department may not provide *guardianship assistance* if the court establishes guardianship and orders the Department or *participating tribe* to continue supervision of the *child* or guardian.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0937, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0964

Changes That Must be Reported and Annual Report

(1) A guardian receiving a *guardianship assistance payment* must report immediately, orally or in writing, to the Department's Adoption and Guardianship Program any of the following:

- (a) Any change described in OAR 413-070-0974;
- (b) A change of address; or
- (c) When the guardian is planning to move from his or her state of residency.

(2) The guardian, within 30 days after each annual anniversary of the court appointment of guardianship, must file a written report with the court and submit a copy of the report to the Department's Adoption and Guardianship Program. The report must contain assurances that each school-aged *child* receiving a *guardianship assistance payment* is a full-time elementary or secondary school student or is incapable of attending school due to a documented medical condition.

(3) When the court does not require an annual report as part of the appointment of guardianship, the Department requires the guardian to submit an annual report to the Adoption and Guardianship Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0945 & 413-070-0955, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0969

Renegotiation of a Guardianship Assistance Agreement

(1) A guardian may request that the Department consider renegotiation of the *guardianship assistance agreement*. The request for renegotiation must:

- (a) Be in writing;
- (b) Document the change in the circumstances of the guardian;
- (c) Document the needs of the *child*; and
- (d) Provide information about the financial expenses of the *child*.

(2) The Department may complete a CANS *screening* when requested by a guardian as part of the renegotiation when the Department determines that the *child* is eligible for the screening under the following criteria:

- (a) The *child* must reside within the United States.
- (b) If the *child* previously has never had a CANS *screening*, the guardian may request an initial assessment at any time.

(c) If the *child* previously had a CANS *screening* while in foster care and that assessment resulted in a level of care payment being included in the *guardianship assistance payment* or a subsequent CANS *screening* after establishment of the legal guardianship, the guardian may request a re-screening if there have been changes in the *child*'s behavior or functioning as described in OAR 413-020-0230(2)(a).

(d) Each CANS *screening* is conducted as described in OAR 413-020-0230(3) to (6) as if the *child* still was in *substitute care*.

(e) A contested case hearing request is addressed under OAR 413-010-0500(2) as if the *child* still was in *substitute care*.

(3) A new *guardianship assistance agreement* must be signed by all parties prior to a change in benefits each time a *child*'s *guardianship assistance* is renegotiated.

(4) The Department may authorize a renegotiated *guardianship assistance payment* increase for the period commencing the first day of the month in which the Department receives the written request.

(5) The Department may adjust the *guardianship assistance* benefits if a *child*'s income changes. The guardian is responsible for notifying the Department of any change in the *child*'s income within 30 days of the effective date of any such change. A new *guardianship assistance agreement* must be signed by all parties prior to a change in benefits being made.

(6) If a *child* receiving *guardianship assistance* benefits is placed in *substitute care* and the plan is for the *child* to return to the guardian's home, the Department may adjust, continue, or suspend the *guardianship assistance* benefits to reflect the guardian's continued expenses on behalf of the *child*. If the *child* returns to the care of the guardian, the Department reviews the *guardianship assistance* benefits, adjusts the benefits as appropriate, and provides a new *guardianship assistance agreement* for the guardian to sign.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0970

Guardianship Social and Support Services

(1) The guardian or *child* in an assisted guardianship may request family support services as described in Child Welfare Policy I-B.2.3.1, "Family Support Services" OAR 413-030-0000 to 413-030-0030 from the Department.

(2) A guardian receiving *guardianship assistance* on behalf of a *child* has access to the consultation, training, and library services of the Oregon Post Adoption Resource Center.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; Suspended by CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-070-0974

Suspension or Termination of Guardianship Assistance Benefits

(1) The Department must terminate or suspend *guardianship assistance* benefits on the day when any of the following occurs:

(a) The *child* reaches 18 years of age or is emancipated, whichever comes first.

(b) Child custody or guardianship is awarded to another individual.

(c) The *child* dies.

(d) The *child* marries.

(e) The *child* is adopted.

(f) The *child* is placed in *substitute care* with no plan for the *child* to return to the care of the guardian.

(g) The guardian dies or terminates the guardianship.

(2) The Department may terminate or suspend a *guardianship assistance payment* when any of the following occurs:

(a) The *child* is incarcerated for more than three consecutive months.

(b) The *child* is out of the guardian's home for more than a 30-day period or is no longer living in the home.

(c) The guardian is no longer legally responsible for the financial support of the *child* or the *child* is no longer receiving financial support from the guardian.

(3) The Department may terminate a *guardianship assistance agreement* upon 30 days written notice to the guardian when the guardian is no longer responsible for the *child* or is no longer providing support to the *child*, or in the event of legal or legislative action requiring discontinuance of *guardianship assistance*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0940, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

ADMINISTRATIVE RULES

413-070-0979

Guardianship Assistance Review Committee and Appeals Procedure

(1) The *Guardianship Assistance Review Committee* serves as a consultation and review body for the Guardianship Assistance program.

(a) Guardianship Assistance program staff may refer unusual or exceptionally costly benefit requests to the *Guardianship Assistance Review Committee* for consultation; or

(b) If, during negotiations of guardianship assistance benefits, Guardianship Assistance program staff and the guardian family or prospective guardian family is unable to reach agreement, the matter may be referred to the *Guardianship Assistance Review Committee* for review at the request of Guardianship Assistance program staff or the guardian family or prospective guardian family.

(2) The guardian family or prospective guardian family and the family's assigned caseworker must provide written documentation for the Committee's consideration.

(3) The caseworker for the prospective guardian family may participate in a *Guardianship Assistance Review Committee* meeting by telephone.

(4) The *Guardianship Assistance Review Committee* reviews relevant materials and provides a recommendation regarding the level of benefits to the Department's guardianship assistance coordinator. The *Guardianship Assistance Review Committee* must consider the special needs of the child and the financial circumstances of the guardian family or prospective guardian family.

(5) If the guardian family or prospective guardian family is unsatisfied with the *guardianship assistance* offer made by the *Guardianship Assistance Review Committee*, the family may request further review by the Department's Adoption and Guardianship Program Manager.

(6) A request for further review must be made in writing and received by the Department's Adoption and Guardianship Program Manager within 14 days from the date the *Guardianship Assistance Review Committee* recommendation is provided to the guardian family or prospective guardian family.

(7) The Adoption and Guardianship Program Manager reviews the material and makes a decision within 60 days from the date of the *Guardianship Assistance Review Committee* recommendation.

(8) After receipt of the Adoption and Guardianship Program Manager's decision, the guardian family or prospective guardian family may request a contested case hearing as provided in Child Welfare Policy I-A.5.2, "Contested Case Hearings" OAR 413-010-0500 to 413-010-0535.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0000

Purpose

The purpose of these rules, OAR 413-100-0000 to 413-100-0320, is to describe the Department's responsibilities and criteria for making Title IV-E eligibility determinations for children in substitute care for whom the Department has placement and care responsibility and Adoption Assistance and Guardianship Assistance Title IV-E eligibility determinations. These determinations are used to ensure proper federal reimbursement.

Stat. Auth.: ORS 409.010, 409.050 & 418.005
Stats. Implemented: ORS 409.010, 409.050 & 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0010

Eligibility Requirements

(1) The Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, took effect on June 17, 1980. It amended Title IV-E of the Social Security Act, which provides federal payments to the states for *foster care* maintenance and adoption assistance payments made on behalf of certain eligible children. The Adoption and Safe Families Act (ASFA) took effect on November 18, 1997, and enacted further federal requirements for claiming these funds and enhancing permanency for children. The Deficit Reduction Act of 2005 took effect on February 8, 2006, and further clarified the federal requirements for Title IV-E *foster care* maintenance, adoption assistance, medical coverage, and administrative funds.

(2) The Administration for Children and Families is the federal agency that adopts regulations and monitors the States' Title IV-E *foster care* and adoption assistance programs. Oregon's Title IV-E program is administered by the Department of Human Services. The Department of Human Services acts as the applicant for the *child* and provides Title IV-E

foster care payments to foster parents on behalf of eligible children, consistent with:

(a) The standards established by state and federal legislation and regulations, federal policy, and the State plan for the Title IV-E program; and

(b) The established financial and parental deprivation standards for the Aid to Families with Dependent Children (AFDC) program, which was in effect on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

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

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0020

Definitions

The following definitions apply to OAR 413-100-0000 to 413-100-0320:

(1) "AFDC" means the Aid to Families with Dependent Children Program as it existed on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

(2) "Assistance unit" means a group of individuals whose needs, income, and resources are considered together to determine their public assistance eligibility and the grant amount.

(3) "Child" means a person under 18 years of age.

(4) "Child care institution" means a private *child care institution*, or a public *child care institution* which accommodates no more than 25 children, licensed by the state or tribe in which it is situated or approved by the agency of the state or tribal licensing authority (with respect to *child care institutions* on or near Indian reservations) responsible for licensing or approval of institutions of this type as meeting the standards established for such licensing or approval. "Child care institution" does not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(5) "Child support" means any voluntary or court-ordered contribution by an absent *parent*. Support includes, but is not limited to, money payments, education, and necessary and proper shelter, food, clothing, and medical attention.

(6) "Constructive removal" means the non-physical, paper, or legal removal of a *child* who is not living with a *specified relative* when the voluntary custody or voluntary placement agreement is signed or the judicial order is entered. *Constructive removal* is described further in OAR 413-100-0135(3)(b).

(7) "Countable income" means the amount of available income, including earned and *unearned income* not specifically excluded by OAR 461-140-0040, used to determine eligibility for public assistance.

(8) "Date the child is considered to have entered foster care" means the earlier of the following:

(a) The date that the court found the *child* to be within the jurisdiction of the court under ORS 419B.100; or

(b) 60 days from the date of removal.

(9) "Department" means the Department of Human Services, Child Welfare.

(10) "Earned income" means all legal reportable income resulting from an individual's employment or self-employment.

(11) "Eligibility month" means:

(a) The month in which the court was petitioned or court action was initiated that resulted in the child's "constructive" or "physical" removal from the home of his or her *specified relative*; or

(b) The month a voluntary custody or voluntary placement agreement is signed.

(12) "Family": means for purposes of determining Title IV-E *foster care* eligibility under these rules, the parent or parents, stepparent, or relative or relatives from whom the child is removed.

(13) "First cousin once-removed" means a *child* of a first cousin.

(14) "Foster care" means 24 hour substitute care for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, *child care institutions*, and pre-adoptive homes. A *child* is in *foster care* in accordance with this definition regardless of whether the *foster care* facility is licensed and payments are made by the Department or local agency for the care of the *child*, whether adoption subsidy payments are being made prior to the finalization of the

ADMINISTRATIVE RULES

adoption, or whether there is Federal matching of any payments that are made.

(15) "Foster home", as defined in ORS 418.625(3), means any home maintained by a person who has under the care of the person in such home any *child* under the age of 21 years unattended by the child's *parent* or guardian, for the purpose of providing such *child* with care, food, and lodging. This definition does not include any *foster home* under the direct supervision of a private *child* caring agency or institution certified by the Department, any home under the direct supervision of a custodial *parent* for the purpose of providing respite care, or any developmental disability child foster home as defined in ORS 443.830.

(16) "Incapacity" means a physical or mental defect, illness, or impairment that reduces substantially or eliminates the individual's ability to support or care for the *child* and may be expected to last a period of at least 30 days.

(17) "Indian child" means a *child* verified by a tribe's enrollment committee as enrolled or eligible for enrollment as a member of a federal-recognized tribe.

(18) "Need" means, using the Department AFDC standards, the monetary amount by which an individual or family's requirements exceeds all of the income and resources available to the individual or *family*.

(19) "Nunc pro tunc order" means, under Oregon law, a court order that restores to the record an action that actually occurred, but was inadvertently or mistakenly omitted from the record.

(20) "Parent" means, under the AFDC rules in effect on July 16, 1996, the biological or legal (step or adoptive) mother or father of a person.

(a) If the mother lives with a male, who either she or he claims is the father of the *child*, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) The Voluntary Acknowledgment Form (HS 45-21) jointly signed by the mother and putative father, is a legal document that establishes paternity and allows the father's name to be added to the birth certificate.

(c) A stepparent relationship exists if:

(A) The person is legally married to the child's biological or adoptive *parent*; and

(B) The marriage has not been terminated by legal separation, divorce or death.

(d) A legal adoption erases all prior legal and blood relationships and establishes the adoptive *parent* as the legal *parent*. However, the biological *parent* is also considered a *parent* if both of the following are true:

(A) The *child* lives with the biological *parent*; and

(B) The legal *parent*, who is the adoptive *parent*, has given up care, control, and supervision of the *child*.

(21) "Payment or need standard" means the amount set by the Department as the AFDC net income limit. It is used to determine the actual grant amount. This amount refers to the *payment or need standard* in effect on July 16, 1996.

(22) "Physical removal" means the removal of a *child* that occurs when a *child* is placed in substitute care, who was living with the *specified relative* when the voluntary custody or voluntary placement agreement was signed or court proceedings were initiated.

(23) "Removal home" means the home from which the *child* was removed as a result of a judicial finding, voluntary custody agreement, or voluntary placement agreement. This term is further described at OAR 413-100-0135(3).

(24) "Resource" means any personal or real property that is or can be made available to meet the *need* of the *assistance unit* that the Department does not specifically exclude from consideration.

(25) "Specified relative" means:

(a) A *parent* as defined in this rule;

(b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological *parent* are half-blood relatives);

(c) A sibling, aunt, uncle, nephew, niece, first cousin, and *first cousin once-removed*;

(d) A person who legally adopts a *child* or the child's *parent*, other legally adopted children of such persons, and any persons related to the *child* through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section;

(e) A stepmother, stepfather, stepbrother, or stepsister; or

(f) A spouse of anyone listed in subsections (b) to (e) of this section, even if the marriage is terminated by death or divorce.

(26) "Unearned income" means all income that does not directly result from an individual's employment or self-employment.

(27) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living program.

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

Stat. Auth.: ORS 409.010, 409.050, 418.005 & 418.625

Stats. Implemented: ORS 409.010, 409.050, 418.005 & 418.625

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 11-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 12-24-08; CWP 21-2008, f. & cert. ef. 9-2-08; CWP 19-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0030

Certification Documentation Requirements for Title IV-E Foster Care

(1) Documentation of a certificate or license is required in the case file, certification file, or licensing file.

(2) The following documentation is required for an out-of-state *foster home* placement:

(a) Verification that the out-of-state *foster home* or child caring agency is certified, licensed, or approved by the agency in that state which is responsible for licensing or approval of such facilities; or

(b) In states where relative homes are not certified, a statement in writing that the home would meet the state's standards for certification or licensure, including a statement of the period of time for which a formal license or certificate would be issued for that home and a copy of the verification that a criminal history check was completed and approved.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0060

Title IV-E Reimbursable Placements and Payments

(1) To be Title IV-E eligible and reimbursable, a *child* must be placed in a Title IV-E reimbursable placement.

(2) Reimbursable Placements. There are four types of out-of-home placements which meet the Title IV-E *foster care* definition of a reimbursable placement. They are:

(a) The home of a certified non-relative foster *parent*;

(b) The home of a certified relative caregiver;

(c) A private, non-medical group home or crisis residential center licensed by the state; or

(d) A public non-medical group home or child caring agency with a licensed capacity of less than 26 beds.

(3) *Foster care* maintenance payments are made only on behalf of an eligible *child* who is:

(a) In the foster family home of an individual, whether the payments are made to such individual, a public or private *child* placement, or a *child* caring agency; or

(b) In a *child care institution*, whether the payments are made to such institution, a public or private *child* placement, or a child caring agency.

(4) Reimbursable Payments. Title IV-E *foster care* maintenance payments for a *child* in *foster care* may cover:

(a) The cost of food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to the *child*, and reasonable travel to the child's home for visitation; and,

(b) In the case of institutional care, the reasonable costs of administration and operation of such institution as are necessarily required to provide the items noted above. See OAR 413-090-0010(1)(c) for additional information.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0070

Application for Title IV-E Foster Care

(1) A child in substitute care for whom the Department has responsibility for placement and care must be referred for a Title IV-E eligibility determination.

(2) Under no circumstances may Title IV-E *foster care* eligibility or reimbursement be authorized on behalf of any *child* prior to the establishment of eligibility by the Department's Title IV-E Eligibility Specialist. A *child* may not be Title IV-E eligible based on presumed eligibility.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

ADMINISTRATIVE RULES

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0080

Effective Eligibility Date

The effective date of a child's Title IV-E eligibility is the date when all of the other eligibility criteria prescribed in OAR 413-100-0020 to 413-100-0320 are met and one of the following applies:

(1) The date of the child's placement in substitute care, if the Department is responsible for the child's placement and care.

(2) The first of the month in which the Department obtains responsibility for the child's placement and care if the *child* enters substitute care prior to the Department's obtaining placement and care responsibility.

(3) The first of the month in which the "reasonable efforts" finding is made when the court delays making the finding, as long as the Reasonable Efforts to Prevent the Placement finding is obtained within 60 days of placement.

(4) The first of the month in which the court makes a judicial finding of "best interests" and "reasonable efforts" if a *child* in his or her parental home, while the Department retained responsibility for the child's placement and care, is returned to substitute care.

(5) For replacement, the first of the month in which the court makes a judicial finding of "best interests" and "reasonable efforts". These findings may not be made prior to the child's replacement date and must be made within 60 days of the child's replacement in substitute care.

(6) The first of the month in which the voluntary placement agreement or voluntary custody agreement is signed, if placement occurs prior to the signing of the agreement.

(7) The date of placement in a certified relative caregiver home when the relative has received a TANF non-needy (NNR) grant and repayment is authorized to the TANF agency.

(8) The effective certification date of the relative caregiver's home when a TANF non-needy (NNR) grant has not been received.

(9) The effective certification date when the Department of Human Services Financial Services unit has reimbursed the Department of Human Services Office of Self Sufficiency Programs for the relative caregiver's TANF non-needy (NNR) grant retroactive to the certification date.

(10) The first of the month in which a non-certified home becomes certified, if the *child* was placed in the home at that time.

(11) The date the child is no longer receiving SSI benefits, if applicable.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0090

Retroactive Eligibility

(1) Title IV-E eligibility may be opened and claimed retroactively for up to two years when the requirements of one of the following subsections are met:

(a) An otherwise eligible child's application was held while awaiting financial information.

(b) A *nunc pro tunc order* is issued that gives retroactive effect to the judicial finding or findings included in the order, but only if a court transcript of the court hearing is provided that documents that the judicial finding was made in the original court hearing.

(c) A referral for a Title IV-E *foster care* eligibility determination was not timely.

(d) Information becomes available which proves that the denial of the child's Title IV-E eligibility, the determination that the placement was not Title IV E reimbursable, or the determination that the cost of the child's care was temporarily non-reimbursable by the Title IV-E specialist was incorrect.

(2) The effective date of eligibility for cases pended for judicial finding requirements under subsections (1)(a) and (1)(b) of this rule is:

(a) The first of the month in which the judicial finding is made; or

(b) The first of the month in which an existing order is modified to reflect that a Reasonable Efforts to Prevent removal finding previously was made as long as the modification is made within 60 days of placement and a transcript of the court hearing is provided that documents the judicial finding was made in the original court hearing.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0110

Effective Closure Date

The effective closure date for cases no longer meeting Title IV-E eligibility criteria is the earliest of the following:

(1) The end of the month in which eligibility ended.

(2) Retroactive to the end of the month in which eligibility ceased to exist, even if the information that ended the child's eligibility became known to the Department after the fact.

(3) The date that the custodial or non-custodial *parent* or the parents establish residency in the home in which the *child* resides if one or both are providing caretaking responsibility for the *child*.

(4) The date the foster *parent* or relative caregiver's certificate of approval or a *child* caring agency's license expires or is revoked.

(5) On the 181st day of placement for a voluntary placement if a court has not approved the continuation of the placement within 180 days of the date that the *child* was placed. The placement date, not the date that the agreement was signed, begins the 180-day count.

(6) The date of the transfer of the child's case to Developmental Disability Services (DDS) for payment and medical services, however the Department does not close Title IV-E eligibility for children who are or would be found, upon a redetermination at the time of the case transfer, Title IV-E eligible.

(7) The date of the child's placement in a facility considered to be outside the scope of "*foster care*."

(8) The date that the Department ceases having responsibility for the placement and care of the child.

(9) The end of the month in which an 18 year old *young adult* graduates or obtains a GED; or the end of the last month in which he or she is 17 years of age if he or she will not graduate by age 19.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0120

Verification of Eligibility

(1) When the Department determines a *child* is ineligible for Title IV-E *foster care*, based on the information available at the time of the initial determination, the *child* is not eligible for Title IV-E *foster care* maintenance payments for the entire duration of that substitute care episode.

(2) To verify Title IV-E *foster care* eligibility, the Department must obtain acceptable documentary evidence to support certain eligibility factors. The Department determines which eligibility factors require verification and the types of acceptable documentary evidence. The Department may:

(a) Decide to require verification of additional eligibility factors; and

(b) Deny an application or end ongoing benefits when acceptable verification is not provided or available.

(3) Verification is required for the following eligibility factors:

(a) Residency;

(b) U.S. Citizenship status;

(c) Age;

(d) Removal from the home of the *specified relative*;

(e) Judicial language in Court Orders;

(f) Countable *family* or *child* income and benefits;

(g) Parental deprivation;

(h) *Family* or *child* resources; and

(i) The *child* is placed in a certified foster or relative caregiver's home or a licensed *child* caring agency.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0130

Eligibility Determinations — AFDC Linkage

(1) The Department reconstructs the facts of the *removal home* to determine if the *child*, in the *eligibility month*, received AFDC or would have been eligible to receive AFDC under rules in effect on July 16, 1996, had an application been made.

ADMINISTRATIVE RULES

(2) AFDC Relatedness. The *child* meets the “AFDC relatedness” test if the requirements of one of the following subsections are met:

(a) The *child*:

(A) Received or would have been eligible to receive AFDC in the *removal home* under the rules in effect on July 16, 1996, in the *eligibility month*; and

(B) Remains within the *resource* limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

(b) The *child*:

(A) Lived with the *specified relative* within six months of removal;

(B) Would have been eligible to receive AFDC under the rules in effect on July 16, 1996, during the *eligibility month*, had an application been made; and

(C) Remains within the *resource* limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0135

Eligibility Determinations — Living with a “Specified Relative” and “Removal”

(1) **Specified Relative Requirements.** To meet Title IV-E eligibility requirements the *child*, at the time of the *child*’s removal from his or her home, must have been living with and removed from the same *specified relative*, as defined in OAR 413-100-0020.

(2) **Removal Requirements.** To meet Title IV-E eligibility requirements, the *child*’s removal from the home must occur pursuant to:

(a) A voluntary custody agreement or voluntary placement agreement, signed by a *parent* or *specified relative*, that results in the “physical” or “constructive” removal of the *child* from the home; or

(b) A judicial order that requires the *child*’s “physical” or “constructive” removal from the *parent* or *specified relative* and gives the Department responsibility for the placement and care of the *child*.

(3) **Removal Home Requirements.** Effective June 9, 2006, for Title IV-E eligibility purposes, the *child*’s *removal home* must meet the requirements of one of the following subsections:

(a) **Physical Removal.** The Department considers a *child*’s removal a physical removal when the judicial order or the signing of a voluntary custody or voluntary placement agreement results in the removal of the *child* from the physical custody of the *parent* or *specified relative* and gives the Department responsibility for the placement and care of the *child*.

(b) **Constructive Removal.** The Department considers a *child*’s removal a *constructive removal*:

(A) When the *child* is living in the home of an interim caretaker (relative or non-relative) at the time of removal but the *child* lived with a *parent* or *specified relative* within the six months prior to the judicial order, voluntary custody agreement, or voluntary placement agreement which resulted in the *constructive removal* of the *child* from the *parent* or *specified relative* and gave the Department responsibility for the placement and care of the *child*; or

(B) When the *parent* or *specified relative* and the *child* live in another relative’s home, the Department considers the *child*’s removal a *constructive removal* from the *parent* or *specified relative* if:

(i) The *parent* or *specified relative* moves out of the home within the six months prior to the removal;

(ii) The *child* remains in the relative’s home; and

(iii) Within six months of the date the *parent* or *specified relative* left the relative’s home there is a judicial order or voluntary custody or placement agreement that results in the removal of the *child* from the *parent* or *specified relative* and gives the Department responsibility for the placement and care of the *child*.

Stat. Auth.: ORS 409.010, 409.050, 418.005 & 418.625

Stats. Implemented: ORS 409.010, 409.050, 418.005 & 418.625

Hist.: SOSCF 20-2000(Temp), f. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0150

Parental Deprivation

(1) The continued absence of one or both birth or adoptive parents, or a stepparent from the home constitutes the basis for deprivation of parental support or care.

(2) Deprivation of parental support in relation to the home from which the *child* is removed exists when:

(a) Death of a *parent*. Either *parent* of a *child* is deceased.

(b) Continued absence of the *parent* from the home. There is a Continued Absence of one or both parents when:

(A) One or both parents are out of the home and the nature of this absence is such as to either interrupt or terminate the *parent*’s functioning as a provider of maintenance, physical care, or guidance for the *child*;

(B) There is evidence of continued absence of over 30 days duration;

or

(C) Predictable absence due to divorce, legal separation, incarceration, or other verified and documented circumstances.

(c) Physical or mental incapacity. *Incapacity* is documented as parental deprivation in a one-parent or two-parent household as follows:

(A) One or both parents’ receipt of Supplemental Security Income (SSI) or being found eligible for OASDI or SSI based on disability or blindness;

(B) One or both parents receive Social Security Benefits (SSB) based on disability or blindness; or

(C) One or both parents have a physical or mental defect, illness, or impairment that is expected to last at least 30 days, is supported by competent medical testimony, and substantially reduces or eliminates the *parent*’s ability to support or care for the *child*.

(d) Unemployment or underemployment may be documented as parental deprivation in a two-parent household if each *parent* meets one of the following criteria:

(A) Is working less than 100 hours per month; or

(B) Has a temporary one-month increase to over 100 hours, but:

(i) Worked less than 100 hours in each of the two previous months;

and

(ii) Is expected to work less than 100 hours in the following month.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0160

AFDC Eligibility — Financial Need

(1) A *child* removed from the home of a *specified relative* who was not receiving AFDC requires the Department to reconstruct the *child*’s situation to determine whether under rules in effect on July 16, 1996 the *child* was AFDC eligible.

(2) If the *child* is physically removed from a *parent*’s home:

(a) The Department:

(A) Considers the income and resources of the *parent*, parents, or stepparent from whom the *child* was removed in the *eligibility month*;

(B) Determines the countable gross *earned income* of all the *family* members in the *assistance unit* including the \$90 standard *earned income* deduction;

(C) Determines the countable *unearned income* of all the *family* members in the *assistance unit* including the \$50 *child support* deduction; and

(D) Excludes SSI or a combination of SSI and SSA benefits as *countable income*. The Department excludes the *parent* or *child* receiving SSI or a combination of SSI and other Social Security benefits and excludes them from the number in the household for AFDC calculations.

(b) An *assistance unit* is not eligible when all available countable earned and *unearned income* (in the *eligibility month*) exceeds the Adjusted Income *payment* or *need standard* under rules in effect on July 16, 1996.

(3) If a *child* is removed from a minor *parent* who resides in his or her parents’ home, the minor *parent*’s parents live together, and the minor *parent* is under age 18, has never married, and is not legally emancipated, the assets of the parents of the minor *parent* are deemed as follows:

(a) The resources of the parents of the minor *parent* are excluded.

(b) The income of the parents of the minor *parent* is deemed available to the minor *parent* if the minor *parent* and his or her *child* live with the parents of the minor *parent*.

(c) The amount of the deemed income of the parents of the minor *parent* is determined as follows:

(A) A \$90 *earned income* deduction is allowed.

ADMINISTRATIVE RULES

(B) The needs of the parents of the minor *parent* and their dependents, living in the same household and not included in the benefit group, are deducted at the AFDC Payment Standard.

(C) Amounts paid to the legal dependents of the parents of the minor *parent* not living in the household are deducted.

(D) Payments of alimony and *child support* are deducted.

(E) Any remaining income is countable deemed income to the minor *parent*.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0170

AFDC Eligibility — Resources

(1) An *assistance unit* is not eligible if in the *eligibility month* all available resources not excluded by Department rules in effect on July 16, 1996 exceed the *resource* limit.

(2) The *resource* limit is \$10,000.00. An *assistance unit* with resources in excess of \$10,000.00 is ineligible. The most common resources are motor vehicles and money, including cash, bank accounts, and federal and state income tax refunds.

(3) If an *assistance unit* has a licensed motor vehicle, only the first \$1,500 of equity value of the vehicle is exempt. Any equity over \$1,500 is counted toward the \$10,000.00 *resource* limit.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0180

AFDC Eligibility — Earned Income of Students

(1) A *child* with a GED or high school diploma and employed must have his or her earnings considered as income that reduces the maintenance payment. Otherwise, the *child* is not eligible for Title IV-E *foster care* eligibility.

(2) *Earned income* is not counted for:

(a) A *child*, 18 years old or younger, who is a full-time student in grade 12 or below (or the equivalent level of vocational training or GED courses); or

(b) A *child*, who is a full-time or part-time student (as defined by the institution) in grade 12 or below (or in the equivalent level of vocational training or GED courses), and not employed full-time.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0190

AFDC Eligibility — Unearned Income

(1) For Title IV-E *foster care* purposes, all *unearned income* and benefits potentially available to the *child* must be counted against his or her maintenance payment on a dollar-for-dollar basis. Benefits awarded to the *child* for which the Department is not yet payee and benefits not readily available to the *child* still must be counted.

(2) The following are examples of countable *unearned income*:

(a) All Social Security benefits;

(b) Veteran's benefits;

(c) Cash contributions from any source;

(d) State or private accident or disability payments;

(e) Personal injury settlements;

(f) Lump sum income (except SOIL and IRS recoveries and lump sum support payment applied in the month of receipt to offset prior months Title IV-E maintenance costs);

(g) *Child support*;

(h) Railroad Retirement and other pensions;

(i) Annuities, dividends, interest, royalties.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0210

U.S. Citizenship and Qualified Aliens

A Title IV-E eligible child must be:

(1) A United States citizen; or

(2) A qualified alien as defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193. Under Section 431 of PRWORA a qualified alien's access to federal public benefits is restricted for five years beginning on the date of the alien's entry into the United States, unless subsection (b), (c), or (d) of this section applies. Under PRWORA a qualified alien is:

(a) An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (the "Act");

(b) An alien granted asylum under Section 208 of the Act;

(c) A refugee admitted to the United States under section 207 of the Act;

(d) An alien paroled into the United States under section 212(d)(5) of the Act for a period of at least one year;

(e) An alien whose deportation is being withheld under Section 241(b)(3) of the Act;

(f) An alien granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980;

(g) An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or

(h) An alien who (or whose *child* or *parent*) has been battered or subjected to extreme cruelty in the United States and otherwise satisfies the requirements of 8 U.S.C. 1641(c).

(i) An alien disqualified under sections 245A(h) or 210(f) of the Act from receiving aid under the approved Title IV-A State plan.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0230

Age Requirements

To be Title IV-E eligible, a *child* must be:

(1) At removal, 17 years of age or younger.

(2) At redetermination:

(a) 17 years of age or younger; or

(b) 18 years of age, *regularly attending school* or training, and on track to obtain a high school diploma or equivalent.

(A) "Attending" means the student's full-time or half-time school attendance as defined by the school.

(B) A student is considered to be *attending* school for the full month in which the student completes or discontinues school or training.

(C) "Regularly attending school" means the student is enrolled in and *attending* any of the following:

(i) A school in grade 12 or below;

(ii) GED classes in lieu of high school; or

(iii) A course of vocational or technical training in lieu of high school.

(D) A *child* is considered to be *regularly attending school* during a training program, vacation, illness, or *family* emergency.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0240

Judicial Finding Requirements for Title IV-E Eligibility

(1) Contrary to the Welfare or Best Interest Findings Requirement. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement a *child* is not Title IV-E eligible for the duration of the substitute care episode, unless the first court ruling that addresses the removal includes a determination to the effect that continued residence in the home would be contrary to the welfare of the *child* or that placement would be in the best interest of the *child*.

(2) Reasonable Efforts Finding at Removal. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement a *child* is not Title IV-E eligible for the duration of the substitute care episode, unless a judicial finding is made, no later than 60 days from the date the *child* was removed, to the effect that reasonable efforts have been made to prevent or eliminate the need for removal or that reasonable efforts are not required to prevent a child's removal from the home or to reunify the *child* and *family*.

(3) When a court determines that reasonable efforts to return the *child* home are not required, a permanency hearing is held within 30 days of that determination, unless the requirements of the permanency hearing were fulfilled at the court hearing in which the court determined that reasonable efforts to reunify the *child* and *family* are not required. Reasonable efforts

ADMINISTRATIVE RULES

to prevent a child's removal from the home or to reunify the *child* and *family* are not required when the Department obtains a judicial finding that such efforts are not required because one or more of the following subsections applies:

(a) The court has determined that the *parent* has subjected the *child* to aggravated circumstances;

(b) As described in ORS 419B.340, the court has determined that the *parent* has been convicted of:

(A) Murder of another *child* of the parent;

(B) Voluntary manslaughter of another child of the parent;

(C) Aiding or abetting, attempting, conspiring, or soliciting to commit an offense described in subparagraphs (A) or (B) of this subsection;

(D) A felony assault that results in serious bodily injury to the *child* or another *child* of the *parent*; or

(c) The parental rights of the *parent* with respect to a sibling have been terminated involuntarily.

(4) Annual Reasonable Efforts Finding.

(a) If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement unless a judicial finding is made, no later than 12 months from the date the *child* is considered to have entered *foster care*, to the effect that reasonable efforts have been made for reunification of the *family* or to achieve the permanency plan, the *child* is temporarily ineligible for Title IV-E *foster care*. The *child* remains temporarily ineligible for Title IV-E *foster care* until such a judicial finding is made.

(b) At least once every 12 months thereafter while the *child* is in *foster care*, unless a judicial determination of reasonable efforts to finalize a permanency plan is made, the *child* is temporarily ineligible for Title IV-E *foster care*. The date of the child's last judicial determination determines the date the next judicial determination is due. The *child* remains temporarily ineligible for Title IV-E *foster care* until such a judicial finding is made.

(5) Judicial orders concerning placements.

(a) If the court disagrees with the Department's placement recommendation, Title IV-E eligibility may continue if:

(A) The court heard the relevant testimony and will continue to work with all parties, including the Department, to make appropriate placement decisions; and

(B) The Department continues to have responsibility for the placement and care of the *child*.

(b) If the court recommends a placement or names the child's placement in the court order as an endorsement or approval of the Department's placement choice the child's Title IV-E *foster care* eligibility is not affected.

(6) Nunc Pro Tunc Orders. The Department considers a *nunc pro tunc order* to correct the omission of a "best interest" or "reasonable efforts" finding only if a court transcript accompanies the order and verifies that the judicial determination was made at the original removal hearing.

(7) A court order that references state or tribal law to substantiate judicial determinations is not acceptable, even if the law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal may be ordered only after reasonable efforts have been made.

Stat. Auth.: ORS 409.010, 409.050, 418.005 & 419B.340

Stats. Implemented: ORS 409.010, 409.050, 418.005 & 419B.340

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0250

Voluntary Custody and Voluntary Placement Agreements

(1) In accordance with ORS 412.084, when a *child* is in substitute care pursuant to a Voluntary Custody Agreement or Voluntary Placement Agreement, the Department must, within 180 days of the date of placement, obtain a judicial finding to the effect that continuation of the placement is in the best interest of the *child*. This best interest finding also is a requirement for continuation of the child's Title IV-E eligibility for more than 180 days. This judicial finding may be obtained in a court hearing or by a letter to the court which results in an ex parte court order containing the best interest finding. Findings of reasonable efforts to prevent or eliminate the removal and to achieve the permanency plan are not required for Title IV-E eligibility.

(2) If the finding in section (1) of this rule is not made within the first 180 days after the placement, the *child* becomes ineligible for Title IV-E

181 days after the placement and is not Title IV-E eligible for the duration of the substitute care episode.

Stat. Auth.: ORS 409.010, 409.050, 412.084, 418.005, 419B.175, 419B.180 & 419B.185

Stats. Implemented: ORS 409.010, 409.050, 412.084, 418.005, 419B.175, 419B.180 & 419B.185

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0270

Title IV-E Foster Care Eligibility Redetermination

(1) The Department must redetermine, for each month a child is in substitute care, whether the *child* continues to be Title IV-E eligible. This redetermination must be completed no later than 12 months from the *date the child is considered to have entered foster care*, and every 12 months thereafter for the duration of the child's substitute care episode. Eligibility may resume the first of the month in which all eligibility criteria are met.

(2) A *child* may lose and regain eligibility. The loss of eligibility in any one month does not permanently end the child's eligibility in future months.

(3) Title IV-E Specialists must review the child's circumstances to ensure the *child* continues to meet all of the following criteria for continued Title IV-E eligibility:

(a) The *child* must continue to meet the age requirements (see OAR 413-100-0230);

(b) The judicial finding requirements (see OAR 413-100-0240) continue to be met; and

(c) The *child* was placed in a fully certified foster or relative caregiver home or with a licensed *child* caring agency during the redetermination period.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0320

Consolidated Omnibus Reconciliation Act (COBRA) and Title XIX Medicaid

(1) The COBRA of 1985, PL 99-272 enacted on April 7, 1986, permits a Title IV-E eligible *child* in paid substitute care or receiving adoption assistance to receive Title XIX Medicaid coverage from the state in which he or she resides.

(2) For a Title IV-E *foster care*, Adoption Assistance or Guardianship Assistance eligible *child* being placed outside of Oregon, the Title IV-E Specialist must notify and provide the following documentation to the foster or adoptive parents:

(a) Confirmation of the child's Title IV-E eligibility;

(b) Notification of the discontinuance of the child's Oregon Medicaid coverage; and

(c) A letter stating the child's eligibility under COBRA for applying for Title XIX Medicaid coverage in the child's new state of residence.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0335

Adoption Assistance Title IV-E Eligibility Determination

(1) For the purposes of this rule, "applicable child" means, as defined in section 473(e) of the Social Security Act, a *child* who meets the applicable age requirements or has been in foster care for at least 60 months, or the sibling of such a *child* if both the *child* and the sibling are in the same adoption placement. The applicable age requirements are set forth in Exhibit 1.

(2) To be eligible for Title IV-E funded adoption assistance the *child* must qualify under one of the following subsections:

(a) The child's eligibility for Title IV-E *foster care* was established at the time of removal.

(b) The *child* meets all eligibility requirements for Supplemental Security Income (SSI) benefits.

(c) The child's payments in a certified *family* home or private *child* caring agency are covered by the *foster care* maintenance payment being made for his or her minor *parent*.

(d) The child's eligibility for an adoption assistance payment was established for a prior adoption and the *child* is now available for adoption because of one of the following:

ADMINISTRATIVE RULES

(A) The prior adoption has been dissolved and the parental rights of each adoptive *parent* have been terminated or relinquished; or

(B) Each adoptive *parent* of the *child* has died.

(e) Effective October 1, 2009, the Department determines the *child* meets the eligibility criteria of an applicable *child* because of one of the following:

(A) The child's oldest age attained during the federal fiscal year (October 1 through September 30) under section 473(a)(2)(A)(i) of the Social Security Act as set forth in Exhibit 1;

(B) The *child* has been in *foster care* under the responsibility of the Title IV-E agency for any 60 consecutive month period prior to finalization of the adoption; or

(C) The *child* is a sibling of another *child* the Department has determined is an applicable *child* and both children are placed in the same adoption arrangement.

(f) A *child* found to be an applicable *child* under paragraphs (e)(A) to (C) of this section must meet the applicable *child* eligibility requirements, inclusive of the special needs criteria, described in section 473(a)(2)(A)(ii) of the Social Security Act to be eligible for Title IV-E adoption assistance.

(3) Eligibility after Removal from an Adoption Assistance Placement.

(a) **Finalized Adoption:** When a *child* in a finalized adoption is placed in substitute care:

(A) The local office must open a new case for the *child*; and

(B) The Title IV-E Specialist must perform an eligibility determination for Title IV-E *foster care*, based on the removal from the adoptive parents.

(b) **Non-finalized Adoption:** When a *child* in a non-finalized adoptive placement is placed in substitute care:

(A) The local office must re-open a substitute care service for the *child* on the child's biological case number; and

(B) The Title IV-E Specialist must perform an eligibility redetermination for Title IV-E *foster care*, based on the original removal of the *child*.

(4) Eligibility for Title IV-E Adoption Assistance may not be presumed for a *child* placed with a guardian, and receiving a guardianship assistance payment through the Department's Guardianship Assistance program. The Title IV-E Specialist must complete an adoption assistance eligibility determination (CF 969c) based on the original removal of the *child*.

Stat. Auth.: ORS 418.005 & 418.330 - 418.340

Stats. Implemented: ORS 418.005 & 418.330 - 418.340

Hist.: CWP 19-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0345

Guardianship Assistance Eligibility

(1) For the purposes of this rule:

(a) "Relative" means:

(A) An individual with one of the following relationships to the child or *young adult* through the *child* or *young adult's parent*:

(i) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(ii) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological *parent* are half-blood relatives).

(iii) A sibling, also to include an individual with a sibling relationship to the *child* or *young adult* through a putative father.

(iv) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(v) A spouse of anyone listed in subparagraphs (i) to (iv) of this paragraph, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a relative under this paragraph, the *child* or *young adult* must have had a relationship with the spouse prior to the *child* or *young adult* entering substitute care.

(vi) To be considered a relative under subparagraph (iv) of this paragraph, when a marriage has been terminated by death or divorce, the child or *young adult* must have had a relationship with the spouse prior to the *child* or *young adult* entering substitute care.

(vii) For the purposes of an international adoption, relative means an individual described in subparagraphs (i) to (iii) of this paragraph.

(B) An individual with one of the following relationships to the *child* or *young adult*:

(i) An individual defined as a relative by the law or custom of the *child* or *young adult's* tribe if the *child* or *young adult* is an Indian *child* under the Indian Child Welfare Act or in the legal custody of a tribe.

(ii) An individual defined as a relative of a refugee *child* or *young adult* under Child Welfare Policy I-E.2.2, "Placement of Refugee Children" OAR 413-070-0300 to 413-070-0380.

(iii) A stepparent described in OAR 413-100-0020(20)(c) or former stepparent if the *child* or *young adult* had a relationship with the former stepparent prior to the *child* or *young adult* entering substitute care; a stepbrother; or a stepsister.

(iv) The registered domestic partner of the *child* or *young adult's parent* or a former registered domestic partner of the child or *young adult's parent* if the *child* or *young adult* had a relationship with the former domestic partner prior to entering substitute care.

(v) The adoptive *parent* of a *child* or *young adult's* sibling.

(vi) The unrelated legal or biological father or mother of a *child* or *young adult's* half-sibling when the *child* or *young adult's* half-sibling is living with the unrelated legal or biological father or mother.

(C) An individual identified by the *child* or *young adult* or the *child* or *young adult's family*, or an individual who self-identifies, related to the *child* or *young adult* through the *child* or *young adult's parent* by blood, adoption, or marriage to a degree other than an individual specified as a relative in subparagraphs (i) to (iv) of paragraph (A) of this subsection.

(D) An individual, although not related by blood, adoption, or marriage, identified as:

(i) A member of the *family* by the *child* or *young adult* or the *child* or *young adult's family*; and

(ii) An individual who had an emotionally significant relationship with the *child* or *young adult* or the child or *young adult's family* prior to the time the Department placed the *child* in substitute care.

(E) For the purposes of eligibility for the Guardianship Assistance program described in Child Welfare Policy I-E.3.6.2, "Guardianship Assistance" OAR 413-070-0900 to 413-070-0979:

(i) A stepparent is considered a *parent* and is not a relative under these rules unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the child's adoptive or biological *parent* has been terminated by divorce or death:

(ii) A foster parent may be considered a relative under these rules when:

(I) There is a compelling reason why adoption is not an achievable permanency plan; and

(II) A Permanency Committee has recommended the foster parent for consideration as a current caretaker and permanency resource.

(b) "Sibling" means one of two or more children or *young adults* related:

(A) By blood or adoption through a common legal *parent*;

(B) Through the marriage of the children or *young adults'* legal or biological parents; or

(C) Through a legal or biological *parent* who is the registered domestic partner of the *child* or *young adult's* legal or biological *parent*.

(2) To be eligible for Title IV-E Guardianship Assistance a *child* must meet the requirements of one of the following subsections:

(a) The *child* must be or have been eligible to receive a Title IV-E *foster care* maintenance payment while residing in the home of the prospective guardian for any six consecutive month period with the current substitute care episode; or

(b) The *child* must have net all Title IV-E eligibility criteria for a *foster care* maintenance payment, must be or have been placed in the home of an unpaid certified relative caregiver and have resided in that home for a minimum of six consecutive months, and the relative caregiver declined the payment; or

(c) A *child* determined ineligible for Title IV-E must have a sibling who is a Title IV-E eligible *child* who is or will be placed in a guardianship with the same guardian.

(d) But for the receipt of social security income (SSI) benefits, completion of the Title IV-E eligibility determination at the time of removal confirmed that the *child* was or would have been as eligible for Title IV-E *foster care* maintenance payments for any six consecutive month period while residing in the home of the prospective guardian.

(e) The *child* is a sibling of another *child* who is living with the same prospective legal guardian.

(3) A *child* eligible for guardianship assistance may remain eligible, if removed from the guardianship, under the following circumstances:

(a) If a *child* eligible for guardianship assistance is removed from the guardianship placement and placed in foster care, the Department completes a redetermination under these rules OAR 413-100-0000 to 413-100-0345 to ensure continued eligibility for Title IV-E *foster care* based on the child's deprivation of parental support and financial circumstances. The

ADMINISTRATIVE RULES

guardian's income is not considered during this review, nor is the guardian obligated to pay *child support* upon the child's return to substitute care. Eligibility for Title IV-E *foster care* may be reestablished based on the child's original removal from the parental or relative home if the child continues to be deprived of parental support, the *child* meets personal financial eligibility criteria under OAR 413-100-0270(4) and all court findings related to an initial removal are met.

(b) A *child* previously determined eligible for guardianship assistance who subsequently is placed in *foster care* but then is returned to the same guardian, remains eligible for guardianship assistance.

(4) For a child previously determined eligible for guardianship assistance who subsequently is placed in *foster care* but then is placed with a different guardian, the Department must determine eligibility for guardianship assistance through a new eligibility determination.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 19-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10

.....
**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 13-2010(Temp)

Filed with Sec. of State: 5-17-2010

Certified to be Effective: 5-17-10 thru 11-13-10

Notice Publication Date:

Rules Amended: 461-135-0900, 461-193-0240

Subject: OAR 461-135-0900 about specific eligibility requirements in the Refugee Assistance (REF) and Refugee Assistance Medical (REFM) programs is being amended in response to recent federal legislation – Department of Defense Appropriations Act, 2010 (Section 8120 of Pub. L. No. 111-118 (123 Stat. 3409)) – to remove the eight month limitation on the length of time that an Iraqi or Afghan alien who is a Refugee Case Services Project (RCSP) program client may receive New Arrival Employment Services (NAES) program services.

OAR 461-193-0240 about the clients exempt from participating in New Arrival Employment Services (NAES) program activities is being amended in response to recent federal legislation – Department of Defense Appropriations Act, 2010 (Section 8120 of Pub. L. No. 111-118 (123 Stat. 3409)) – to remove the eight month limitation on the length of time that an Iraqi or Afghan alien who is a Refugee Case Services Project (RCSP) program client and was granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act was eligible for the NAES program.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-0900

Specific Requirements; REF, REFM

(1) In addition to the eligibility requirements in other rules in Chapter 461 of the Oregon Administrative Rules, an individual must meet all of the requirements in this rule to be eligible for the REF and REFM programs.

(2) An individual must meet the alien status requirements of OAR 461-120-0120, except a child (see OAR 461-001-0000) born in the United States to an REF or REFM program client meets the alien status requirements for the REF and REFM programs as long as each parent (see OAR 461-001-0000) in the household group (see OAR 461-110-0210) meets the alien status requirements of OAR 461-120-0120.

(3) An individual is not eligible to receive REF and REFM program benefits if the individual is a full-time student of higher education, unless such education is part of a cash assistance case plan. Any education or training allowable under an approved case plan must be less than one year in length. For the purposes of this rule, "higher education" means education that meets the requirements of one of the following subsections:

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL, and high school equivalency programs at these institutions are not considered higher education.

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered higher education.

(4) Eligibility for REF and REFM program benefits is limited to the first eight months in the United States:

(a) For an individual who meets the alien status requirements of OAR 461-120-0120(1), (3), (4), or (5), the month that the individual enters the U.S. counts as the first month.

(b) For an individual who meets the alien status requirements of OAR 461-120-0120(2), (6), or (7), the month that the individual was granted the individual's status counts as the first month.

(c) For an individual who meets the alien status requirements of OAR 461-120-0120(8):

(A) If the individual enters the U.S. with the special immigrant status, the month that the individual enters the U.S. counts as the first month.

(B) If the individual is granted special immigrant status after they have already entered the U.S., then the month in which the special immigrant status was granted counts as the first month.

(d) Months in the United States are counted as whole months. There is no prorating of months.

(5) For an individual who meets the requirements of section (4) of this rule:

(a) When the individual resides in Clackamas, Multnomah, or Washington counties:

(A) The individual is not eligible to receive REF, TANF, or TANF-related employment services through the Department. To receive benefits, the individual is required to participate in the Refugee Case Service Project (RCSP) program. This individual is referred to their local resettlement agency to be enrolled in the RCSP program and receives all other Department services through the individual's local Department office.

(B) An individual who no longer meets the requirements of section (4) of this rule is no longer eligible to receive cash or case management services through the RCSP program. If this individual has been in the United States for 12 months or less, the individual is referred to the New Arrival Employment Services (NAES) program contractor for employment services.

(b) When the individual resides in counties other than Clackamas, Multnomah, and Washington:

(A) The RCSP program is not available. The individual is served at the individual's local Department office.

(B) For an individual who meets the eligibility requirements of the MAA, MAF, or TANF programs, the MAA, MAF, and TANF program benefits are prior resources.

(C) An individual is eligible for the REF and REFM programs if the individual:

(i) Does not meet the eligibility requirements of at least one of the MAA, MAF, and TANF programs; and

(ii) Meets the financial and non-financial eligibility requirements for the REF and REFM programs.

(D) An REF program client may not participate in the Pre-TANF program.

Stat. Auth.: ORS 411.060 & 412.049
Stats. Implemented: ORS 411.060 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 33-1996(Temp), f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 13-2010(Temp), f. & cert. ef. 5-17-10 thru 11-13-10

461-193-0240

Exemption From Participating; New Arrival Employment Services (NAES)

(1) Participation in the NAES program is limited to RCSP program adult clients and refugees who would be eligible for the RCSP program, but have been in the U.S. for more than eight months and less than 13 months.

(2) An adult client is exempt from participation in or disqualification from the NAES program when the requirements of one of the following subsections are met:

ADMINISTRATIVE RULES

(a) In the ninth month of pregnancy or when experiencing medical complications due to pregnancy that prevent participation in the NAES program.

(b) During the first six months after giving birth, except that the client may be required to participate in parenting classes or family stability activities.

(c) Under 20 years of age during the first 16 weeks after giving birth, except that the client may be required to participate in suitable activities with a preference for educational activities, parenting classes, and family stability activities.

(d) A parent providing care for a family member who lives in the home and has a disability (see OAR 461-001-0000).

(e) Sixty-five years of age or older.

(f) Receiving supplemental security income (SSI) from the Social Security Administration.

(g) Participation likely would cause undue hardship or is contrary to the best interest of a child or needy caretaker relative.

(h) Volunteering, except that a client may not be disqualified for conduct that occurred while a volunteer. Volunteering, as used in the NAES program rules, means that a client who is otherwise exempt from participating in the NAES program chooses to participate in an employment program nevertheless.

(i) A medical condition documented by a licensed medical professional.

(3) An adult client is exempt from disqualification from the NAES program when participating more than 10 hours per week during the seventh and eighth months of pregnancy.

Stat. Auth.: ORS 411.060, 411.116, 412.006

Stats. Implemented: ORS 411.060, 411.116, 412.006

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 13-2010(Temp), f. & cert. ef. 5-17-10 thru 11-13-10

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 14-2010(Temp)

Filed with Sec. of State: 5-19-2010

Certified to be Effective: 5-19-10 thru 11-15-10

Notice Publication Date:

Rules Amended: 461-145-0130

Subject: OAR 461-145-0130 about how the Department treats a client's earned income when making eligibility and benefit determinations is being amended to restate how the Department treats Job Opportunity and Basic Skills (JOBS) Plus income earned by a Temporary Assistance for Needy Families (TANF-PLS) program client when determining initial and ongoing eligibility for the Citizen/Alien-Waived Emergent Medical (CAWEM), Continuous Eligibility for OHP-CHP pregnant women (CEC), Continuous Eligibility for Medicaid (CEM), Healthy KidsConnect (HKC), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Health Plan (OHP), Oregon Supplemental Income Program Medical (OSIPM), Qualified Medicare Beneficiaries (QMB), Refugee Assistance Medical - Basic (REFM), and Medical Coverage for Children in Substitute or Adoptive Care (SAC) programs. This rule also is being amended to remove language stating that the Department considered wages received under the JOBS Plus program administered through the Oregon State Employment Department (Oregon Employment Department UI JOBS Plus) program as earned income.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-145-0130

Earned Income; Treatment

(1) Earned income (see OAR 461-145-0120) is countable in determining eligibility for programs, subject to sections (2) to (9) of this rule.

(2) JOBS Plus income is earned income and is treated as follows:

(a) In the SNAP program:

(A) JOBS Plus income earned by a TANF-PLS client:

(i) Is counted in determining initial SNAP program eligibility.

(ii) Is excluded in determining ongoing eligibility.

(B) JOBS Plus wages received after the client's last month of work under a TANF-PLS JOBS Plus agreement are counted.

(b) In the TANF program:

(A) JOBS Plus income earned by an NCP-PLS client is counted in determining initial TANF eligibility.

(B) When determining the need for a TANF supplement for a TANF-PLS client, the income is treated as follows:

(i) It is excluded in determining the countable income limit and in calculating the benefit equivalency standards.

(ii) It is counted in calculating the wage supplement.

(C) JOBS Plus wages received after the client's last month of work under a JOBS Plus agreement are counted.

(c) In the CAWEM, CEC, CEM, HKC, MAA, MAF, OHP, OSIPM, QMB, REFM, SAC programs:

(A) For JOBS Plus income earned by a TANF-PLS program client who is also in:

(i) The MAA or REFM program, the income is excluded when determining initial and ongoing program eligibility.

(ii) The MAF program, the income is counted when determining initial and ongoing program eligibility.

(B) JOBS Plus wages received after the client's last month of work under a TANF-PLS JOBS Plus agreement are counted.

(d) In all other programs, TANF-PLS income is counted.

(e) In all programs other than the TANF program, NCP-PLS income is counted as earned income.

(f) In all programs, client wages received under the Tribal TANF JOBS programs are counted as earned income.

(3) Welfare-to-Work work experience income is treated as follows:

(a) In the EXT, MAA, MAF, REF, REFM, and TANF programs, the income is earned income, and the first \$260 is excluded each month.

(b) In the OHP and SNAP programs, the income is earned income.

(4) In the ERDC and OHP programs, earned income of a child is excluded.

(5) In the EXT, MAA, MAF, REF, REFM, SAC, and TANF programs:

(a) Earned income of the following children is excluded:

(A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.

(B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.

(C) Dependent children too young to be in school.

(b) Income remaining after the month of receipt is a resource.

(c) In-kind earned income is excluded (see OAR 461 145-0280 and 461-145-0470).

(6) In the SNAP program:

(a) If a cafeteria plan (see OAR 461-001-0000) benefit that the employee cannot elect to receive as a cash payment is designated and used to pay for child care, medical care, or health insurance, the benefit is excluded unless it is reimbursed by the Department or allowed as an earned income deduction.

(b) The following types of income are excluded:

(A) The earned income of an individual under the age of 18 years who is under the parental control of another member of the household and is:

(i) Attending elementary or high school;

(ii) Attending GED classes recognized by the local school district;

(iii) Completing home-school elementary or high school classes recognized by the local school district; or

(iv) Too young to attend elementary school.

(B) In-kind earned income, except as provided in section (7) of this rule.

(C) Deductions from base pay for future educational costs under Pub. L. No. 99-576, 100 Stat. 3248 (1986), for clients on active military duty.

(D) Income remaining after the month of receipt is a resource.

(7) In the OHP and SNAP programs, earned in-kind income (see OAR 461-145-0280) is excluded unless it is an expenditure by a business entity that benefits a principal (see OAR 461-145-0088).

(8) In all programs except the EXT program, and for an OSIPM client in nonstandard living arrangement (see OAR 461-001-0000), the income of a temporary employee of the U.S. Census Bureau employed to assist in taking the census is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.400, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 414.231, 414.712, 414.826

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.400, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 414.231, 414.712, 414.826

ADMINISTRATIVE RULES

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1990, f. & cert. ef. 3-2-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; 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 11-1999, f. & cert. ef. 10-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; 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 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 31-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 14-2010(Temp), f. & cert. ef. 5-19-10 thru 11-15-10

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 15-2010

Filed with Sec. of State: 5-27-2010

Certified to be Effective: 5-27-10

Notice Publication Date: 8-1-2009

Rules Amended: 461-175-0222

Subject: OAR 461-175-0222 about the type of notice the Department must provide clients in the Employment Related Day Care (ERDC) and Supplemental Nutrition Assistance Program (SNAP) programs when their benefits certification period (the period for which a client is certified eligible for a program) is ending is being amended to state when notice is required in the ERDC program and what the notice must contain.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-175-0222

Notice Situations — Expiration of Certification Period; ERDC, SNAP
In the ERDC and SNAP programs:

(1) The Department must provide a household certified for one month or certified in the second month of a two-month certification period (see OAR 461-001-0000) a notice of expiration at the time of certification.

(2) In the ERDC program, each household not covered under section (1) of this rule must receive a notice of expiration prior to the last month of the certification period.

(3) In the ERDC program, the notice of expiration must contain:

(a) The date the certification period expires.

(b) A statement that to receive benefits, the client must reapply and be found eligible for a new benefit amount.

(c) The household's right to request a contested case hearing if the reapplication is denied or if the household objects to the benefit amount.

(4) In the SNAP program, each household other than those covered under section (1) of this rule must receive a notice of expiration before the first day of the last month of the certification period (established per OAR 461-115-0450), but not before the first day of the next-to-the-last month.

(5) In the SNAP program, notice of expiration under this rule is provided to the filing group (see OAR 461-110-0370) and must contain all of the following:

(a) The date the certification period expires.

(b) The date by which a household must submit an application for recertification to receive uninterrupted benefits.

(c) The consequences of failure to apply for recertification in a timely manner.

(d) The right to receive an application form upon request and to have it accepted as long as it contains a signature and a legible name and address.

(e) Information on alternative submission methods available to households that are not able to come into the certification office or do not have an authorized representative and how to exercise these options.

(f) The address of the office where the application must be filed.

(g) The household's right to request a contested case hearing if the recertification is denied or if the household objects to the benefit amount.

(h) A statement that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for SNAP program benefits recertification at an office of the Social Security Administration.

(i) A statement that failure to attend an interview may result in delay or denial of benefits.

(j) A statement that the household is responsible for rescheduling a missed interview and for providing required verification information.

(k) A statement that the client has no rights to continuation of benefits after the SNAP program certification period expires; and that to receive benefits, the client must reapply and be found eligible for a new benefit amount after the end of the certification period, including a client who is receiving continuation of benefits when his or her SNAP program certification period ends.

Stat. Auth: ORS 183.417, 411.060, 411.070, 411.816

Stats. Implemented: ORS 183.417, 411.060, 411.070, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90;

AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00;

Renumbered from 461-115-0510, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 15-2010,

f. & cert. ef. 5-27-10

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 16-2010(Temp)

Filed with Sec. of State: 5-27-2010

Certified to be Effective: 5-27-10 thru 11-23-10

Notice Publication Date:

Rules Amended: 461-135-0835

Subject: OAR 461-135-0835 about the limits on claims against an estate the Department may make in the Breast and Cervical Cancer Medical (BCCM), General Assistance (GA), General Assistance Medical (GAM), Oregon Health Plan (OHP), Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiaries (QMB) programs is being amended to correct a drafting error made in an April 1, 2010 amendment to this rule. State law (ORS 411.708, 411.795, and 416.350) requires the Department to seek reimbursement for specific types of public assistance from the estate of a deceased individual who received public assistance. If the husband or wife of the recipient is still alive, the Department must wait until after the spouse dies and then seek reimbursement from the estate of the spouse of the recipient. The temporary rule deletes a mistaken reference to a "recipient's spouse" and replaces it with "recipient" to correct the rule and make it consistent with ORS 411.708, 411.795, and 416.350.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-0835

Limits on Estate Claims

(1) In the BCCM, GA, GAM, OHP, OSIP, OSIPM, and QMB programs:

(a) The Department has a priority claim against the property or any interest therein belonging to the estate of any deceased person as provided in ORS Chapters 411 and 416. The Estate Administration Unit of the Department (EAU) is authorized to present and file such claim against the estate. It will be treated as a preferred claim and filed in a like manner as the claims of other creditors.

(b) In determining the extent of the estate resources subject to the Department's claim, except as provided in subsection (c) of this section, the Department must disregard resources in an amount equal to the value of resources excluded in the most recent eligibility determination under OAR 461-160-0855, based on payments received under a qualified partnership policy (see OAR 461-001-0000). The disregard of resources specific to the estate recovery claim applies to Medicaid benefits received after the effective date of the Medicaid eligibility determination in which a qualified partnership policy was considered and approved. The amount of any Medicaid assistance incurred in a prior Medicaid eligibility period where qualified partnership policy benefits were not considered would not be subject to the estate resource disregard.

(c) There is no disregard of resources under subsection (b) of this section if the client, or the spouse of the client, at any time transferred the value of the qualified partnership policy excluded resource amount to another individual for less than fair market value prior to the death of the client or the client's surviving spouse, or exhausted the disregarded resource amount by purchasing things of value to the client or the client's surviving spouse while either was living.

(d) For a recipient who died prior to October 1, 2008:

ADMINISTRATIVE RULES

(A) If there is a surviving spouse, the Department has a claim against the estate of the surviving spouse for public assistance paid to the surviving spouse.

(B) In addition, the Department has a claim against the estate of the surviving spouse for public assistance paid to the pre-deceased spouse, but only to the extent that the surviving spouse received property or other assets from the pre-deceased spouse through any of the following:

- (i) Probate.
- (ii) Operation of law.

(C) If estate recovery is deferred until the surviving spouse dies, the fair market value of the property subject to the Department's claim is determined based on the current value (see OAR 461-135-0832) of the property in the surviving spouse's estate.

(D) However, neither claim is enforceable until after the death of the surviving spouse (if any) and only when there is no surviving child under age 21 (see OAR 461-135-0832), no surviving blind child (see OAR 461-135-0832) of any age, and no surviving disabled child (see OAR 461-135-0832) of any age.

(e) For a recipient who died on or after October 1, 2008:

(A) If there is a surviving spouse, the Department has a claim against the estate of the surviving spouse for public assistance paid to the surviving spouse.

(B) In addition, the Department has a claim against the estate of the recipient's spouse for public assistance paid to the recipient, but only to the extent that the recipient's spouse received property or other assets from the recipient through any of the following:

- (i) Probate.
- (ii) Operation of law.
- (iii) An interspousal transfer, including one facilitated by a court order, which occurs:

(I) Before, on, or after October 1, 2008; and

(II) No earlier than 60 months prior to the first date of request (see OAR 461-135-0832) established from the applications of the recipient and the recipient's spouse, or at any time thereafter, whether approved, withdrawn, or denied, for the public assistance programs referenced in section (2) of this rule.

(C) If estate recovery is deferred until the recipient's spouse dies, the fair market value of the property subject to the Department's claim is determined based on the current value of the property in the estate of the recipient's spouse.

(D) However, neither claim is enforceable until after the death of the recipient's spouse (if any) and only when there is no surviving child under age 21, no surviving blind child of any age, and no surviving disabled child of any age.

(E) The May 27, 2010 amendment to paragraph (B) of this subsection applies to claims asserted on or after April 1, 2010.

(2) The amount of the claim is as follows:

(a) Any payments made at any age under the General Assistance provisions of ORS Chapter 411, categorized as GA, are recoverable from the estate of any deceased recipient or the estate of the recipient's spouse. In the GA and GAM programs, the amount of the claim will not exceed the total amount of cash and medical benefits paid. The claim will include benefits provided under the Home and Community-Based Care Waiver program. This applies to all General Assistance programs, even those that are no longer active.

(b) In the BCCM, OSIP AD, OSIP OAA, OSIPM AD, OSIPM OAA, and QMB programs, the amount of the claim includes all GA category benefits paid at any age and all Title XIX benefits provided after the recipient reached age 55, except any QMB program payment. If the recipient was permanently institutionalized (see OAR 461-135-0832), the claim includes the total amount of all GA category benefits and Title XIX benefits paid at any age. This applies to all Old Age Assistance and Aid to the Disabled recipients, including those served by Home and Community-Based Care Waiver programs. It also includes recipients covered by programs that are no longer active.

(c) In the OHP, OSIP AB, and OSIPM AB programs, the claim includes the total amount of GA category benefits paid at any age and all Title XIX benefits provided after the recipient reached age 55. If the recipient was permanently institutionalized, the claim includes the total amount of GA category and Title XIX benefits paid at any age. The claim includes benefits provided under the Home and Community-Based Care Waiver program.

(d) In the OSIP, OSIPM-AB, OSIPM AD, and OSIPM-OAA programs, the amount of the claim also includes the total amount of GA category and Title XIX benefits provided to recipients who were age 55 to 64

on the date the GA category and Title XIX benefits were provided if the benefits were provided after July 18, 1995. GA category and Title XIX benefits will be considered to have been provided to a recipient on the day of provision of medical services for which medical assistance payments are made.

(3) The priority for payment of claims against the estate will be as established under ORS 115.125.

(4) EAU may nominate a personal representative for an estate if the Department has a claim and it appears that no person with a higher preference, as established in ORS 113.085, is willing to be the representative.

(5) Property disposal will be in accordance with OAR 461-135-0838. Stat. Auth.: ORS 410.070, 411.060 & 416.350
Stats. Implemented: ORS 410.070, 411.060, 411.708, 411.795, 416.310, 416.340, 416.350
Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 16-2008, f. 7-1-08, cert. ef. 10-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 16-2010(Temp), f. & cert.cef. 5-27-10 thru 11-23-10

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 17-2010(Temp)

Filed with Sec. of State: 5-28-2010

Certified to be Effective: 5-28-10 thru 6-30-10

Notice Publication Date:

Rules Amended: 461-115-0705

Rules Suspended: 461-115-0705(T)

Subject: OAR 461-115-0705 about verification requirements for medical programs is being amended to specify what income verification is required for applicants in the Breast and Cervical Cancer Medical Program (BCCM), Extended Medical Assistance (EXT), Healthy KidsConnect (HKC), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Health Plan (OHP), and Medical Coverage for Children in Substitute or Adoptive Care (SAC) programs. This rule is also being amended to specify the following programs must verify the premium amount for cost-effective employer sponsored insurance: EXT, MAA, MAF. Additionally, this rule is being amended for the BCCM, EXT, HKC, MAA, MAF and SAC programs to specify verification requirements for having or applying for a social security number; alien status requirements; and verification requirements for pregnancy when it is first reported or changed.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-115-0705

Required Verification; BCCM, HKC, MAA, MAF, OHP, SAC

(1) This rule establishes verification requirements for the BCCM, EXT, HKC, MAA, MAF, OHP, and SAC programs in addition to the requirements of OAR 461-115-0610.

(2) Except as provided in section (3) of this rule, each client declaring U.S. citizenship must provide acceptable documentation of citizenship and identity. For purposes of this rule, *acceptable documentation* consists of any of the documents permitted under section 1903(x) of the Social Security Act (42 U.S.C. 1396b).

(a) A new applicant must provide acceptable documentation as a condition of eligibility (see OAR 461-001-0000). Except for an applicant whose medical benefits previously were closed after March 31, 2009 for not providing acceptable documentation, an applicant's medical assistance may not be delayed for citizenship documentation while the eligibility decision is pending if all other medical assistance eligibility requirements have been met.

(b) A current recipient who has not already provided acceptable documentation must provide acceptable documentation as a condition of eligibility when requested by the Department.

(c) A client who already has provided acceptable documentation is not required to provide additional evidence during a subsequent application for benefits or redetermination of eligibility.

(3) Each of the following clients is exempt from the requirements of section (2) of this rule, a client who is:

(a) Assumed eligible under OAR 461-135-0010(5);

(b) Eligible for or receiving Medicare;

(c) Presumptively eligible for the BCCM program;

ADMINISTRATIVE RULES

- (d) Receiving Social Security Disability Income (SSDI); or
- (e) Receiving Title IV-E benefits.

(4) At initial application and at any other time it affects the client, the following must be verified:

(a) The requirement in OAR 461-120-0210 to have or apply for a social security number.

(b) Alien status for an applicant who indicates he or she is not a U.S. citizen, and for a client who meets the alien status requirement under OAR 461-120-0125(4)(b) the client's alien status must be verified at each certification.

(5) When the pregnancy of a client is first reported or changes, it must be verified by a medical practitioner, health department, clinic, or crisis pregnancy center or similar facility.

(6) In the HKC, MAA, MAF, OHP, and SAC programs, at initial application, recertification, and at any other time it affects the client, income received through the date of request (see OAR 461-115-0030) must be verified. If income cannot be verified, the Department accepts the client's statement.

(7) In the OHP-OPU program:

(a) The Department must verify the premium exemption allowed because a client is:

(A) A member of a federally recognized Indian tribe, band, or group;

(B) An Eskimo, Aleut, or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act; or

(C) An individual eligible for benefits through an Indian Health Program.

(b) A client enrolled full time in higher education must provide verification, at application and recertification, that the client meets the requirements of OAR 461-135-1110.

(8) In the EXT, MAA, MAF, OHP-OPC, and OHP-OP6 programs, the amount of the premium for cost-effective employer-sponsored health insurance must be verified.

(9) A client must provide verification for any eligibility requirement in sections (4) to (8) of this rule questioned by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.400, 411.404, 414.231, 414.826, 414.831
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.400, 411.404, 414.231, 414.428, 414.826, 414.831

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; 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 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; Suspended by SSP 13-2006(Temp), f. & cert. ef. 9-25-06 thru 12-31-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 10-2009(Temp), f. & cert. ef. 5-6-09 thru 9-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 17-2010(Temp), f. & cert. ef. 5-28-10 thru 6-30-10

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

Rule Caption: Oregon Health Plan Benefit Package of Covered Services.

Adm. Order No.: DMAP 11-2010(Temp)

Filed with Sec. of State: 6-3-2010

Certified to be Effective: 6-3-10 thru 11-15-10

Notice Publication Date:

Rules Amended: 410-141-0480

Subject: The Oregon Health Plan (OHP – Managed Care) Program administrative rules govern Division of Medical Assistance Programs' (Division) payments for services provided to clients. The Division temporarily amended OAR 410-141-0480 Oregon Health Plan Benefit Package of Covered Services, retroactively to January 1, 2010 by removing reference to 410-141-0520, section (4) that no longer exists. This revision now coincides with changes made to OAR 410-141-0520 Prioritized List of Health Services effective January 1.

DMAP updated OAR 410-141-0520 on January 1, 2010 but we inadvertently failed to update 410-141-0480 by removing the section reference at the same time so this rule revision is retroactive to reference appropriate Office for Oregon Health Policy and Research

(OHPPR) changes to the Prioritized List, effective January 1, 2010 and remove the conflicting information.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0480

Oregon Health Plan Benefit Package of Covered Services

(1) DMAP Members are eligible to receive, subject to Section (11) of this rule, those treatments for the condition/treatment pairs funded on the Oregon Health Services Commission's Prioritized List of Health Services adopted under OAR 410-141-0520 when such treatments are Medically or Dentally appropriate, except that services must also meet the prudent layperson standard defined in OAR 410-141-0140. Refer to 410-141-0520 for funded line coverage information.

(2) Medical Assistance Benefit Packages follow practice guidelines adopted by the Health Services Commission (HSC) in conjunction with the Prioritized List of Health Services unless otherwise specified in rule.

(3) Diagnostic Services that are necessary and reasonable to diagnose the presenting condition of the DMAP Member are Covered Services, regardless of the placement of the condition on the Prioritized List of Health Services.

(4) Comfort care is a Covered Service for a DMAP Member with a Terminal Illness.

(5) Preventive Services promoting health and/or reducing the risk of disease or illness are Covered Services for DMAP Members. Such services include, but are not limited to, periodic medical and dental exams based on age, sex and other risk factors; screening tests; immunizations; and counseling regarding behavioral risk factors. (See Prioritized List of Health Services, adopted in OAR 410-141-0520).

(6) Ancillary Services are covered, subject to the service limitations of the OHP Program rules, when the services are Medically or Dentally Appropriate for the treatment of a covered Condition/Treatment Pair, or the provision of Ancillary Services will enable the DMAP Member to retain or attain the capability for independence or self-care.

(7) The provision of Chemical Dependency Services must be in compliance with the Addictions and Mental Health Division (AMH) Administrative Rules, OAR 415-020-0000 to 0090 and 415-051-0000 to 0130 and the requirements in the Chemical Dependency subsection of the Statement of Work in the Fully Capitated Health Plan and Physician Care Organization contracts.

(8) In addition to the coverage available under section (1) of this rule, a DMAP Member may be eligible to receive, subject to section (11), services for treatments that are below the funded line or not otherwise excluded from coverage:

(a) Services can be provided if it can be shown that:

(A) The OHP Client has a funded condition for which documented clinical evidence shows that the funded treatments are not working or are contraindicated; and

(B) Concurrently has a medically related unfunded condition that is causing or exacerbating the funded condition; and

(C) Treating the unfunded medically related condition would significantly improve the outcome of treating the funded condition;

(D) Ancillary Services that are excluded and other services that are excluded are not subject to consideration under this rule;

(E) Any unfunded or funded Co-Morbid Conditions or disabilities must be represented by an ICD-9-CM diagnosis code or when the condition is a mental disorder, represented by DSM-IV diagnosis coding to the highest level of axis specificity; and

(F) In order for the treatment to be covered, there must be a medical determination and finding by DMAP for fee-for-service OHP Clients or a finding by the Prepaid Health Plan (PHP) for DMAP Members that the terms of section (a)(A)-(C) of this rule have been met based upon the applicable:

- (i) Treating physician opinion;
- (ii) Medical research;
- (iii) Community standards; and
- (iv) Current peer review.

(b) Before denying treatment for an unfunded condition for any DMAP Member, especially an DMAP Member with a disability or with a Co-Morbid Condition, Providers must determine whether the DMAP Member has a funded Condition/Treatment Pair that would entitle the DMAP Member to treatment under the program and both the funded and unfunded conditions must be represented by an ICD-9-CM diagnosis code; or, when the condition is a mental disorder, represented by DSM-IV diagnosis coding to the highest level of axis specificity.

ADMINISTRATIVE RULES

(9) DMAP shall maintain a telephone information line for the purpose of providing assistance to Practitioners in determining coverage under the Oregon Health Plan Benefit Package of Covered Services. The telephone information line shall be staffed by registered nurses who shall be available during regular business hours. If an emergency need arises outside of regular business hours, DMAP shall make a retrospective determination under this subsection, provided DMAP is notified of the emergency situation during the next business day. If DMAP denies a requested service, DMAP shall provide written notification and a notice of the right to an Administrative Hearing to both the OHP Client and the treating physician within five working days of making the decision.

(10) If a Condition/Treatment Pair is not on the Health Services Commission's Prioritized List of Health Services and DMAP determines the Condition/Treatment Pair has not been identified by the Commission for inclusion on the list, DMAP shall make a coverage decision in consultation with the Health Services Commission.

(11) Coverage of services available through the Oregon Health Plan Benefit Package of Covered Services is limited by OAR 410-141-0500, Excluded Services and Limitations for Oregon Health Plan Clients.

(12) General anesthesia for dental procedures which are Medically and/or Dentally Appropriate to be performed in a hospital or ambulatory surgical setting, is to be used only for those DMAP Members as detailed in OAR 410-123-1490.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 26-1995, f. 12-29-95, cert. ef. 1-1-96; HR 19-1996, f. & cert. ef. 10-1-96; HR 1-1997(Temp), f. 1-31-97, cert. ef. 2-1-97; HR 12-1997, f. 5-30-97, cert. ef. 6-1-97; HR 15-1997, f. & cert. ef. 7-1-97; HR 26-1997, f. & cert. ef. 10-1-97; OMAP 17-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 32-1998, f. & cert. ef. 9-1-98; OMAP 39-1998, f. & cert. ef. 10-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 35-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 23-2007, f. 12-11-07 cert. ef. 1-1-08; DMAP 11-2010(Temp), f. & cert. ef. 6-3-10 thru 11-15-10

.....

Rule Caption: July 2010 – Application for Medical Assistance at provider locations (Outreach worker site agreements).

Adm. Order No.: DMAP 12-2010

Filed with Sec. of State: 6-10-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 5-1-2010

Rules Adopted: 410-120-0045

Subject: The General Rules Services program administrative rules govern DMAP payment for services to clients. DMAP adopted 410-120-0045 that will take the place of the current contracting process for DMAP outreach sites. This OAR contains the same roles and responsibilities outlined in the current contracts. These agreements with provider groups have no monetary provisions or payment for work performed.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-0045

Applications for Medical Assistance at Provider locations

(1) As prescribed in 42 CFR 435.904, the Department of Human Services (Department) allows the Division of Medical Assistance Programs' (Division) enrolled providers the opportunity to assist patients applying to Medicaid and Children's Health Insurance Program (CHIP) at the provider's practice site. Once the provider is determined eligible by the Department, providers will receive an approval letter, unique code for date-stamp, training requirements and other information.

(2) For purposes of this rule, the provider's practice will be referred to as a site. Sites can be, but are not limited, to the following:

- (a) Hospitals;
- (b) Federally qualified health centers/rural health clinics (FQHC/RHCs);
- (c) County health departments;
- (d) Adult and youth alcohol and drug treatment centers;
- (e) Tribal health clinics;
- (f) Family Planning clinics;
- (g) Other primary care clinics as approved by the Department.

(3) The site shall send one or more employees to a mandatory Department training session for application assistance certification before

initiating the application assistance service. At least one trained employee must be a permanent employee of the site. Sites shall ensure that individuals performing application assistance are recertified at appropriate times as set forth by the Department. For purposes of this rule, certified staff will be referred to as "application assistants."

(4) Application assistants provide Oregon Health Plan (OHP) application packets and enrollment support to their patients potentially eligible for Medicaid or CHIP. Sites are not under an obligation to provide OHP applications to individuals other than those they are providing care to. The application assistant shall establish a date of request for applicants by date stamping (stamp must adhere to standards accompanying the approval letter) the application in the appropriate place with the date the applicant requests an application. Once affixed to an application, the date can never be changed, altered or backdated. The date stamp must include the provider's assigned application assistant site code number, in addition to the date.

(5) The application assistant shall encourage applicants to provide accurate and truthful information, assist in completing the application and shall assure that the information contained on the application is complete. The application assistant shall not attempt to pre-determine applicant eligibility or make any assurances regarding the eligibility for OHP or CHIP programs.

(6) The application assistant shall provide information to applicants that will explain the OHP program and make an informed choice when selecting a health care provider/plan. Language (including sign language) translators must be available if requested by applicants in advance.

(a) The information given to the applicant shall, at a minimum, include an explanation of the significance of the date stamp, review of managed care plans that are available, provide unbiased managed care information, answer questions and assist in filling out application forms. The information provided at these sessions may include, but is not limited to the following:

(A) OHP and "Healthy Kids" general eligibility criteria;

(B) Managed care plan choices, criteria and how to enroll in health, mental health, dental plans or primary care manager;

(C) Potential services that may or may not be covered by OHP.

(b) The application assistant is required to submit the applicant's eligibility verification (income statements, etc.) with the application to the OHP Central Branch. The application assistant may make copies of the documents.

(7) The site shall provide quarterly reports to the Department on the number of stamped applications distributed each month of the quarter by the site. The quarterly report shall also list employees who have been certified by Department staff during the quarter to perform the duties listed in OAR 410-120-0045.

(8) Providers, staff, contracted employees and volunteers are subject to all applicable provisions under General Rules OAR chapter 410, division 120.

(a) The application assistant shall treat all information they obtain for Medicaid as confidential and privileged communications. The application assistant shall not disclose such information without the written consent of the individual, his or her delegated authority, attorney, or responsible parent of a minor child or child's guardian. Nothing prohibits the disclosure of information in summaries, statistical or other form, which does not identify particular individuals.

(b) The Department and sites will share information as necessary to effectively serve Medicaid eligible or potentially eligible individuals.

(c) Personally identifiable health information about applicants and Medicaid recipients will be subject to the transaction, security and privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA) and the administrative rules there under. Sites will cooperate with the Department in the adoption of policies and procedures for maintaining the privacy and security of records and for conducting transactions pursuant to HIPAA requirements.

(9) The Department will be responsible for the following:

(a) The Department will provide training to application assistants on Healthy Kids/OHP eligibility, application procedures and documentation requirements. The Department will set dates and times for these additional training classes as needed, following changes in policy or procedure.

(b) The Department will make available OHP application forms (in English, translated languages and alternative formats), OHP managed care information and plan comparison charts, date stamp specifications, quarterly report templates and other necessary forms;

(c) The Department will process all applications in accordance with Department standards;

ADMINISTRATIVE RULES

(d) The Department will process completed OHP applications, which have satisfactory verification information, within the time requirements set forth in Department policy. In the event of a change in policy, the time for completion of processing shall be changed to the new time requirements.

(10) The Department will provide all necessary forms and applications as referenced above at no cost to the site. There are no monetary provisions in this rule for any payment for the performance of work by the site, except for those costs provided under OAR 410-147-0400 and 410-146-0460. However, the parties acknowledge the exchange and receipt of other valuable considerations in the spirit of cooperation to the benefit of all by collaborating and authorizing the performance of the work. The Department does not guarantee a particular volume of business under these rules.

(11) The provider may terminate enrollment at any time as outlined in OAR 410-120-1260(15).

Stat. Auth.: 409.040, 409.050

Statutes Implemented: 414.041

Hist.: DMAP 12-2010, f. 6-10-10, cert. ef. 7-1-10

Rule Caption: July 1, 2010 Rule Revisions.

Adm. Order No.: DMAP 13-2010

Filed with Sec. of State: 6-10-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 410-122-0010, 410-122-0020, 410-122-0040, 410-122-0055, 410-122-0080, 410-122-0184, 410-122-0202, 410-122-0203, 410-122-0205, 410-122-0207, 410-122-0208, 410-122-0210, 410-122-0211, 410-122-0280, 410-122-0325, 410-122-0340, 410-122-0540, 410-122-0560, 410-122-0625, 410-122-0630, 410-122-0655, 410-122-0658, 410-122-0662, 410-122-0680, 410-122-0720

Subject: The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Services program administrative rules govern DMAP payment for services to certain clients. DMAP amended as follows:

410-122-0010 Definitions: Clarified definition of "Home."

410-122-0020 Orders: Removed signature stamp as an acceptable signature.

410-122-0040 Prior Authorization: Deleted (3) "For clients with Medicare coverage, prior authorization is only required for DMEPOS not covered by Medicare" and clarifies authorization requirements for non-contiguous out-of-state providers.

410-122-0055 OHP Standard Benefit Package Limitations: Corrected text.

410-122-0080 Conditions of Coverage, Limitations, Restrictions and Exclusions: Clarified conditions of coverage for services provided by non-contiguous out-of-state providers. Clarified other conditions of coverage.

410-122-0184 Repairs, Servicing, Replacement, Delivery and Dispensing: Deleted obsolete labor code E1340. Added K0739 labor code.

410-122-0202 Positive Airway Pressure (PAP) Devices for Adult Obstructive Sleep Apnea (OSA): Clarified conditions of coverage.

410-122-0203 Oxygen and Oxygen Equipment: Added E0433 portable liquid oxygen system, monthly rental. Updates narrative changes to E0441, E0442, E0443 and E0444.

410-122-0205 Respiratory Assist Devices: Removed duplicate language for adult obstructive sleep apnea already found in 410-122-0202.

410-122-0207 Respiratory Supplies: Deleted obsolete code J7051.

410-122-0208 Suction Pumps: Removed asterisk associated with E0600 in the table.

410-122-0210 Ventilators: Clarified conditions of coverage.

410-122-0211 Cough Stimulating Device: Clarified that E0482 may be covered for a client residing in a nursing facility.

410-122-0280 Heating/Cooling Accessories: Updated narrative changes to E0249.

410-122-0325 Motorized/Power Wheelchair Base: Clarified Assistive Technology Professional (ATP) requirements for power wheelchairs.

410-122-0340 Wheelchair Options/Accessories: Deleted obsolete codes E2223 and E2399. Added code E1225.

410-122-0540 Ostomy Supplies: Deleted obsolete code A4365 adhesive remover wipes. Added replacement code A4456.

410-122-0560 Urological Supplies: Deleted obsolete code A4365 adhesive remover wipes. Added replacement code A4456.

410-122-0625 Surgical Dressing: Deleted obsolete codes A6200, A6201 and A6202.

410-122-0630 Incontinent Supplies: Added code T4543.

410-122-0655 External Breast Prostheses: Deleted redundant text. Text in (1) (c) is same as (1) (i).

410-122-0658 Gradient Compression Stockings: Deleted obsolete code A6543. Updated narrative changes to A6549.

410-122-0662 Ankle-Foot-Orthoses and Knee-Ankle-Foot Orthoses: Removed 728.71 plantar fasciitis, an unfunded condition.

410-122-0680 Facial Prostheses: Deleted obsolete code A4365 adhesive remover wipes. Added replacement code A4456.

410-122-0720 Pediatric Wheelchairs: Clarified Assistive Technology Professional (ATP) requirements for power wheelchairs.

Other text may be revised to improve readability and to take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-122-0010

Definitions

(1) Activities of daily living (ADL's) — Activities related to personal care. Personal care services include activities such as bathing, dressing, grooming, hygiene, eating, elimination, etc. that are necessary to maintain or improve the client's health, when possible.

(2) Buy up — "Buy-up" refers to a situation in which a client wants to upgrade to a higher level of service than he or she is eligible for; e.g., a heavy duty walker instead of a regular walker.

(3) Consecutive Months — Any period of continuous use where no more than a 60-day break occurs.

(4) Durable Medical Equipment — Equipment, furnished by a durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider or a home health agency that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a client in the absence of an illness or injury and is appropriate for use in the home. Some examples include wheelchairs, crutches and hospital beds. Durable medical equipment extends to supplies and accessories that are necessary for the effective use of covered durable medical equipment.

(5) Home — For purposes of purchase, rental and repair of durable medical equipment (DME) that is used primarily as a supportive measure to support a client's basic daily living activities, home is a place of permanent residence, such as an assisted living facility (includes the common dining area), a 24-hour residential care facility, an adult foster home, a child foster home or a private home. This does not include hospitals or nursing facilities or any other setting that exists primarily for the purpose of providing medical/nursing care. Separate payment will not be made to DME providers for equipment and medical supplies provided to a client in their home when the cost of such items is already included in the capitated (per diem) rate paid to a facility or organization.

(6) Lifetime need — 99 months or more.

(7) Manufacturer Part Number (MPN):

(a) Each manufacturer provides an MPN to identify that manufacturer's part. It is a specification used by the manufacturer to store a part in an illustrated part catalog (graphics and text);

(b) An MPN uniquely identifies a part when used together with manufacturer code (external manufacturer), which is the own name used by the manufacturer and not the manufacturer name provided by other.

(8) Medical Records — Include the physician's office records, hospital records, nursing facility records, home health agency records, records from other healthcare professionals, diagnostic and test reports. This documentation must be made available to the Division of Medical Assistance Programs (Division) on request.

(9) Medical Supplies — Generally non-reusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages, and tubing. Some medical supplies may also be used on a repeated, limited duration basis.

(10) Mobility-related activities of daily living (MRADL's) — Include toileting, eating, dressing, grooming and bathing.

ADMINISTRATIVE RULES

(11) Morbidity — A diseased state, often used in the context of a “morbidity rate” (i.e. the rate of disease or proportion of diseased people in a population). In common clinical usage, any disease state, including diagnosis and complications is referred to as morbidity.

(12) Morbidity Rate — The rate of illness in a population; the number of people ill during a time period divided by the number of people in the total population.

(13) The Division Maximum Allowable Rate — The maximum amount paid by the Division for a service.

(14) Practitioner — A person licensed pursuant to Federal and State law to engage in the provision of health care services within the scope of the practitioner’s license and certification.

(15) Prosthetic and Orthotic Devices — Devices that replace all or part of an internal body organ, including ostomy bags and supplies directly related to ostomy care, and replacement of such devices and supplies. Prosthetic and orthotic devices also include leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including replacements if required because of a change in the client’s physical condition.

(16) Purchase price — Includes:

- (a) Delivery;
- (b) Assembly;
- (c) Adjustments, if needed; and
- (d) Training in the use of the equipment or supply.

(17) Rental fees — Include:

- (a) Delivery;
- (b) Training in the use of the equipment;
- (c) Pick-up;
- (d) Routine service, maintenance and repair; and
- (e) Moving equipment to new residence, if coverage is to continue.

(18) Technician — A DMEPOS provider staff professionally trained through product or vendor-based training, technical school training (e.g., electronics) or through apprenticeship programs with on-the-job training.

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 54-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0020

Orders

(1) The purchase, rental or modifications of durable medical equipment, and the purchase of supplies must have an order prior to dispensing items to a client.

(2) For any durable medical equipment, prosthetics, orthotics and supplies (DMEPOS), a provider must have a written order signed and dated by the prescribing practitioner prior to submitting a claim to the Division of Medical Assistance Programs (Division).

(3) A provider may dispense some items based on a verbal order from the prescribing practitioner, except those items requiring a written order prior to delivery (see below) or as specified in a particular rule:

(a) A provider must maintain documentation of the verbal order and this documentation must be available to the Division upon request;

(b) The verbal order must include all the following elements:

- (A) Client’s name; and,
- (B) Name of the practitioner; and,
- (C) Description of the item; and,
- (D) Start date of the order; and,
- (E) Primary ICD-9 diagnosis code for the equipment/supplies requested.

(c) For items that are dispensed based on a verbal order, the provider must obtain a written order that meets the requirements outlined below for written orders.

(4) For an item requiring a written order prior to delivery, Medicare criteria must be met.

(5) When specified in rule, a nurse practitioner may provide the dispensing order and sign the detailed written order only when the following are met:

(a) They are treating the client for the condition for which the item is needed; and

(b) They are practicing independently of a physician.

(6) The DMEPOS provider must have on file a written order, information from the prescribing practitioner concerning the client’s diagnosis and medical condition, and any additional information required in a specific rule.

(7) The Division accepts any of the following forms of orders and Certificates of Medical Necessity (CMN): a photocopy, facsimile image, electronically maintained or original “pen and ink” document:

(a) An electronically maintained document is one which has been created, modified, and stored via electronic means such as commercially available software packages and servers;

(b) It is the provider’s responsibility to ensure the authenticity/validity of a facsimile image, electronically maintained or photocopied order;

(c) A provider must also ensure the security and integrity of all electronically maintained orders and/or certificates of medical necessity;

(d) The written order may serve as the order to dispense the item if the written order is obtained before the item is dispensed.

(8) A written order must be legible and contain the following elements:

(a) Client’s name; and,

(b) Detailed description of the item that can either be a narrative description (e.g., lightweight wheelchair base) or a brand name/model number including medically appropriate options or additional features; and,

(c) The detailed description of the item may be completed by someone other than the practitioner. However, the prescribing practitioner must review the detailed description and personally indicate agreement by his signature and the date that the order is signed;

(A) The Division requires practitioners to sign for services they order;

(B) This signature must be handwritten, or electronic and it must be in the client’s medical record;

(C) The ordering practitioner is responsible for the authenticity of the signature;

(d) Primary ICD-9 diagnosis code for the equipment/supplies requested.

(9) Use of signature stamps is prohibited on any medical record.

(10) When a DMEPOS provider submits a Centers for Medicare & Medicaid Services (CMS) CMN to the Division as documentation, the following is required:

(a) The corresponding instructions for completing the specific CMN form must be followed; and

(b) Section B on the CMN cannot be completed by the DMEPOS provider;.

(11) A provider is responsible to obtain as much documentation from the client’s medical record as necessary for assurance that the Division coverage criteria for an item(s) is met.

(12) Certain items require one or more of the following additional elements in the written order:

(a) For accessories or supplies that will be provided on a periodic basis:

(A) Quantity used;

(B) Specific frequency of change or use – “as needed” or “prn” orders are not acceptable;

(C) Number of units;

(D) Length of need: Example: An order for surgical dressings might specify one 4” x 4” hydrocolloid dressing which is changed one to two times per week for one month or until the ulcer heals;

(b) For orthoses: If a custom-fabricated orthosis is ordered by the practitioner, this must be clearly indicated on the written order;

(c) Length of need:

(A) If the coverage criteria in a rule specifies length of need; or,

(B) If the order is for a rental item;

(d) Any other medical documentation required by rule.

(13) For repairs: Labor for repairs, parts for durable medical equipment (DME) repairs and replacement parts for DME (e.g., batteries) do not require a written order.

(14) A new order is required:

(a) When required by Medicare (for a Medicare covered service) (www.cignamedicare.com); or,

(b) When there is a change in the original order for an item; or,

(c) When an item is permanently replaced; or,

(d) When indicated by the prescribing practitioner;

(A) A new order is required when an item is being replaced because the item is worn or the client’s condition has changed; and,

(B) The provider’s records should also include client-specific information regarding the need for the replacement item; and,

(C) This information should be maintained in the provider’s files and be available to the Division on request; and,

(D) A new order is required before replacing lost, stolen or irreparably damaged items to reaffirm the medical appropriateness of the item;

(e) When there is a change of DMEPOS provider: In cases where two or more providers merge, the resultant provider should make all reasonable attempts to secure copies of all active CMN’s and written orders from the

ADMINISTRATIVE RULES

provider(s) purchased. This document should be kept on file by the resultant provider for future presentation to the Division, if requested;

(f) On a regular or specific basis (even if there is no change in the order) only if it is so specified in a particular rule.

(15) A provider is required to maintain and provide (when required by a particular rule) legible copies of facsimile image and electronic transmissions of orders.

Stat. Auth.: ORS 409.010, 409.050, 409.110, 414.065
Stats. Implemented: ORS 414.065

Hist.: AFS 41-1982, f. 4-29-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 in the North Salem, Woodburn, McMinnville, Lebanon, Albany and Corvallis branch offices, ef. 6-30-82 in the balance of the state; AFS 20-1983, f. 5-5-83, ef. 6-1-83; AFS 49-1987, f. 10-16-87, ef. 11-1-87; AFS 48-1989, f. & cert. ef. 8-24-89; HR 13-1991, f. & cert. ef. 3-1-91, Renumbered from 461-024-0004; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 17-1996, f. & cert. ef. 8-1-96; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 72-2002(Temp), f. & cert. ef. 12-24-02 thru 5-15-03; OMAP 36-2003, f. & cert. ef. 5-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0040

Prior Authorization

(1) Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) providers must obtain prior authorization (PA) for Healthcare Common Procedure Coding System (HCPCS) Level II codes as specified in rule, unless otherwise noted.

(2) Providers must request PA as follows (see the DMEPOS Supplemental Information for contact information):

(a) For Medically Fragile Children's Unit (MFCU) clients, from the Department of Human Services (Department) MFCU;

(b) For clients enrolled in a prepaid health plan (PHP), from the PHP;

(c) For all other clients, from the Division of Medical Assistance Programs (Division).

(3) For DMEPOS provided after normal working hours, providers must submit PA requests within five working days from the initiation of service.

(4) See OAR 410-120-1320 for more information about PA.

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

Hist.: AFS 3-1982, f. 1-20-82, ef. 2-1-82; AFS 14-1984 (Temp), f. & ef. 4-2-84; AFS 22-1984(Temp), f. & ef. 5-1-84; AFS 40-1984, f. 9-18-84, ef. 10-1-84; AFS 6-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; HR 13-1991, f. & cert. ef. 3-1-91, Renumbered from 461-024-0010; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 6-2004, f. 2-10-04 cert. ef. 3-15-04; OMAP 20-2004(Temp), f. & cert. ef. 3-15-04 thru 4-30-04; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 26-2004, f. 4-15-04 cert. ef. 5-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0055

OHP Standard Benefit Package Limitations

(1) The Division of Medical Assistance Programs (Division) limits coverage of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) for the Oregon Health Plan (OHP) Standard benefit package to the codes referenced in Table 122-0055 below. Coverage requirements and limitations, as specified in chapter 410, division 122, apply. For more information about the OHP Standard benefit package, see the Division's General Rules (chapter 410, division 120).

(2) Table 122-0055

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

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0080

Conditions of Coverage, Limitations, Restrictions and Exclusions

(1) The Division of Medical Assistance Programs (Division) may pay for durable medical equipment, prosthetics, orthotics and medical supplies (DMEPOS) when the item meets all the criteria in this rule, including all of the following conditions. The item:

(a) Has been approved for marketing by the Food and Drug Administration (FDA) and is otherwise generally considered to be safe and effective for the purpose intended;

(b) Is reasonable and medically appropriate for the individual client;

(c) Is primarily and customarily used to serve a medical purpose;

(d) Is generally not useful to a person in the absence of illness or injury;

(e) Is appropriate for use in a client's home;

(f) Specifically, for durable medical equipment, can withstand repeated use; i.e., could normally be rented, and used by successive clients;

(g) Meets the coverage criteria as specified in this division and subject to service limitations of the Division rules;

(h) Is requested in relation to a diagnosis and treatment pair that is above the funding line on the Prioritized List of Health Services, OAR 410-141-0520, consistent with treatment guidelines for the Prioritized List of Health Services, and not otherwise excluded under OAR 410-141-0500; and

(i) Is included in the Oregon Health Plan (OHP) client's benefit package of covered services.

(2) Conditions for Medicare-Medicaid Services:(a) If Medicare is the primary payer and Medicare denies payment, an appeal to Medicare must be filed timely prior to submitting the claim to the Division for payment. If Medicare denies payment based on failure to submit a timely appeal, the Division may reduce any amount the Division determines could have been paid by Medicare;

(b) If Medicare denies payment on appeal, the Division will apply DMEPOS coverage criteria in this rule to determine whether the item or service is covered under the OHP.

(3) DMAP will not cover DMEPOS items when the item or the use of the item is:

(a) Not primarily medical in nature;

(b) For personal comfort or convenience of client or caregiver;

(c) A self-help device;

(d) Not therapeutic or diagnostic in nature;

(e) Used for precautionary reasons (e.g., pressure-reducing support surface for prevention of decubitus ulcers);

(f) Inappropriate for client use in the home (e.g., institutional equipment like an oscillating bed);

(g) For a purpose where the medical effectiveness is not supported by evidence-based clinical practice guidelines; or

(h) Reimbursed as part of the all-inclusive rate in a nursing facility, or as part of a home and community based care waiver service, or by any other public, community or third party resource.

(4) In addition to the particular requirements in this rule, particular coverage criteria, limitations and restrictions for durable medical equipment, prosthetics, orthotics and supplies are specified in the appropriate rule. To the extent that codes are identified in these rules or in fee schedules, the codes are provided as a mechanism to facilitate payment for covered items and supplies consistent with OAR 410-122-0186, but codes do not determine coverage. If prior authorization is required, the request must document that prior authorization was obtained in compliance with the rules in this division.

(5) DMEPOS providers must have documentation on file that supports coverage criteria are met.

(6) Billing records must demonstrate that the provider has not exceeded any limitations and restrictions in rule. The Division may require additional claim information from the provider consistent with program integrity review processes.

(7) Documentation described in (4), (5) and (6) above must be made available to the Division on request.

(8) To identify non-covered items at a code level, providers can refer to the Division fee schedule, subject to the limitation that fee schedules and codes do not determine coverage, and are solely provided as a mechanism to facilitate payment for covered services and supplies consistent with OAR 410-122-0186. If an item or supply is not covered for an OHP client in accordance with these rules, there is no basis for payment regardless of whether there is a code for the item or supply on the fee schedule.

(9) Some benefit packages do not cover equipment and supplies (see OAR 410-120-1210 Medical Assistance Benefit Packages and Delivery System).

(10) Buy-ups are prohibited. Advanced Beneficiary Notices (ABN) constitutes a buy-up and are prohibited. Refer to the Division General Rules (chapter 410, division 120) for specific language on buy-ups.

(11) Equipment purchased by the Division for a client is the property of the client.

(12) Rental charges, starting with the initial date of service, regardless of payer, apply to the purchase price.

(13) A provider who supplies rented equipment is to continue furnishing the same item throughout the entire rental period, except under documented reasonable circumstances.

ADMINISTRATIVE RULES

(14) Before renting, providers should consider purchase for long-term requirements.

(15) The Division will not pay DMEPOS providers for medical supplies separately while a client is under a home health plan of care and covered home health care services.

(16) DMAP will not pay DMEPOS providers for medical supplies separately while a client is under a hospice plan of care where the supplies are included as part of the written plan of care and for which payment may otherwise be made by Medicare, the Division or other carrier.

(17) Separate payment will not be made to DMEPOS providers for equipment and medical supplies provided to a client in their home when the cost of such items is already included in the capitated (per diem) rate paid to a facility or organization.

(18) Non-contiguous out-of-state DMEPOS providers may seek Medicaid payment only under the following circumstances:

(a) Medicare/Medicaid clients:

(A) For Medicare covered services and then only Medicaid payment of a client's Medicare cost sharing expenses for DMEPOS services when all of the following criteria are met:

(i) Client is a qualified Medicare beneficiary;

(ii) Service is covered by Medicare;

(iii) Medicare has paid on the specific code. Prior authorization is not required;

(B) Services not covered by Medicare:

(i) Only when the service or item is not available in the State of Oregon and this is clearly substantiated by supporting documentation from the prescribing practitioner and maintained in the DMEPOS provider's records;

(ii) Some examples of services not reimbursable to a non-contiguous out-of-state provider are incontinence supplies, grab bars, etc. This list is not all-inclusive;

(iii) Services billed must be covered under the OHP;

(iv) Services provided and billed to the Division must be in accordance with all applicable Division rules;

(b) Medicaid-only clients:

(A) For a specific Oregon Medicaid client who is temporarily outside Oregon or the contiguous borders of Oregon and only when the prescribing practitioner has documented that a delay in service may cause client harm;

(B) For foster care or subsidized adoption children placed out of state;

(C) Only when the service or item is not available in the State of Oregon and this is clearly substantiated by supporting documentation from the prescribing practitioner and maintained in the DMEPOS provider's records;

(D) Services billed must be covered under the OHP;

(E) Services provided and billed to the Division must be in accordance with all applicable DMAP rules.

(19) The items listed in Table 122-0080 generally do not meet the requirements under DMEPOS rules for purchase, rent or repair of equipment or items. A request for equipment or an item on this list will not be granted until all criteria in this rule are met.

(20) See General Rules OAR 410-120-1200 Excluded Services and Limitations for more information on general scope of coverage and limitations.

(21) **Table 122-0080, Exclusions.**

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

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

Stats. Implemented: ORS 414.065

Hist.: AFS 3-1982, f. 1-20-82, ef. 2-1-82; AFS 6-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; HR 24-1990(Temp), f. & cert. ef. 7-27-90; HR 6-1991, f. & cert. ef. 1-18-91, Renumbered from 461-024-0020; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 26-1994, f. & cert. ef. 7-1-94; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 46-2004, f. 7-22-04, cert. ef. 8-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 15-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0184

Repairs, Maintenance, Replacement, Delivery and Dispensing

(1) Indications and Limitations of Coverage and/or Medical Appropriateness: The Division of Medical Assistance Programs (Division) may cover reasonable and necessary repairs, servicing, and replacement of medically appropriate, covered durable medical equipment, prosthetics and orthotics, including those items purchased or in use before the client enrolled with the Division:

(a) Repairs:

(A) To repair means to fix or mend and to put the equipment back in good condition after damage or wear to make the equipment serviceable;

(B) If the expense for repairs exceeds the estimated expense of purchasing or renting another item of equipment for the remaining period of medical need, no payment will be made for the amount of the excess;

(C) Payment for repairs is not covered when:

(i) The skill of a technician is not required; or

(ii) The equipment has been previously denied; or

(iii) Equipment is being rented, including separately itemized charges for repair; or

(iv) Parts and labor are covered under a manufacturer's or supplier's warranty;

(D) Code K0739 must not be used on an initial claim for equipment. Payment for any labor involved in assembling, preparing, or modifying the equipment on an initial claim is included in the allowable rate;

(b) Servicing:

(A) Additional payment for routine periodic servicing, such as testing, cleaning, regulating, and checking of the client's equipment is not covered. However, more extensive servicing which, based on the manufacturers' recommendations, is to be performed by authorized technicians, may be covered for medically appropriate client-owned equipment. For example, this might include, breaking down sealed components and performing tests that require specialized testing equipment not available to the client;

(B) Payment for maintenance/service is not covered for rented equipment. The Division may authorize payment for covered servicing of capped rental items after six months have passed from the end of the final paid rental month. Use the corresponding Healthcare Common Procedure Coding System (HCPCS) code for the equipment in need of servicing at no more than the rental fee schedule allowable amount;

(C) Up to one month's rental will be reimbursed at the level of either the equipment provided; or, the equipment being repaired, whichever is less costly;

(D) Maintenance and servicing that includes parts and labor covered under a manufacturer's or supplier's warranty is not covered;

(c) Replacement - Replacement refers to the provision of an identical or nearly identical item:

(A) Temporary Replacement: One month's rental of temporary replacement for client-owned equipment being repaired, any type (K0462) may be reimbursed when covered client-owned equipment such as a wheelchair is in need of repair. The equipment in need of repair must be unavailable for use for more than one day. For example, the repair takes more than one day or a part has to be ordered and the wheelchair is non-functional;

(B) Permanent Replacement: Situations involving the provision of a different item because of a change in medical condition must meet the specific coverage criteria identified in chapter 410, division 122;

(C) Equipment which the client owns or is a capped rental item may be replaced in cases of loss or irreparable damage. Irreparable damage refers to a specific accident or to a natural disaster (e.g., fire, flood, etc.). Irreparable wear refers to deterioration sustained from day-to-day usage over time and a specific event cannot be identified. Replacement of equipment due to irreparable wear takes into consideration the reasonable useful lifetime of the equipment;

(i) Reasonable useful lifetime of durable medical equipment (DME) is no less than five years;

(ii) Computation of the useful lifetime is based on when the equipment is delivered to the client, not the age of the equipment;

(iii) Replacement due to wear is not covered during the reasonable useful lifetime of the equipment;

(iv) During the reasonable useful lifetime, repair up to the cost of replacement (but not actual replacement for medically appropriate equipment owned by the client) may be covered;

(D) Cases suggesting malicious damage, culpable neglect, or wrongful disposition of equipment may not be covered;

(d) Delivery:

(A) Providers may deliver directly to the client or the designee (person authorized to sign and accept delivery of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) on behalf of the client);

(B) Providers, their employees, or anyone else having a financial interest in the delivery of an item are prohibited from signing and accepting an item on behalf of a client;

(C) A provider may deliver DMEPOS to a client in a hospital or nursing facility for the purpose of fitting or training the client in its proper use. This may be done up to two days prior to the client's anticipated discharge to home. On the claim bill the date of service as the date of discharge and

ADMINISTRATIVE RULES

specify the place of service (POS) as the client's home. The item must be for subsequent use in the client's home;

(D) A provider may deliver DMEPOS to a client's home in anticipation of a discharge from a hospital or nursing facility. The provider may arrange for actual delivery approximately two days prior to the client's anticipated discharge to home. On the claim bill the date of service as the date of discharge and specify the POS as the client's home;

(E) No payment is made on dates of service the client receives training or fitting in the hospital or nursing facility for a particular DMEPOS item;

(e) For Dispensing Refills:

(A) For DMEPOS products that are supplied as refills to the original order, providers must contact the client or designee prior to dispensing the refill to check the quantity on hand and continued need for the product;

(B) Contact with the client or designee regarding refills may only take place no sooner than approximately seven days prior to the delivery/shipping date;

(C) For subsequent deliveries of refills, the provider may deliver the DMEPOS product no sooner than approximately fifteen days prior to the end of usage for the current product. This is regardless of which delivery method is utilized. The Division will allow for the processing of claims for refills delivered/shipped prior to the client exhausting their supply, but the provider must not dispense supplies that exceed a client's expected utilization;

(D) Supplies dispensed are based on the practitioner's order. Regardless of utilization, a provider must not dispense more than a three-month quantity of supplies at a time. This three-month dispensing restriction for supplies may be further limited by rule limitations of coverage;

(E) The provider must not automatically ship, dispense or deliver a quantity of supplies on a predetermined regular basis, even if the client or designee has "authorized" this in advance;

(F) Shipping and handling charges are not covered;

(f) The following services are not covered:

(A) Pick-up, delivery, shipping and handling charges for DMEPOS, whether rented or purchased including travel time:

(i) These costs are included in the calculations for allowable rates;

(ii) These charges are not billable to the client;

(B) Supplies used with DME or a prosthetic device prior to discharge from a hospital or nursing facility;

(C) Surgical dressings, urological supplies, or ostomy supplies applied in the hospital or nursing facility, including items worn home by the client.

(2) Documentation Requirements:

(a) For Repairs, Servicing and Temporary Replacement: A new Certificate of Medical Necessity (CMN) and/or physician's order is not required;

(b) Submit the following documentation with the prior authorization request:

(A) For Repairs/Servicing:

(i) Narrative description, manufacturer and brand name/model name and number, serial number and original date of purchase for the covered equipment in need of repair; and

(ii) Itemized statement of parts needed for repair including the estimated date of service, manufacturer's name (if billing for parts, include manufacturer's name and part number for each part), product name, part number, manufacturer's suggested retail price or manufacturer's invoice price and estimated labor time; and

(iii) Justification of the client's medical need for the item and statement that client owns the equipment in need of repair;

(B) For Temporary Replacement:

(i) Narrative description, manufacturer and brand name/model name and number, serial number and original date of purchase for the covered equipment in need of repair; and

(ii) Narrative description, manufacturer and brand name/model name and number of the replacement equipment; and

(iii) Itemized statement of parts needed for repair including the estimated date of service, manufacturer's name (if billing for parts, include manufacturer's name and part number for each part), product name, part number, manufacturer's suggested retail price or manufacturer's invoice price and estimated labor time; and

(iv) Justification of the client's medical need for the item and statement that client owns the equipment in need of repair; and

(v) Description of why repair takes more than one day to complete;

(C) For Permanent Replacement: See specific coverage criteria in chapter 410, division 122 for more information;

(D) For Proof of Delivery: DMEPOS providers are required to:

(i) Maintain proof of delivery documentation to the client in their records for seven years;

(ii) Maintain documentation that supports that conditions of coverage in this rule are met;

(iii) Make proof of delivery documentation available to the Division upon request;

(c) Proof of delivery requirements are based on the method of delivery;

(d) A signed and dated delivery slip is required for items delivered directly by the provider to the client or designee. The delivery slip must include the following:

(A) When a designee signs the delivery slip, their relationship to the client must be noted and the signature legible;

(B) The client or designee's signature with the date the items were received; and

(C) Client's name, and

(D) Quantity, brand name, serial number and a detailed description of the items being delivered; and

(E) The date of signature on the delivery slip must be the date the DMEPOS item is received by the client or designee; and

(F) The date the client receives the item is the date of service;

(e) If the provider uses a delivery/shipping service or mail order, an example of proof of delivery would include the service's tracking slip and the provider's own shipping invoice:

(A) The provider's shipping invoice must include the:

(i) Client's name, and

(ii) Quantity, brand name, serial number and a detailed description of the items being delivered, and

(iii) Delivery service's package identification number associated with each individual client's package with a unique identification number and delivery address, including the actual date of delivery, if possible; and

(iv) The shipping date must be used as the date of service, unless the actual date of delivery is available then use this date as the date of service;

(B) The delivery service's tracking slip must reference:

(i) Each client's packages; and

(ii) The delivery address and corresponding package identification number given by the delivery service;

(f) Providers may utilize a signed/dated return postage-paid delivery/shipping invoice from the client or designee as a form of proof of delivery that must contain the following information:

(A) Client's name;

(B) Quantity, brand name, serial number and a detailed description of items being delivered;

(C) Required signatures from either the client or the designee;

(g) Delivery to Nursing Facilities or Hospitals:

(A) The date of service is the date the DMEPOS item(s) is received by the nursing facility if delivered by the DMEPOS provider;

(B) The date of service is the shipping date (unless the actual delivery date is known and documented) if the DMEPOS provider uses a delivery/shipping service;

(h) For those clients who are residents of an assisted living facility, a twenty-four hour residential facility, an adult foster home, a child foster home, a private home or other similar living environment, providers must ensure supplies are identified and labeled for use only by the specific client for whom the supplies/items are intended.

(3) Procedure Codes:

(a) Replacement parts for wheelchair repair are billed using the specific HCPCS code, if one exists, or code K0108 (other accessories);

(b) K0739:

(A) Repair or non-routine service for durable medical equipment other than oxygen equipment requiring the skill of a technician, labor component, per 15 minutes;

(B) This code is used for services not covered by other codes or combination of codes in reference to the repairs of DMEPOS;

(c) K0108 — Other wheelchair accessories — PA;

(d) K0462 — Temporary replacement for client-owned equipment being repaired, any type — Prior authorization (PA) required — PA.

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05;

OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08;

DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

ADMINISTRATIVE RULES

410-122-0202

Positive Airway Pressure (PAP) Devices for Adult Obstructive Sleep Apnea (OSA)

(1) Indications and Limitations of Coverage and Medical Appropriateness: The Division of Medical Assistance Programs (Division) may cover a single level positive airway pressure (CPAP) device for adults (age 19 or older) with OSA when the following criteria are demonstrated on polysomnography:

(a) The apnea-hypopnea index (AHI) or Respiratory Disturbance Index (RDI) is greater than or equal to 15 events per hour with a minimum of 30 events; or

(b) The AHI or RDI is greater than or equal to 5 and less than 15 events per hour with a minimum of 10 events and documentation of:

(A) Excessive daytime sleepiness as documented by a score of greater than 10 on the Epworth Sleepiness Scale, impaired cognition, mood disorders or insomnia; or

(B) Hypertension, ischemic heart disease or history of stroke; and

(c) The client or their caregiver has received instruction from the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider of the PAP device and accessories in the proper use and care of the equipment;

(d) A respiratory assist device (RAD) without backup rate (E0470) may be covered for adults with OSA when:

(A) The criteria in (1) (a)-(c) are met; and

(B) A single level (E0601) positive airway pressure device has been tried and proven ineffective;

(e) If a CPAP device is tried and found ineffective during the initial three month home trial, substitution of a RAD does not require a new sleep study;

(f) If a CPAP device has been used for more than three months and the client is switched to a RAD, a clinical re-evaluation is required, but a new sleep study is not required. A new three month trial would begin for use of the RAD;

(g) Coverage, coding and documentation requirements for the use of RADs for diagnoses other than OSA are addressed in 410-122-0205 Respiratory Assist Devices;

(h) Auto-CPAP (APAP) as a second or third line alternative therapy for OSA when the following criteria are met:

(A) The level of fixed CPAP required is at least 10cms H2O as evidenced by an in-laboratory, technician-attended CPAP titration during polysomnography; and

(B) The client is intolerant of high fixed CPAP pressures (>10cms H2O) despite documented client education and interventions to improve client comfort and compliance. These interventions should include:

(i) The use of a topical nasal corticosteroid spray or anticholinergic spray if nasal complaints are significant; and

(ii) Changes made by a nurse or technician, in consultation with the attending physician, to the CPAP circuit or mask, using different nose masks, face masks, nasal pillows or head harnesses as appropriate to achieve maximum client comfort;

(i) A three month trial (rental) period for CPAP is required prior to purchase;

(j) Rental charges apply toward purchase;

(k) Continued coverage of E0470 or E0601 beyond the first three months of therapy: Ongoing rental beyond the first three months when conditions of coverage are met is an option in lieu of purchase when medically appropriate and cost effective;

(l) For extended use of a PAP device beyond the first three months of initial therapy, the following documentation is required:

(A) Objective evidence of adherence to use of the PAP device, including a summary of PAP compliance report through a direct download of usage data; and

(B) Phone consultation record by the treating practitioner's medical staff which supports clinical benefit including client tolerance, compliance and efficacy and symptoms of OSA are improved; or

(C) When objective data does not support compliance and efficacy, a face-to-face visit with the treating practitioner clearly specifying a treatment plan with measurable goals to improve adherence to treatment;

(m) The clinical re-evaluation would occur between the 61st and 91st day following the initiation of CPAP;

(n) If the practitioner re-evaluation does not occur until after the 91st day but the evaluation demonstrates that the client is benefiting from PAP therapy as defined in criteria, continued coverage of the PAP device will commence with the date of that re-evaluation;

(o) If a CPAP device was used more than three months and the client is switched to a RAD, then the clinical re-evaluation would occur between the 61st and 91st day following initiation of the RAD;

(p) Polysomnographic studies must be scored according to the recommended rules as described in the American Academy of Sleep Medicine (AASM) Manual for the Scoring of Sleep and Associated Events;

(q) Payment Authorization: From the initial date of service through the second date of service, PAP device rental and only related accessories necessary for the effective use of the PAP device during this time period and subject to rule limitations may be dispensed without prior authorization (PA). The provider is still responsible to ensure all rule requirements are met. Payment authorization (i.e., a payment authorization number for billing) is required prior to submitting claims and will be given once all required documentation has been received and any other applicable rule requirements have been met. Payment authorization is obtained from the same authorizing authority as specified in 410-122-0040. All subsequent services starting with the third date of service require PA;

(r) An order refill does not have to be approved by the ordering practitioner; however, a client or their caregiver must request specific ongoing PAP supplies and accessories, subject to rule limitations and requirements, before they are dispensed. The DMEPOS provider must not automatically dispense a quantity of supplies and accessories on a predetermined regular basis, even if the client has "authorized" this in advance;

(s) It is the provider's responsibility to monitor appropriate and effective use of the device as ordered by the treating practitioner. When the equipment is not being used as prescribed, the provider must stop billing for the equipment and related accessories and supplies;

(t) For auto-titrating CPAP devices, use HCPCS code E0601;

(u) Products must be coded as published by the Pricing, Data Analysis and Coding (PDAC) Contractor by the Centers for Medicare and Medicaid Services;

(v) For a PAP device dispensed prior to January 1, 2009, if the initial coverage criteria in effect at the time were met and the criteria for coverage after the first three months that were in effect at the time were met, the device will continue to be covered for dates of service on or after January 1, 2009 as long as the client continues to compliantly use the device;

(w) For a client using a PAP device prior to Oregon Health Plan (OHP) enrollment, continuing coverage for the device and related accessories may be authorized on a case-by-case basis by the appropriate authorizing unit;

(x) The following services are not covered:

(A) PAP devices when conditions of coverage as described in this rule are not met;

(B) Unattended auto-CPAP (APAP) as an alternative to technician-titrated CPAP in clients with OSA, or for the treatment of clients with the following conditions:

(i) Central apnea;

(ii) Congestive heart failure;

(iii) Lung disease (e.g., chronic obstructive pulmonary disease);

(iv) Nocturnal O2 desaturation due to conditions other than OSA;

(v) Absence of snoring (either natural or secondary to palatal surgery);

(C) A RAD with backup rate.

(2) Accessories:

(a) Accessories used with a PAP device are covered when the coverage criteria for the device are met;

(b) Accessories are separately reimbursable at the time of initial issue and when replaced;

(c) Either a non-heated (E0561) or heated (E0562) humidifier is covered when ordered by the treating practitioner for use with a covered PAP device (E0470, E0601);

(d) The following represents the usual maximum amount of accessories expected to be medically appropriate:

(A) A4604 — 1 per 3 months;

(B) A7027 — 1 per 3 months;

(C) A7028 — 2 per month;

(D) A7029 — 2 per month;

(E) A7030 — 1 per 3 months;

(F) A7031 — 1 per month;

(G) A7032 — 2 per month;

(H) A7033 — 2 per month;

(I) A7034 — 1 per 3 months;

(J) A7035 — 1 per 6 months;

(K) A7036 — 1 per 6 months;

(L) A7037 — 1 per 3 months;

ADMINISTRATIVE RULES

- (M) A7038 — 2 per month;
 - (N) A7039 — 1 per 6 months;
 - (O) A7046 — 1 per 6 months.
- (3) Guidelines:

(a) Polysomnography is the continuous and simultaneous monitoring and recording of various physiological and pathophysiological parameters of sleep with physician review, interpretation, and report. It must include sleep staging, which is defined to include a 1-4 lead electroencephalogram (EEG), and electro-oculogram (EOG), submental electromyogram (EMG) and an electrocardiogram (ECG). It must also include at least the following additional parameters of sleep: airflow, respiratory effort, and oxygen saturation by oximetry. It may be performed as either a whole night study for diagnosis only or as a split night study to diagnose and initially evaluate treatment;

(b) For the purposes of this rule, polysomnographic studies must be performed in an attended, facility-based sleep study laboratory, and not in the home or in a mobile facility. These labs must be qualified providers of Medicare services and comply with all applicable state regulatory requirements;

(c) Polysomnographic studies must not be performed by a DMEPOS provider;

(d) Apnea is defined as the cessation of airflow for at least 10 seconds documented on a polysomnogram;

(e) Hypopnea is defined as an abnormal respiratory event lasting at least 10 seconds with at least a 30% reduction in thoracoabdominal movement or airflow as compared to baseline, and with at least a 4% decrease in oxygen saturation;

(f) The AHI is defined as the average number of episodes of apnea and hypopnea per hour of sleep without the use of a positive airway pressure device;

(g) The RDI is defined as the average number of apneas plus hypopneas per hour of recording without the use of a positive airway pressure device;

(h) If the AHI or RDI is calculated based on less than two hours of continuous recorded sleep, the total number of recorded events used to calculate the AHI must be at least the number of events that would have been required in a two hour period (i.e., must reach 30 events without symptoms or 10 events with symptoms);

(i) Adherence to therapy is defined as use of PAP four hours or more per night on 70% of nights during a consecutive thirty day period anytime during the first three months of initial usage.

(4) Documentation Requirements:

(a) For PAP device rental:

(A) Initial coverage: Prior to the third date of service, submit the following:

(i) A facility-based polysomnogram report as described in this rule and scored as described in (1)(p) that supports a diagnosis of OSA ;

(ii) For a RAD, specific documentation from the treating practitioner that a CPAP was tried and shown to be ineffective;

(B) For extended rental use of a PAP device beyond the first three months of initial therapy, submit the following documentation no sooner than the 61st day after initiating therapy and prior to the fourth date of service:

(i) Objective evidence of adherence to use of the PAP device, including a summary of PAP compliance report through a direct download of usage data; and

(ii) Phone consultation record by the treating practitioner's medical staff which supports clinical benefit including client tolerance, compliance and efficacy and symptoms of OSA are improved; or

(iii) When objective data does not support compliance and efficacy, a face-to-face visit with the treating practitioner clearly specifying a treatment plan with measurable goals to improve adherence to treatment;

(b) For PAP device purchase: Submit the following:

(A) A facility-based polysomnogram report as described in this rule and scored as described in (1)(p) that supports a diagnosis of OSA; and

(B) After the initial three month trial period:

(i) Objective evidence of adherence to use of the PAP device, including a summary of PAP compliance report through a direct download of usage data; and

(ii) Phone consultation record by the treating practitioner's medical staff which supports clinical benefit including client tolerance, compliance and efficacy and symptoms of OSA are improved; or

(iii) When objective data does not support compliance and efficacy, a face-to-face visit with the treating practitioner clearly specifying a treatment plan with measurable goals to improve adherence to treatment;

(C) Any other medical documentation that supports indications of coverage;

(c) If a CPAP device was used more than three months and the client is switched to a RAD, documentation of adherence to therapy must be submitted during the three month trial with the RAD;

(d) For a client using a PAP device prior to OHP enrollment, submit the following:

(A) Documentation of clinical benefit including client tolerance, compliance and efficacy and that symptoms of OSA are improved from the client's treating practitioner; and

(B) A facility-based polysomnogram report as described in this rule that supports a diagnosis of OSA, if available.

(5) Table 122-0202 – PAP Devices

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

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 46-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 76-2004, f. 9-30-04, cert. ef. 10-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 44-2008(Temp), f. 12-17-08, cert. ef. 1-1-09 thru 6-15-09; DMAP 11-2009, f. & cert. ef. 6-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0203 Oxygen and Oxygen Equipment

Unless stated otherwise within this rule, this rule is retroactive and applies to services rendered on or after January 1, 2009. Prior authorization (PA) requirements referenced in Table 122-0203-2 are effective January 1, 2010.

(1) Indications and limitations of coverage and medical appropriateness - the Division may cover home oxygen therapy services. Refer to Table 122-0203-1 and the following guidelines:

(a) For children under age 19 when the treating practitioner has determined oxygen services to be medically appropriate; or

(b) For adults age 19 years of age and older who are fully dual-eligible clients (Medicare clients who are also eligible for Medicaid/Oregon Health Plan (OHP)); See definition in General Rules, OAR 410-120-0000), the Division of Medical Assistance Programs (Division) may cover oxygen services as follows:

(A) If Medicare paid on the claim for the oxygen equipment, the Division may provide reimbursement;

(B) If Medicare denied payment on the claim for the oxygen equipment, the Division will not provide reimbursement in accordance with Medicare rules and regulations;

(C) Refer to the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Supplemental Information for additional details on Medicare's reimbursement limitation of 36 monthly rental payments;

(c) For adults 19 years of age and older who are not eligible for Medicare (only eligible for Medicaid/OHP), PA is required effective January 1, 2010 and all of the following conditions must be met:

(A) The treating practitioner has determined that the client has a severe lung disease or hypoxia-related symptoms that might be expected to improve with oxygen therapy;

(B) The client's blood gas study meets the criteria stated below;

(C) The qualifying blood gas study was performed by a physician or by a qualified provider or supplier of laboratory services;

(D) The qualifying blood gas study was obtained under the following conditions:

(i) If the qualifying blood gas study is performed during an inpatient hospital stay, the reported test must be the one obtained closest to, but no earlier than two days prior to the hospital discharge date; or

(ii) If the qualifying blood gas study is not performed during an inpatient hospital stay, the reported test must be performed while the client is in a chronic stable state – i.e., not during a period of acute illness or an exacerbation of their underlying disease;

(E) Alternative treatment measures have been tried or considered and deemed clinically ineffective;

(d) Group I coverage duration and indications:

(A) Initial coverage for clients meeting Group I criteria is limited to 12 months or the practitioner-specified length of need, whichever is shorter. See information on recertification in section 3(g) and (6);

(B) Group I criteria include any of the following:

(i) An arterial partial pressure of oxygen (PO2) at or below 55 mm Hg or an arterial oxygen saturation at or below 88 percent taken at rest (awake);

ADMINISTRATIVE RULES

(ii) An arterial PO₂ at or below 55 mm Hg, or an arterial oxygen saturation at or below 88 percent, for at least 5 minutes taken during sleep for a client who demonstrates an arterial PO₂ at or above 56 mm Hg or an arterial oxygen saturation at or above 89 percent while awake;

(iii) A decrease in arterial PO₂ more than 10 mm Hg, or a decrease in arterial oxygen saturation more than 5 percent, for at least five minutes taken during sleep associated with symptoms (e.g., impairment of cognitive processes and [nocturnal restlessness or insomnia]) or signs (e.g., cor pulmonale, "P" pulmonale on EKG, documented pulmonary hypertension and erythrocytosis) reasonably attributable to hypoxemia;

(iv) An arterial PO₂ at or below 55 mm Hg or an arterial oxygen saturation at or below 88 percent, taken during exercise for a client who demonstrates an arterial PO₂ at or above 56 mm Hg or an arterial oxygen saturation at or above 89 percent during the day while at rest. In this case, oxygen is provided for during exercise if it is documented that the use of oxygen improves the hypoxemia that was demonstrated during exercise when the client was breathing room air;

(e) Group II coverage duration and indications:

(A) Initial coverage for clients meeting Group II criteria is limited to three months or the practitioner-specified length of need, whichever is shorter. See information on recertification in section 3(g) and (6);

(B) Group II criteria include the presence of an arterial PO₂ of 56-59 mm Hg or an arterial blood oxygen saturation of 89 percent at rest (awake), during sleep for at least five minutes, or during exercise (as described under Group I criteria) and any of the following:

(i) Dependent edema suggesting congestive heart failure;

(ii) Pulmonary hypertension or cor pulmonale, determined by measurement of pulmonary artery pressure; gated blood pool scan, echocardiogram, or "P" pulmonale on EKG (P wave greater than 3 mm in standard leads II, III, or AVF);

(iii) Erythrocythemia with a hematocrit greater than 56 percent;

(f) Group III indications include a presumption of non-coverage. Criteria include arterial PO₂ levels at or above 60 mm Hg or arterial blood oxygen saturations at or above 90 percent;

(g) For all the sleep oximetry criteria, the five minutes does not have to be continuous;

(h) When both arterial blood gas (ABG) and oximetry tests have been performed on the same day under the same conditions (i.e., at rest/awake, during exercise, or during sleep), the ABG result will be used to determine if the coverage criteria were met;

(i) If an ABG test at rest/awake is nonqualifying, but an exercise or sleep oximetry test on the same day is qualifying, the oximetry test result will determine coverage;

(j) Oxygen therapy and related services, equipment or supplies are not covered for any of the following:

(A) Angina pectoris in the absence of hypoxemia. This condition is generally not the result of a low oxygen level in the blood and there are other preferred treatments;

(B) Dyspnea without cor pulmonale or evidence of hypoxemia;

(C) Severe peripheral vascular disease resulting in clinically evident desaturation in one or more extremities but in the absence of systemic hypoxemia. There is no evidence that increased PO₂ will improve the oxygenation of tissues with impaired circulation;

(D) Terminal illnesses that do not affect the respiratory system;

(E) Group III clients;

(F) Emergency or stand-by oxygen systems for clients who are not regularly using oxygen since these services are precautionary and not therapeutic in nature;

(G) Topical hyperbaric oxygen chambers (A4575);

(H) When furnished by an airline (responsibility of the client);

(I) When provided/used outside the United States and its territories.

(2) Testing Specifications:

(a) The term blood gas study in this policy refers to either an ABG test or an oximetry test:

(A) An ABG is the direct measurement of the PO₂ on a sample of arterial blood. The PO₂ is reported as mm Hg.

(B) An oximetry test is the indirect measurement of arterial oxygen saturation using a sensor on the ear or finger. The saturation is reported as a percent;

(b) The qualifying blood gas study must be one that complies with the Fiscal Intermediary, Local Carrier, or A/B Medicare Administrative Contractor (MAC) policy on the standards for conducting the test and is covered under Medicare Part A or Part B;

(c) The test must be performed by a qualified provider (a laboratory, a physician, etc.):

(A) A DMEPOS provider is not considered a qualified provider or a qualified laboratory for purposes of this policy;

(B) DMAP will not accept blood gas studies either performed or paid for by a DMEPOS provider;

(C) This prohibition does not extend to blood gas studies performed by a hospital certified to do such tests;

(d) When oxygen is covered based on an oxygen study obtained during exercise, documentation of three oxygen studies performed within the same testing session in the client's medical record is required:

(A) Testing at rest without oxygen;

(B) Testing during exercise without oxygen; and

(C) Testing during exercise with oxygen applied, to demonstrate the improvement of the hypoxemia;

(e) Only the qualifying test value (i.e., testing during exercise without oxygen) is reported on the Certificate of Medical Necessity (CMN). The other results do not have to be routinely submitted but must be available on request;

(f) The qualifying blood gas study may be performed while the client is on oxygen as long as the reported blood gas values meet the Group I or Group II criteria.

(3) Certification:

(a) A completed and signed CMN is required to receive payment for oxygen;

(b) The blood gas study must be the most recent study obtained within 30 days prior to the initial date, indicated in Section A of the CMN;

(c) There is an exception to the 30-day test requirement for clients who were started on oxygen while enrolled in a Division health maintenance organization (HMO) and transition to fee-for-service. For those clients, the blood gas study does not have to be obtained 30 days prior to the Initial Date, but must be the most recent qualifying test obtained while in the HMO;

(d) The client must be seen and evaluated by the treating practitioner within 30 days prior to the date of Initial Certification;

(e) Initial CMN is required for any of the following situations:

(A) With the first claim to the Division for home oxygen, (even if the client was on oxygen prior to becoming eligible for Division coverage);

(B) When there has been a change in the client's condition that has caused a break in medical necessity of at least 60 days plus whatever days remain in the rental month during which the need for oxygen ended;

(C) When an initial CMN does not meet coverage criteria and the client was subsequently retested and meets coverage criteria;

(D) When a Group I client with a length of need less than or equal to 12 months was not retested prior to a revised certification/recertification, but a qualifying study was subsequently performed;

(E) When the client initially qualified in Group II, repeat blood gas studies were not performed between the 61st and 90th day of coverage, but a qualifying study was subsequently performed;

(F) When there was a change of DMEPOS provider due to an acquisition and the previous provider did not file a recertification when it was due and the requirements for the recertification were not met when it was due;

(G) When the equipment is replaced in the following situations:

(i) The reasonable useful lifetime of prior equipment has been reached; or

(ii) Irreparable damage, theft or loss of the originally dispensed equipment:

(I) Irreparable damage refers to a specific accident or a natural disaster (e.g., fire, flood); and

(II) Irreparable damage does not refer to wear and tear over time;

(f) For initial CMN of replacement equipment described in (3)(e)(G):

(A) Repeat blood gas testing is not required. Enter the most recent qualifying value and test date. This test does not have to be within 30 days prior to the Initial Date. It could be the test result reported on the most recent prior CMN;

(B) There is no requirement for a practitioner visit that is specifically related to the completion of the CMN for replacement equipment;

(g) Recertification CMN is required in the following situations:

(A) Group I — 12 months after initial certification (i.e., with the thirteenth month's claim);

(B) Group II — 3 months after initial certification (i.e., with the fourth month's claim);

(C) Recertification following initial certification done in section (3)(e)(A & B):

ADMINISTRATIVE RULES

(i) For clients initially meeting Group I criteria, the most recent qualifying blood gas study prior to the thirteenth month of therapy must be reported on the recertification CMN;

(ii) For clients initially meeting Group II criteria, the most recent blood gas study that was performed between the 61st and 90th day following initial certification must be reported on the recertification CMN. If a qualifying test is not obtained between the 61st and 90th day of home oxygen therapy but the client continues to use oxygen and a test is obtained at a later date, if that test meets Group I or II criteria, coverage would resume beginning with the date of that test;

(iii) For clients initially meeting Group I or II criteria, the client must be seen and re-evaluated by the treating practitioner 90 days prior to the date of any recertification. If the practitioner visit is not obtained within the 90-day window but the client continues to use oxygen and the visit is obtained at a later date, coverage would resume beginning with the date of that visit;

(h) Recertification following replacement equipment described in (3)(e)(G):

(A) Repeat testing is not required. Enter the most recent qualifying value and test date. This test does not have to be within 30 days prior to the Initial Date. It could be the test result reported on the most recent prior CMN;

(B) There is no requirement for a practitioner visit that is specifically related to the completion of the CMN for replacement equipment;

(i) The DMEPOS provider must submit a revised CMN in the following circumstances. The Division does not require a practitioner visit in these situations. Submission of a revised CMN does not change the recertification schedule specified elsewhere:

(A) When the prescribed maximum flow rate changes from one of the following categories to another. In this situation, the blood gas study must be the most recent study obtained within 30 days prior to the initial date:

- (i) Less than 1 liter per minute (LPM);
- (ii) 1-4 LPM;
- (iii) Greater than 4 LPM;

(B) If the change is from less than 1 LPM or 1-4 LPM to greater than 4 LPM, a repeat blood gas study with the client on 4 LPM must be performed within 30 days prior to the start of the greater than 4 LPM flow. In this situation, the blood gas study must be the most recent study obtained within 30 days prior to the initial date;

(C) When the length of need expires – if the practitioner-specified less than lifetime length of need on the most recent CMN. In this situation, the blood gas study must be the most recent study obtained within 30 days prior to the initial date;

(D) When a portable oxygen system is added subsequent to initial certification of a stationary system. In this situation, the Division does not require a repeat blood gas study unless the initial qualifying study was performed during sleep, in which case a repeat study must be performed while the client is awake or during exercise (within 30 days of revised date);

(E) When a stationary system is added subsequent to initial certification of a portable system. In this situation, the Division does not require a repeat blood gas study. A revised CMN does not need to be submitted with claims but must be kept on file by DMEPOS provider;

(F) When there is a new treating practitioner but the oxygen order is the same. In this situation, the Division does not require a repeat blood gas study. The revised certification does not have to be submitted with the claim;

(G) If there is a new DMEPOS provider and that provider does not have the prior CMN. In this situation, the Division does not require a repeat blood gas study. The revised certification does not have to be submitted with the claim;

(H) If the indications for a revised CMN are met at the same time that a recertification CMN is due, file the CMN as a recertification CMN.

(4) Portable Oxygen Systems:

(a) A portable oxygen system may be covered if the client is mobile within the home and the qualifying blood gas study was performed while at rest (awake) or during exercise. If the only qualifying blood gas study was performed during sleep, portable oxygen is not covered;

(b) If coverage criteria are met, a portable oxygen system is usually separately payable in addition to the stationary system. See exception in (5) below;

(c) If a portable oxygen system is covered, the DMEPOS provider must provide whatever quantity of oxygen the client uses; the reimbursement is the same, regardless of the quantity of oxygen dispensed.

(5) Liter flow greater than 4 LPM:

(a) The Division will pay a higher allowance for a stationary system for a flow rate of greater than 4 LPM only when:

(A) Basic oxygen coverage criteria have been met; and

(B) A blood gas study performed while the client is on 4 LPM meets Group I or II criteria;

(b) Payment is limited to the standard fee schedule allowance if a flow rate greater than 4 LPM is billed and the coverage criteria for the higher allowance are not met;

(c) If a client qualifies for additional payment for greater than 4 LPM of oxygen and also meets the requirements for portable oxygen:

(A) The Division will pay for either the stationary system (at the higher allowance) or the portable system (at the standard fee schedule allowance for a portable system), but not both;

(B) In this situation, if both a stationary system and a portable system are requested for the same rental month, the Division will not cover the portable oxygen system.

(6) Documentation Requirements: The DMEPOS provider must submit documentation which supports conditions of coverage as specified in this rule are met:

(a) A CMN which has been completed, signed, and dated by the treating practitioner:

(A) The CMN may act as a substitute for a written order if it is sufficiently detailed;

(B) The CMN for home oxygen is CMS Form 484 (DME form 484.03). Section B (order information), must be completed by the physician or the practitioner, not the DMEPOS provider. The DMEPOS provider may use Section C for a written confirmation of other details of the oxygen order, or the practitioner can enter the other details directly, such as the means of oxygen delivery (cannula, mask, etc.) and the specifics of varying oxygen flow rates and/or non-continuous use of oxygen;

(C) The ABG PO₂ must be reported on the CMN if both an arterial blood gas and oximetry test were performed on the same day under the condition reported on the CMN (i.e., at rest/awake, during exercise, or during sleep);

(D) A report of the sleep study documenting the qualifying desaturation for clients who qualify for oxygen based only on a sleep oximetry study. The oxygen saturation value reported in question 1b of the Oxygen CMN must be the lowest value (not related to artifact) during the five minute qualifying period reported on the sleep oximetry study;

(b) The treating practitioner's signed and dated order for each item billed. Items billed before a signed and dated order has been received by the DMEPOS provider must be submitted with an EY modifier added to each affected Healthcare Common Procedure Coding System (HCPCS) code;

(c) The following special instructions apply to replacement equipment for those situations described in (3)(e)(G):

(A) Initial date should be the date that the replacement equipment is initially needed. This is generally understood to be the date of delivery of the oxygen equipment;

(B) The recertification date should be 12 months following the initial date when the value on the initial CMN (for the replacement equipment) meets Group I criteria or 3 months following the initial date when the qualifying blood gas value on the initial CMN meets the Group II criteria (**Note:** The initial date should also be entered on the recertification CMN.);

(C) Claims for the initial rental month (and only the initial rental month) must have the RA modifier (Replacement of DME item) added to the HCPCS code for the equipment when there is replacement due to reasonable useful lifetime or replacement due to damage, theft, or loss;

(D) Claims for the initial rental month must include a narrative explanation of the reason why the equipment was replaced and supporting documentation must be maintained in the DMEPOS provider's files;

(d) In the following situations, a new order must be obtained and kept on file by the DMEPOS provider, but neither a new CMN nor a repeat blood gas study are required:

(A) Prescribed maximum flow rate changes but remains within one of the following:

- (i) Less than 1 LPM;
- (ii) 1-4 LPM;
- (iii) Greater than 4 LPM;

(B) Change from one type of stationary system to another (i.e., concentrator, liquid, gaseous);

(C) Change from one type of portable system to another (i.e., gaseous or liquid tanks, portable concentrator, transfilling system).

(7) Oxygen contents:

(a) The Division allowance for rented oxygen systems includes oxygen contents;

ADMINISTRATIVE RULES

(b) Stationary oxygen contents (E0441, E0442) are separately payable only when the coverage criteria for home oxygen have been met and they are used with a client-owned stationary gaseous or liquid system respectively;

(c) Portable contents (E0443, E0444) are separately payable only when the coverage criteria for home oxygen have been met and:

(A) The client owns a concentrator and rents or owns a portable system; or

(B) The client rents or owns a portable system and has no stationary system (concentrator, gaseous, or liquid);

(C) If the criteria for separate payment of contents are met, they are separately payable regardless of the date that the stationary or portable system was purchased;

(d) Refer to **Table 122-0203-2** for oxygen contents that may be reimbursable for dual-eligible clients.

(8) Oxygen accessory items:

(a) The allowance for rented systems includes, but is not limited to, the following accessories:

(A) Transtracheal catheters (A4608);

(B) Cannulas (A4615);

(C) Tubing (A4616);

(D) Mouthpieces (A4617);

(E) Face tent (A4619);

(F) Masks (A4620, A7525);

(G) Oxygen tent (E0455);

(H) Humidifiers (E0550, E0555, E0560);

(I) Nebulizer for humidification (E0580);

(J) Regulators (E1353);

(K) Stand/rack (E1355);

(b) The DMEPOS provider must provide any accessory ordered by the practitioner;

(c) Accessories are separately payable only when they are used with a client-owned system that was purchased prior to June 1, 1989. The Division does not cover accessories used with a client-owned system that was purchased on or after June 1, 1989.

(9) Billing for miscellaneous oxygen items:

(a) Only rented oxygen systems (E0424, E0431, E0434, E0439, E1390RR, E1405 RR, E1406RR, E1392RR) are considered for coverage;

(b) For gaseous or liquid oxygen systems or contents, report one unit of service for one month rental. Do not report in cubic feet or pounds;

(c) Use the appropriate modifier if the prescribed flow rate is less than 1 LPM (QE) or greater than 4 LPM (QF or QG). DMAP only accepts these modifiers with stationary gaseous (E0424) or liquid (E0439) systems or with an oxygen concentrator (E1390, E1391). Do not use these modifiers with codes for portable systems or oxygen contents;

(d) Use Code E1391 (oxygen concentrator, dual delivery port) in situations in which two clients are both using the same concentrator. In this situation, this code must only be requested for one of the clients;

(e) For E1405 and E1406 (oxygen and water vapor enriching systems), products must be coded as published by the Pricing, Data Analysis and Coding (PDAC) Contractor by the Centers for Medicare and Medicaid Services; (f) Code E1392 describes a portable oxygen concentrator system. Use E1392 when billing the Division for the portable equipment add-on fee for clients using lightweight oxygen concentrators that can function as both the client's stationary equipment and portable equipment. A portable concentrator:

(A) Weighs less than 10 pounds;

(B) Is capable of delivering 85 percent or greater oxygen concentration; and

(C) Is capable of providing at least two hours of remote portability at a 2 LPM order equivalency;

(g) Contact the PDAC for guidance on the correct coding of these items.

(10) **Table 122-0203-1**, Oxygen and Oxygen Equipment.

(11) **Table 122-0203-2**, Oxygen Contents.

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

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 76-2003, f. & cert. ef. 10-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 40-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0205

Respiratory Assist Devices

(1) As referenced in this policy, non-invasive positive pressure respiratory assistance (NPPRA) is the administration of positive air pressure, using a nasal and/or oral mask interface which creates a seal, avoiding the use of more invasive airway access (e.g., tracheostomy).

(2) Indications and Coverage — General:

(a) The “treating prescribing practitioner” must be one who is qualified by virtue of experience and training in non-invasive respiratory assistance, to order and monitor the use of respiratory assist devices (RAD);

(b) For the purpose of this policy, polysomnographic studies must be performed in a sleep study laboratory, and not in the home or in a mobile facility. The sleep study laboratory must comply with all applicable state regulatory requirements;

(c) For the purpose of this policy, arterial blood gas, sleep oximetry and polysomnographic studies may not be performed by a durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) provider. For purposes of this policy's coverage and payment guidelines, a DMEPOS provider is not considered a qualified provider or supplier of these tests;

(d) If there is discontinuation of usage of E0470 or E0471 device at any time, the provider is expected to ascertain this, and stop billing for the equipment and related accessories and supplies.

(3) Coverage criteria for E0470 and E0471 devices – Table 122-0205-1.

(4) Documentation:

(a) The following documentation must be submitted with the request for prior authorization (PA) and the original kept on file by the provider:

(A) An order for all equipment and accessories including the client's diagnosis, an ICD-9-CM code signed and dated by the treating prescribing practitioner;

(B) Summary of events from the polysomnogram, if required in this rule under the indications and coverage section or Table 122-0205-1;

(C) Arterial blood gas results, if required under the indications and coverage section or Table 122-0205-1;

(D) Sleep oximetry results, if required under the indications and coverage section or Table 122-0205-1;

(E) Treating prescribing practitioner statement regarding medical symptoms characteristic of sleep-associated hypoventilation, including, but not limited to daytime hypersomnolence, excessive fatigue, morning headache, cognitive dysfunction, and dyspnea;

(F) Other treatments that have been tried and failed. To be submitted in addition to the above at the fourth month review;

(b) A copy of the Evaluation of Respiratory Assist Device (DMAP 2461) completed and signed by the client, family member or caregiver;

(c) Clients currently using BiPapS and BiPap ST are not subject to the new criteria.

(5) **Table 122-0205-1**, Respiratory Assist Devices.

(6) **Table 122-0205-2**, Procedure Codes.

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

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 15-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0207

Respiratory Supplies

Table 122-0207.

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

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0208

Suction Pumps

(1) Indications and Limitations of Coverage:

(a) Use of a home model respiratory suction pump may be covered for a client who has difficulty raising and clearing secretions secondary to:

(A) Cancer or surgery of the throat or mouth; or

(B) Dysfunction of the swallowing muscles; or

(C) Unconsciousness or obtunded state; or

(D) Tracheostomy; or

ADMINISTRATIVE RULES

(E) Neuromuscular conditions;

(b) When a respiratory suction pump (E0600) is covered, tracheal suction catheters are separately payable supplies. In most cases, in the home setting, sterile catheters are medically appropriate only for tracheostomy suctioning. Three suction catheters per day are covered for medically appropriate tracheostomy suctioning, unless additional documentation is provided. When a tracheal suction catheter is used in the oropharynx, which is not sterile, the catheter can be reused if properly cleaned and/or disinfected. In this situation, the medical appropriateness for more than three catheters per week requires additional documentation;

(c) Sterile saline solution (A4216, A4217) may be covered and separately payable when used to clear a suction catheter after tracheostomy suctioning. It is not usually medically appropriate for oropharyngeal suctioning. Saline used for tracheal lavage is not covered;

(d) Supplies (A4628) are covered and are separately payable when they are medically appropriate and used with a medically appropriate suction pump (E0600) in a covered setting;

(e) When a suction pump (E0600) is used for tracheal suctioning, other supplies (e.g., cups, basins, gloves, solutions, etc.) are included in the tracheal care kit code, A4625—(see OAR 410-122-0209 for details). When a suction pump is used for oropharyngeal suctioning, these other supplies are not medically appropriate;

(f) The suction device must be appropriate for home use without technical or professional supervision. Those using the suction apparatus must be sufficiently trained to adequately, appropriately and safely use the device.

(2) A client's medical record must reflect the need for the supplies dispensed and billed. The medical record must be kept on file by the durable medical equipment (DME) provider and made available to the Division of Medical Assistance Programs (Division) upon request.

(3) A portable or stationary home model respiratory suction pump (E0600) is an electric aspirator designed for oropharyngeal and tracheal suction.

(4) A portable or stationary home model gastric suction pump (E2000) is an electric aspirator designed to remove gastrointestinal secretions.

(5) A tracheal suction catheter is a long, flexible catheter.

(6) An oropharyngeal catheter is a short, rigid (usually) plastic catheter of durable construction.

(7) Code E0600 must not be used for a suction pump used with gastrointestinal tubes.

(8) Code E2000 must be used for a suction pump used with gastrointestinal tubes.

(9) Providers should contact the Medicare Pricing, Data Analysis and Coding (PDAC) contractor for guidance on the correct coding of these items.

(10) When billing for quantities of supplies greater than those described in the policy as the usual maximum amounts, there must be clear documentation in the client's medical records corroborating the medical appropriateness for the higher utilization. The Division may request copies of the client's medical records that corroborate the order and any additional documentation that pertains to the medical appropriateness of items and quantities billed.

(11) **Table 122-0208, Suction Pumps.**

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

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 76-2003, f. & cert. ef. 10-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 15-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0210

Ventilators

(1) Indications and limitations of coverage:

(a) Mechanical ventilatory support may be provided to a client for the purpose of life support during therapeutic support of suboptimal cardiopulmonary function, or therapeutic support of chronic ventilatory failure;

(b) A ventilator may be covered by the Division of Medical Assistance Programs (Division) for treatment of neuromuscular diseases, thoracic restrictive diseases, and chronic respiratory failure consequent to chronic obstructive pulmonary disease. This includes both positive and negative pressure types;

(c) A ventilator for pediatric home ventilator management may be covered on a case-by-case basis based on medical appropriateness, evidence-based medicine and best health practices.

(2) Primary Ventilators:

(a) A primary ventilator may be covered if supporting documentation indicates:

(A) A client is unable to be weaned from the ventilator or is unable to be weaned from use at night; or

(B) Alternate means of ventilation were used without success; or

(C) A client is ready for discharge and has been on a ventilator more than 10 days;

(b) E0450, E0460, E0461 or E0472 may be covered if:

(A) A client has no respiratory drive either due to paralysis of the diaphragm or a central brain dysfunction; or

(B) A client has a stable, chronic condition with no orders to wean from the ventilator; or

(C) A client has had a trial with blood gases and has no signs or symptoms of shortness of breath or increased work of breathing; or

(D) A client has uncompromised lung disease;

(c) E0463 or E0464 may be covered if supporting documentation indicates:

(A) A client has chronic lung disease where volume ventilation may further damage lung tissue; or

(B) A client has a compromised airway or musculature and has respiratory drive and a desire to breathe; or

(C) A client will eventually be weaned from the ventilator; or

(D) A client has compromised respiratory muscles from muscular dystrophies or increased resistance from airway anomalies or scoliosis conditions.

(3) Secondary Ventilators:

(a) A secondary ventilator, identical or similar to the primary ventilator, may be covered when necessary to serve a different medical need of a client;

(b) For example (not all-inclusive), a secondary ventilator may be covered when:

(A) A client requires one type of ventilator (e.g., a negative pressure ventilator with a chest shell) for part of the day and needs a different type of ventilator (e.g., positive pressure respiratory assist device with a nasal mask) during the rest of the day; or

(B) A client is confined to a wheelchair who requires a ventilator permanently mounted on the wheelchair for use during the day and needs another ventilator of the same type for use while in bed.

(4) Reimbursement Rates:

(a) Reimbursement rates for ventilators are calculated based on consideration that break down or malfunction of a ventilator could result in immediate life-threatening consequences for a client. Therefore ventilators are reimbursed on a monthly rental payment for as long as the equipment is medically appropriate;

(b) Payment includes:

(A) The durable medical equipment (DME) provider ensuring that an appropriate and acceptable contingency plan to address emergency situations or mechanical failures of the primary ventilator is in place. This could mean that the provider furnishes a backup ventilator;

(B) Any equipment, supplies, services, including respiratory therapy (respiratory care) services, routine maintenance and training necessary for the effective use of the ventilator;

(c) Secondary Ventilators: The maximum reimbursement rate is one-half the maximum allowable fee for the primary ventilator.

(5) The client must have a telephone or reasonable access to one.

(6) A backup ventilator provided as a precautionary measure for emergency situations in which the primary ventilator malfunctions is not separately payable by the Division.

(7) Prior authorization (PA):

(a) PA is not required when E0450, E0460, E0461, E0463, E0464 or E0472 is dispensed as the primary ventilator. The provider is responsible to ensure all rule requirements are met;

(b) PA is required for a secondary ventilator:

(A) Payment authorization is required prior to the second date of service and before submitting claims. See Oregon Administrative Rule (OAR) 410-120-0000 (General Rules);

(B) Payment authorization will be given once all required documentation has been received and any other applicable rules and criteria have been met; and

(C) Payment authorization is obtained from the same authorizing authority as specified in OAR 410-122-0040.

(8) Documentation Requirements:

(a) For services requiring payment authorization or PA, submit documentation that supports coverage criteria in this rule are met;

ADMINISTRATIVE RULES

(b) Documentation that coverage criteria has been met must be present in the client's medical records, kept on file with the DME provider and made available to the Division on request. **Table 122-0210**

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

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

Stats. Implemented: ORS 414.065

Hist.: HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 76-2004, f. 9-30-04, cert. ef. 10-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0211

Cough Stimulating Device

(1) Indications and Limitations of Coverage and Medical Appropriateness: The Division of Medical Assistance Programs (Division) may cover a cough stimulating device, alternating positive and negative airway pressure for a client who meets the following criteria:

(a) The client has been diagnosed with a neuromuscular disease as identified by one of the following diagnosis codes:

(A) 138 — Late effects of acute poliomyelitis;

(B) 277.00 — 277.09 — Cystic fibrosis;

(C) 335.0 — 335.9 — Werdnig-Hoffmann disease — anterior horn cell disease unspecified;

(D) 340 — 344.09 — Multiple sclerosis — quadriplegia and quadriparesis;

(E) 358.00 — 359.9 — Myoneural disorders;

(F) 519.4 — Disorders of diaphragm;

(G) 805.00 — 806.39 — Fracture of vertebral column, cervical or dorsal (thoracic);

(H) 907.2 — Late effect of spinal cord injury;

(I) 907.3 — Late effect of injury to nerve root(s), spinal plexus(es) and other nerves of trunk;

(J) 952.00 — 952.19 — Spinal cord injury without evidence of spinal bone injury, cervical or dorsal, (thoracic); and

(b) Standard treatment such as chest physiotherapy (e.g., chest percussion and postural drainage, etc.) has been tried and documentation supports why these modalities were not successful in adequately mobilizing retained secretions; or

(c) Standard treatment such as chest physiotherapy (e.g., chest percussion and postural drainage, etc.) is contraindicated and documentation supports why these modalities were ruled out; and

(d) The condition is causing a significant impairment of chest wall or diaphragmatic movement, such that it results in an inability to clear retained secretions.

(2) Procedure Code:

(a) E0482 (cough stimulating device, alternating positive and negative airway pressure) — prior authorization required;

(b) The Division will purchase or rent on a monthly basis (limited to the lowest cost alternative);

(c) E0482 is considered purchased after no more than 10 months of rent;

(d) E0482 may be covered for a client residing in a nursing facility;

(e) The fee includes all equipment, supplies, services, routine maintenance and necessary training for the effective use of the device.

(3) Documentation Requirements: Submit specific documentation from the treating practitioner which supports coverage criteria in this rule are met and may include, but is not limited to, evidence of any of the following:

(a) Poor, ineffective cough;

(b) Compromised respiratory muscles from muscular dystrophies or scoliosis;

(c) Diaphragmatic paralysis;

(d) Frequent hospitalizations or emergency department/urgent care visits due to pneumonias.

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

Stats. Implemented: ORS 414.065

Hist.: DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0280

Heating/Cooling Accessories

Procedure Codes for Heating/Cooling Accessories: Table 122-0280.

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

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

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 9-1993 f. & cert. ef. 4-1-93; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0325

Motorized/Power Wheelchair Base

(1) Indications and limitations of coverage and medical appropriateness:

(a) The Division of Medical Assistance Programs (Division) may cover a power wheelchair (PWC) (K0813-K0816, K0820-K0829, K0835-K0843, K0848-K0864, K0898) when all of the following criteria are met:

(A) The client has a mobility limitation that significantly impairs their ability to accomplish mobility-related activities of daily living (MRADLs); places the client at reasonably determined heightened risk of morbidity or mortality secondary to the attempts to perform an MRADL; or the client is unable to sustain safely the performance of MRADLs throughout the course of a regular day. See OAR 410-122-0010, Definitions, for complete definition of MRADLs;

(B) An appropriately fitted cane or walker cannot sufficiently resolve the client's mobility limitation;

(C) The client does not have sufficient upper extremity function to self-propel an optimally-configured manual wheelchair in the home to perform MRADLs during a typical day:

(i) Assessment of upper extremity function should consider limitations of strength, endurance, range of motion or coordination, presence of pain, and deformity or absence of one or both upper extremities;

(ii) An optimally-configured manual wheelchair is one with an appropriate wheelbase, device weight, seating options, and other appropriate non-powered accessories;

(D) The client's home provides adequate maneuvering space, maneuvering surfaces, and access between rooms for the operation of the PWC that is being requested;

(E) Use of a PWC will significantly improve the client's ability to move within the home to the areas customarily used for their MRADLs to allow completion of these activities within a reasonable time frame;

(F) The client is willing to use the requested PWC in the home, and the client will use it on a regular basis in the home;

(G) The client has either:

(i) Strength, postural stability, or other physical or mental capabilities insufficient to safely operate a power-operated vehicle (POV) in the home; or

(ii) Living quarters that do not provide adequate access between rooms, maneuvering space, and surfaces for the operation of a POV with a small turning radius;

(H) The client has either:

(i) Sufficient mental and physical capabilities to safely operate the PWC that is being requested; or

(ii) A caregiver who is unable to adequately propel an optimally configured manual wheelchair, but is available, willing, and able to safely operate the PWC that is being requested;

(I) The client's weight is less than or equal to the weight capacity of the PWC that is being requested;

(b) Only when conditions of coverage as specified in (1) (a) of this rule are met, may the Division authorize a PWC for any of the following situations:

(A) When the PWC can be reasonably expected to improve the client's ability to complete MRADLs by compensating for other limitations in addition to mobility deficits, and the client is compliant with treatment:

(i) Besides MRADLs deficits, when other limitations exist, and these limitations can be ameliorated or compensated sufficiently such that the additional provision of a PWC will be reasonably expected to significantly improve the client's ability to perform or obtain assistance to participate in MRADLs in the home, a PWC may be considered for coverage;

(ii) If the amelioration or compensation requires the client's compliance with treatment, for example medications or therapy, substantive non-compliance, whether willing or involuntary, can be grounds for denial of PWC coverage if it results in the client continuing to have a significant limitation. It may be determined that partial compliance results in adequate amelioration or compensation for the appropriate use of a PWC;

(B) When a client's current wheelchair is no longer medically appropriate, or repair and/or modifications to the wheelchair exceed replacement costs;

(C) When a covered client-owned wheelchair is in need of repair, the Division may pay for one month's rental of a wheelchair (see OAR 410-122-0184 Repairs, Maintenance, Replacement, Delivery and Dispensing);

ADMINISTRATIVE RULES

(c) For a PWC to be covered, the treating physician or nurse practitioner must conduct a face-to-face examination of the client before writing the order and the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider must receive a written report of this examination within 45 days after the face-to-face examination and prior to delivery of the device:

(A) When this examination is performed during a hospital or nursing facility stay, the DMEPOS provider must receive the report of the examination within 45 days after date of discharge;

(B) The physician or nurse practitioner may refer the client to a licensed/certified medical professional, such as a physical therapist (PT) or occupational therapist (OT), to perform part of this face-to-face examination. This person may not be an employee of the DMEPOS provider or have any direct or indirect financial relationship, agreement or contract with the DMEPOS provider. When the DMEPOS provider is owned by a hospital, a PT/OT working in the inpatient or outpatient hospital setting may perform part of the face-to-face examination;

(i) If the client was referred to the PT/OT before being seen by the physician or nurse practitioner, then once the physician or nurse practitioner has received and reviewed the written report of this examination, the physician or nurse practitioner must see the client and perform any additional examination that is needed. The physician's or nurse practitioner's report of the visit should state concurrence or any disagreement with the PT/OT examination. In this situation, the physician or nurse practitioner must provide the DMEPOS provider with a copy of both examinations within 45 days of the face-to-face examination with the physician or nurse practitioner;

(ii) If the physician or nurse practitioner examined the client before referring the client to a PT/OT, then again in person after receiving the report of the PT/OT examination, the 45-day period begins on the date of that second physician or nurse practitioner visit. However, it is also acceptable for the physician or nurse practitioner to review the written report of the PT/OT examination, to sign and date that report, and to state concurrence or any disagreement with that examination. In this situation, the physician or nurse practitioner must send a copy of the note from his/her initial visit to evaluate the client plus the annotated, signed, and dated copy of the PT/OT examination to the DMEPOS provider. The 45-day period begins when the physician or nurse practitioner signs and dates the PT/OT examination;

(iii) If the PWC is a replacement of a similar item that was previously covered by the Division or when only PWC accessories are being ordered and all other coverage criteria in this rule are met, a face-to-face examination is not required;

(d) The Division does not reimburse for another chair if a client has a medically appropriate wheelchair, regardless of payer;

(e) The client's living quarters must be able to accommodate and allow for the effective use of the requested wheelchair. The Division does not reimburse for adapting the living quarters;

(f) The equipment must be supplied by a DMEPOS provider that employs a Rehabilitation Engineering and Assistive Technology Society of North America (RESNA)-certified Assistive Technology Professional (ATP) who specializes in wheelchairs and who has direct, in-person involvement in the wheelchair selection for the client;

(g) The provider's ATP must be employed by a provider in a full-time, part-time or contracted capacity as is acceptable by state law. The provider's ATP, if part-time or contracted, must be under the direct control of the provider;

(h) Documentation must be complete and detailed enough so a third party would be able to understand the nature of the provider's ATP involvement, if any, in the licensed/certified medical professional (LCMP) specialty evaluation;

(i) The provider's ATP may not conduct the provider evaluation at the time of delivery of the power mobility device to the client's residence;

(j) Reimbursement for wheelchair codes include all labor charges involved in the assembly of the wheelchair and all covered additions or modifications. Reimbursement also includes support services such as emergency services, delivery, set-up, pick-up and delivery for repairs/modifications, education and on-going assistance with use of the wheelchair;

(k) The delivery of the PWC must be within 120 days following completion of the face-to-face examination;

(l) A PWC may not be ordered by a podiatrist;

(m) The following services are not covered:

(i) A PWC for use only outside the home;

(ii) A PWC with a captain's chair for a client who needs a separate wheelchair seat and/or back cushion;

(iii) Items or upgrades that primarily allow performance of leisure or recreational activities including but not limited to backup wheelchairs, backpacks, accessory bags, clothing guards, awnings, additional positioning equipment if wheelchair meets the same need, custom colors, wheelchair gloves, head lights, and tail lights;

(iv) Power mobility devices, not coded by the Statistical Analysis Durable Medical Equipment Regional Carrier (SADMERC) or does not meet criteria (K0899);

(v) Power wheelchairs, group 4 (K0868-K0871, K0877-K0880, K0884-K0886);

(vi) Power wheelchairs, not otherwise classified (K0898);

(vii) Seat elevator PWCs (K0830, K0831).

(2) Coding Guidelines:

(a) Specific types of PWCs:

(A) A Group 1 PWC (K0813-K0816) or a Group 2 Heavy Duty (HD), Very Heavy Duty (VHD), or Extra Heavy Duty (EHD) wheelchair (K0824-K0829) may be covered when the coverage criteria for a PWC are met;

(B) A Group 2 Standard PWC with a sling/solid seat (K0820, K0822) may be covered when:

(i) The coverage criteria for a PWC are met; and

(ii) The client is using a skin protection and/or positioning seat and/or back cushion that meets the coverage criteria defined in Wheelchair Options/Accessories, 410-122-0340;

(C) A Group 2 Single Power Option PWC (K0835 – K0840) may be covered when the coverage criteria for a PWC are met; and

(i) The client either:

(I) Requires a drive control interface other than a hand or chin-operated standard proportional joystick (examples include but are not limited to head control, sip and puff, switch control); or

(II) Meets the coverage criteria for a power tilt or recline seating system (see Wheelchair Options/Accessories, 410-122-0340) and the system is being used on the wheelchair; and

(ii) The client has had a specialty evaluation that was performed by a licensed/certified medical professional, such as a PT or OT, nurse practitioner or physician who has specific training and experience in rehabilitation wheelchair evaluations and that documents the medical appropriateness for the wheelchair and its special features (see Documentation Requirements section). The PT, OT, nurse practitioner or physician may have no financial relationship with the DMEPOS provider;

(D) A Group 2 Multiple Power Option PWC (K0841-K0843) may be covered when the coverage criteria for a PWC are met; and

(i) The client either:

(I) Meets the coverage criteria for a power tilt or recline seating system with three or more actuators (see Wheelchair Options/Accessories, 410-122-0340); or

(II) Uses a ventilator which is mounted on the wheelchair; and

(ii) The client has had a specialty evaluation that was performed by a licensed/certified medical professional, such as a PT, OT, nurse practitioner or physician who has specific training and experience in rehabilitation wheelchair evaluations and that documents the medical appropriateness for the wheelchair and its special features (see Documentation Requirements section). The PT, OT, nurse practitioner or physician may have no financial relationship with the DMEPOS provider;

(E) A Group 3 PWC with no power options (K0848-K0855) may be covered when:

(i) The coverage criteria for a PWC are met; and

(ii) The client's mobility limitation is due to a neurological condition, myopathy or congenital skeletal deformity; and

(iii) The client has had a specialty evaluation that was performed by a licensed/certified medical professional, such as a PT or OT, or physician who has specific training and experience in rehabilitation wheelchair evaluations and that documents the medical necessity for the wheelchair and its special features (see Documentation Requirements section). The PT, OT, physician or nurse practitioner may have no financial relationship with the DMEPOS provider;

(F) A Group 3 PWC with Single Power Option (K0856-K0860) or with Multiple Power Options (K0861-K0864) may be covered when:

(i) The Group 3 criteria (2)(a)(E) (i-ii) are met; and

(ii) The Group 2 Single Power Option (2)(a)(C)(i)(I) or (II) and (2)(a)(C)(ii) or Multiple Power Options (2)(a)(D)(i)(I) or (II) and (2)(a)(D)(ii) (respectively) are met;

ADMINISTRATIVE RULES

(b) PWC Basic Equipment Package: Each PWC code is required to include the following items on initial issue (i.e., no separate billing/payment at the time of initial issue, unless otherwise noted):

(A) Lap belt or safety belt (E0978);

(B) Battery charger single mode (E2366);

(C) Complete set of tires and casters any type (K0090, K0091, K0092, K0093, K0094, K0095, K0096, K0097, K0099);

(D) Legrests. There is no separate billing/payment if fixed or swing-away detachable non-elevating legrests with/without calf pad (K0051, K0052, E0995) are provided. Elevating legrests may be billed separately;

(E) Fixed/swingaway detachable footrests with/without angle adjustable footplate/platform (K0037, K0040, K0041, K0042, K0043, K0044, K0045, K0052);

(F) K0040 may be billed separately with K0848 through K0864;(G) Armrests. There is no separate billing/ payment if fixed/swingaway detachable non-adjustable armrests with arm pad (K0015, K0019, K0020) are provided. Adjustable height armrests may be billed separately;

(H) Upholstery for seat and back of proper strength and type for patient weight capacity of the power wheelchair (E0981, E0982);

(I) Weight specific components per patient weight capacity;

(J) Controller and Input Device: There is no separate billing/payment if a non-expandable controller and proportional input device (integrated or remote) is provided. If a code specifies an expandable controller as an option (but not a requirement) at the time of initial issue, it may be separately billed;

(c) If a client needs a seat and/or back cushion but does not meet coverage criteria for a skin protection and/or positioning cushion, it may be appropriate to request a captain's chair seat rather than a sling/solid seat/back and a separate general use seat and/or back cushion;

(d) A PWC with a seat width or depth of 14" or less is considered a pediatric PWC base and is coded E1239, PWC, pediatric size, not otherwise specified (see OAR 410-122-0720 Pediatric Wheelchairs);

(e) Contact the Medicare Pricing, Data Analysis and Coding (PDAC) contractor regarding correct coding. See 410-122-0180 Healthcare Common Procedure Coding System (HCPCS) Level II Coding for more information.

(3) Documentation Requirements: Submit all of the following documentation with the prior authorization (PA) request:

(a) A copy of the written report of the face-to-face examination of the client by the physician or nurse practitioner:

(A) This report must include information related to the following:

(i) This client's mobility limitation and how it interferes with the performance of activities of daily living;

(ii) Why a cane or walker can't meet this client's mobility needs in the home;

(iii) Why a manual wheelchair can't meet this client's mobility needs in the home;

(iv) Why a POV/scooter can't meet this client's mobility needs in the home;

(v) This client's physical and mental abilities to operate a PWC safely in the home:

(I) Besides a mobility limitation, if other conditions exist that limit a client's ability to participate in activities of daily living (ADLs), how these conditions will be ameliorated or compensated by use of the wheelchair;

(II) How these other conditions will be ameliorated or compensated sufficiently such that the additional provision of mobility assistive equipment (MAE) will be reasonably expected to significantly improve the client's ability to perform or obtain assistance to participate in MRADLs in the home;

(B) The face-to-face examination should provide pertinent information about the following elements, but may include other details. Only relevant elements need to be addressed:

(i) Symptoms;

(ii) Related diagnoses;

(iii) History:

(I) How long the condition has been present;

(II) Clinical progression;

(III) Interventions that have been tried and the results;

(IV) Past use of walker, manual wheelchair, POV, or PWC and the results;

(v) Physical exam:

(I) Weight;

(II) Impairment of strength, range of motion, sensation, or coordination of arms and legs;

(III) Presence of abnormal tone or deformity of arms, legs or trunk;

(IV) Neck, trunk, and pelvic posture and flexibility;

(V) Sitting and standing balance;

(v) Functional assessment – any problems with performing the following activities including the need to use a cane, walker, or the assistance of another person:

(I) Transferring between a bed, chair, and power mobility device;

(II) Walking around their home – to bathroom, kitchen, living room, etc. – provide information on distance walked, speed, and balance;

(C) Although a client who qualifies for coverage of a PWC may use that device outside the home, because the Division coverage of a wheelchair is determined solely by the client's mobility needs within the home, the examination must clearly distinguish the client's abilities and needs within the home from any additional needs for use outside the home;

(b) The physician's or nurse practitioner's written order, received by the DMEPOS provider within 45 days (date stamp or equivalent must be used to document receipt date) after the physician's or nurse practitioner's face-to-face examination. The order must include all of the following elements:

(A) Client's name;

(B) Description of the item that is ordered. This may be general – e.g., "power wheelchair" or "power mobility device" – or may be more specific:

(i) If this order does not identify the specific type of PWC that is being requested, the DMEPOS provider must clarify this by obtaining another written order which lists the specific PWC that is being ordered and any options and accessories requested;

(ii) The items on this clarifying order may be entered by the DMEPOS provider. This subsequent order must be signed and dated by the treating physician or nurse practitioner, received by the DMEPOS provider and submitted to the authorizing authority, but does not have to be received within 45 days following the face-to-face examination;

(C) Date of the face-to-face examination;

(D) Pertinent diagnoses/conditions and diagnosis codes that relate specifically to the need for the PWC;

(E) Length of need;

(F) Physician's or nurse practitioner's signature;

(G) Date of physician's or nurse practitioner's signature;

(c) For all requested equipment and accessories, the manufacturer's name, product name, model number, standard features, specifications, dimensions and options;

(d) Detailed information about client-owned equipment (including serial numbers) as well as any other equipment being used or available to meet the client's medical needs, including how long it has been used by the client and why it can't be grown or modified, if applicable;

(e) For the home assessment, prior to or at the time of delivery of a PWC, the DMEPOS provider or practitioner must perform an on-site, written evaluation of the client's living quarters. This assessment must support that the client's home can accommodate and allow for the effective use of a PWC. Assessment must include, but is not limited to, evaluation of physical layout, doorway widths, doorway thresholds, surfaces, counter/table height, accessibility (e.g., ramps), electrical service, etc; and

(f) A written document (termed a detailed product description) prepared by the DMEPOS provider and signed and dated by the physician or nurse practitioner that includes:

(i) The specific base (HCPCS code and manufacturer name/model) and all options and accessories (including HCPCS codes), whether PA is required or not, that will be separately billed;

(ii) The DMEPOS provider's charge and the DMAP fee schedule allowance for each separately billed item;

(iii) If there is no Division fee schedule allowance, the DMEPOS provider must enter "not applicable";

(iv) The DMEPOS provider must receive the signed and dated detailed product description from the physician or nurse practitioner prior to delivery of the PWC;

(v) A date stamp or equivalent must be used to document receipt date of the detailed product description; and

(g) Any additional documentation that supports indications of coverage are met as specified in this rule;

(h) The DMEPOS provider must keep the above documentation on file;

(i) Documentation that the coverage criteria have been met must be present in the client's medical records and made available to the Division on request.

(4) Prior Authorization:

(a) All codes in this rule required PA and may be purchased, rented and repaired;

ADMINISTRATIVE RULES

(b) See the Division fee schedule for more information;
(c) Codes specified in this rule are not covered for clients residing in nursing facilities;

(d) Rented equipment is considered purchased when the client has used the equipment for 13 months, when the provider's actual charge for purchase is met, when the manufacturer's suggested retail price (MSRP) is met or when the Division fee schedule allowable for purchase is met, whichever is the lowest;

(e) For PWCs furnished on a rental basis with dates of services prior to November 15, 2006, use codes K0010, K0011, K0012 and K0014 as appropriate.

(5) Table 122-0325

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

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 15-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0340

Wheelchair Options/Accessories

(1) Indications and limitations of coverage and medical appropriateness:

(a) The Division of Medical Assistance Programs (Division) may cover options and accessories for covered wheelchairs when the following criteria are met:

(A) The client has a wheelchair that meets Division coverage criteria; and

(B) The client requires the options/accessories to accomplish their mobility-related activities of daily living (MRADLs) in the home. See 410-122-0010, Definitions, for definition of MRADLs;

(b) The Division does not cover options/accessories whose primary benefit is allowing the client to perform leisure or recreational activities;

(c) Arm of Chair:

(A) Adjustable arm height option (E0973, K0017, K0018, K0020) may be covered when the client:

(i) Requires an arm height that is different than what is available using nonadjustable arms; and

(ii) Spends at least two hours per day in the wheelchair;

(B) An arm trough (E2209) is covered if the client has quadriplegia, hemiplegia, or uncontrolled arm movements;

(d) Foot rest/Leg rest:

(A) Elevating leg rests (E0990, K0046, K0047, K0053, K0195) may be covered when:

(i) The client has a musculoskeletal condition or the presence of a cast or brace which prevents 90 degree flexion at the knee; or

(ii) The client has significant edema of the lower extremities that requires having an elevating leg rest; or

(iii) The client meets the criteria for and has a reclining back on the wheelchair;

(B) Elevating leg rests that are used with a wheelchair that is purchased or owned by the patient are coded E0990. This code is per leg rest;

(C) Elevating leg rests that are used with a capped rental wheelchair base should be coded K0195. This code is per pair of leg rests;

(e) Nonstandard Seat Frame Dimensions:

(A) For all adult wheelchairs, the Division includes payment for seat widths and/or seat depths of 15-19 inches in the payment for the base code. These seat dimensions must not be separately billed;

(B) Codes E2201-E2204 and E2340-E2343 describe seat widths and/or depths of 20 inches or more for manual or power wheelchairs;

(C) A nonstandard seat width and/or depth (E2201-E2204 and E2340-E2343) is covered only if the patient's dimensions justify the need;

(f) Rear Wheels for Manual Wheelchairs: Code K0064 (flat free insert) is used to describe either:

(A) A removable ring of firm material that is placed inside of a pneumatic tire to allow the wheelchair to continue to move if the pneumatic tire is punctured; or

(B) Non-removable foam material in a foam filled rubber tire;

(C) K0064 is not used for a solid self-skinning polyurethane tire;

(g) Batteries/Chargers:

(A) Up to two batteries (E2360-E2365) at any one time are allowed if required for a power wheelchair;

(B) Batteries/chargers for motorized/power wheelchairs are separately payable from the purchased wheelchair base;

(h) Seating:

(A) The Division may cover a general use seat cushion and a general-use wheelchair back-cushion for a client whose wheelchair that meets Division coverage criteria;

(B) A skin protection seat cushion may be covered for a client who meets both of the following criteria:

(i) The client has a wheelchair that meets Division coverage criteria; and

(ii) The client has either of the following:

(I) Current pressure ulcer or past history of a pressure ulcer on the area of contact with the seating surface; or

(II) Absent or impaired sensation in the area of contact with the seating surface or inability to carry out a functional weight shift due to one of the following diagnoses: spinal cord injury resulting in quadriplegia or paraplegia, other spinal cord disease, multiple sclerosis, other demyelinating disease, cerebral palsy, anterior horn cell diseases including amyotrophic lateral sclerosis), post polio paralysis, traumatic brain injury resulting in quadriplegia, spina bifida, childhood cerebral degeneration, Alzheimer's disease, Parkinson's disease;

(C) A positioning seat cushion, positioning back cushion, and positioning accessory (E0955-E0957, E0960) may be covered for a client who meets both of the following criteria:

(i) The client has a wheelchair that meets Division coverage criteria; and

(ii) The client has any significant postural asymmetries due to one of the diagnoses listed in criterion (h) (B)(ii)(II) or to one of the following diagnoses: monoplegia of the lower limb; hemiplegia due to stroke, traumatic brain injury, or other etiology; muscular dystrophy; torsion dystonias; spinocerebellar disease;

(D) A combination skin protection and positioning seat cushion may be covered when a client meets the criteria for both a skin protection seat cushion and a positioning seat cushion;

(E) Separate payment is allowed for a seat cushion solid support base (E2231) with mounting hardware when it is used on an adult manual wheelchair (K0001-K0009, E1161);

(F) There is no separate payment for a solid insert (E0992) that is used with a seat or back cushion because a solid base is included in the allowance for a wheelchair seat or back cushion;

(G) There is no separate payment for mounting hardware for a seat or back cushion;

(H) There is no separate payment for a headrest (E0955, E0966) on a captain's seat on a power wheelchair;

(I) A custom fabricated seat cushion (E2609) and a custom fabricated back cushion (E2617) are cushions that are individually made for a specific patient:

(i) Basic materials include liquid foam or a block of foam and sheets of fabric or liquid coating material;

(I) A custom fabricated cushion may include certain prefabricated components (e.g., gel or multi-cellular air inserts); these components must not be billed separately;

(II) The cushion must have a removable vapor permeable or waterproof cover or it must have a waterproof surface;

(ii) The cushion must be fabricated using molded-to-patient-model technique, direct molded-to-patient technique, computer-aided design and computer-aided manufacturing (CAD-CAM) technology, or detailed measurements of the patient used to create a configured cushion:

(I) If foam-in-place or other material is used to fit a substantially prefabricated cushion to an individual client, the cushion must be billed as a prefabricated cushion, not custom fabricated;

(II) The cushion must have structural features that significantly exceed the minimum requirements for a seat or back positioning cushion;

(iii) If a custom fabricated seat and back are integrated into a one-piece cushion, code as E2609 plus E2617;

(J) A custom fabricated seat cushion may be covered if criteria (i) and (iii) are met. A custom fabricated back cushion may be covered if criteria (ii) and (iii) are met:

(i) Client meets all of the criteria for a prefabricated skin protection seat cushion or positioning seat cushion;

(ii) Client meets all of the criteria for a prefabricated positioning back cushion;

(iii) There is a comprehensive written evaluation by a licensed clinician (who is not an employee of or otherwise paid by a durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider) which clearly explains why a prefabricated seating system is not sufficient to meet the client's seating and positioning needs;

ADMINISTRATIVE RULES

(K) A prefabricated seat cushion, a prefabricated positioning back cushion, or a brand name custom fabricated seat or back cushion which has not received a written coding verification as published by the Pricing, Data Analysis and Coding (PDAC) contractor by the Centers for Medicare and Medicaid Services;

or which does not meet the criteria stated in this rule is not covered;

(L) A headrest extension (E0966) is a sling support for the head. Code E0955 describes any type of cushioned headrest;

(M) The code for a seat or back cushion includes any rigid or semi-rigid base or posterior panel, respectively, that is an integral part of the cushion;

(N) A solid insert (E0992) is a separate rigid piece of wood or plastic which is inserted in the cover of a cushion to provide additional support and is included in the allowance for a seat cushion;

(O) A solid support base for a seat cushion is a rigid piece of plastic or other material that is attached with hardware to the seat frame of a wheelchair in place of a sling seat. A cushion is placed on top of the support base. Use code E2231 for this solid support base;

(i) The Division will only cover accessories billed under the following codes when PDAC has made written confirmation of use of the code for the specific product(s) being billed: E2601-E2608, E2611-E2616, E2620, E2621; E2609 and E2617 (brand-name products), K0108 (for wheelchair cushions):

(A) Information concerning the documentation that must be submitted to PDAC for a Coding Verification Request can be found on the PDAC Web site or by contacting PDAC;

(B) A Product Classification List with products that have received a coding verification can be found on the PDAC Web site;

(j) Code E1028 (swingaway or removable mounting hardware upgrade) may be billed in addition to codes E0955-E0957. It must not be billed in addition to code E0960. It must not be used for mounting hardware related to a wheelchair seat cushion or back cushion code;

(k) Power seating systems:

(A) A power-tilt seating system (E1002):

(i) Includes all the following:

(I) A solid seat platform and a solid back; any frame width and depth;

(II) Detachable or flip-up fixed height or adjustable height armrests;

(III) Fixed or swingaway detachable leg rests;

(IV) Fixed or flip-up footplates;

(V) Motor and related electronics with or without variable speed programmability;

(VI) Switch control that is independent of the power wheelchair drive control interface;

(VII) Any hardware that is needed to attach the seating system to the wheelchair base;

(ii) It does not include a headrest;

(iii) It must have the following features:

(I) Ability to tilt to greater than or equal to 45 degrees from horizontal;

(II) Back height of at least 20 inches;

(III) Ability for the supplier to adjust the seat to back angle;

(IV) Ability to support patient weight of at least 250 pounds;

(B) A power recline seating system (E1003-E1005):

(i) Includes all the following:

(I) A solid seat platform and a solid back;

(II) Any frame width and depth;

(III) Detachable or flip-up fixed height or adjustable height arm rests;

(IV) Fixed or swingaway detachable leg rests;

(V) Fixed or flip-up footplates;

(VI) A motor and related electronics with or without variable speed programmability;

(VII) A switch control that is independent of the power wheelchair drive control interface;

(VIII) Any hardware that is needed to attach the seating system to the wheelchair base;

(ii) It does not include a headrest;

(iii) It must have the following features:

(I) Ability to recline to greater than or equal to 150 degrees from horizontal;

(II) Back height of at least 20 inches;

(III) Ability to support patient weight of at least 250 pounds;

(C) A power tilt and recline seating system (E1006-E1008):

(i) Includes the following:

(I) A solid seat platform and a solid back;

(II) Any frame width and depth; detachable or flip-up fixed height or adjustable height armrests;

(III) Fixed or swing-away detachable leg rests; fixed or flip-up footplates;

(IV) Two motors and related electronics with or without variable speed programmability;

(V) Switch control that is independent of the power wheelchair drive control interface;

(VI) Any hardware that is needed to attach the seating system to the wheelchair base;

(ii) It does not include a headrest;

(iii) It must have the following features:

(I) Ability to tilt to greater than or equal to 45 degrees from horizontal;

(II) Ability to recline to greater than or equal to 150 degrees from horizontal;

(III) Back height of at least 20 inches; ability to support patient weight of at least 250 pounds;

(D) A mechanical shear reduction feature (E1004 and E1007) consists of two separate back panels. As the posterior back panel reclines or raises, a mechanical linkage between the two panels allows the client's back to stay in contact with the anterior panel without sliding along that panel;

(E) A power shear reduction feature (E1005 and E1008) consists of two separate back panels. As the posterior back panel reclines or raises, a separate motor controls the linkage between the two panels and allows the client's back to stay in contact with the anterior panel without sliding along that panel;

(F) A power leg elevation feature (E1010) involves a dedicated motor and related electronics with or without variable speed programmability which allows the leg rest to be raised and lowered independently of the recline and/or tilt of the seating system. It includes a switch control which may or may not be integrated with the power tilt and/or recline control(s);

(I) Codes E2310 and E2311 (Power Wheelchair Accessory):

(A) Describe the electronic components that allow the client to control two or more of the following motors from a single interface (e.g., proportional joystick, touchpad, or non-proportional interface): power wheelchair drive, power tilt, power recline, power shear reduction, power leg elevation, power seat elevation, power standing;

(B) Include a function selection switch that allows the client to select the motor that is being controlled and an indicator feature to visually show which function has been selected;

(C) When the wheelchair drive function is selected the indicator feature may also show the direction that is selected (forward, reverse, left, right). This indicator feature may be in a separate display box or may be integrated into the wheelchair interface;

(D) Payment for the code includes an allowance for fixed mounting hardware for the control box and for the display box (if present);

(E) When a switch is medically appropriate and a client has adequate hand motor skills, a switch would be considered the least costly alternative;

(F) E2310 or E2311 may be considered for coverage when a client does not have hand motor skills or presents with cognitive deficits, contractures or limitation of movement patterns that prevents operation of a switch;

(G) In addition, an alternate switching system must be medically appropriate and not hand controlled (not running through a joystick);

(H) If a wheelchair has an electrical connection device described by code E2310 or E2311 and if the sole function of the connection is for a power seat elevation or power standing feature, it is not covered;

(m) Power Wheelchair Drive Control Systems:

(A) The term interface in the code narrative and definitions describes the mechanism for controlling the movement of a power wheelchair. Examples of interfaces include, but are not limited to, joystick, sip and puff, chin control, head control, etc;

(B) A proportional interface is one in which the direction and amount of movement by the client controls the direction and speed of the wheelchair. One example of a proportional interface is a standard joystick;

(C) A non-proportional interface is one that involves a number of switches. Selecting a particular switch determines the direction of the wheelchair, but the speed is pre-programmed. One example of a non-proportional interface is a sip-and-puff mechanism;

(D) The term controller describes the microprocessor and other related electronics that receive and interpret input from the joystick (or other drive control interface) and convert that input into power output to the motor and gears in the power wheelchair base;

ADMINISTRATIVE RULES

(E) A switch is an electronic device that turns power to a particular function either “on” or “off”. The external component of a switch may be either mechanical or non-mechanical. Mechanical switches involve physical contact in order to be activated. Examples of the external components of mechanical switches include, but are not limited to, toggle, button, ribbon, etc. Examples of the external components of non-mechanical switches include, but are not limited to, proximity, infrared, etc. Some of the codes include multiple switches. In those situations, each functional switch may have its own external component or multiple functional switches may be integrated into a single external switch component or multiple functional switches may be integrated into the wheelchair control interface without having a distinct external switch component;

(F) A stop switch allows for an emergency stop when a wheelchair with a non-proportional interface is operating in the latched mode. (Latched mode is when the wheelchair continues to move without the patient having to continually activate the interface.) This switch is sometimes referred to as a kill switch;

(G) A direction change switch allows the client to change the direction that is controlled by another separate switch or by a mechanical proportional head control interface. For example, it allows a switch to initiate forward movement one time and backward movement another time;

(H) A function selection switch allows the client to determine what operation is being controlled by the interface at any particular time. Operations may include, but are not limited to, drive forward, drive backward, tilt forward, recline backward, etc.;

(I) An integrated proportional joystick and controller is an electronics package in which a joystick and controller electronics are in a single box, which is mounted on the arm of the wheelchair;

(J) The interfaces described by codes E2320-E2322, E2325, and E2327-E2330 must have programmable control parameters for speed adjustment, tremor dampening, acceleration control, and braking;

(K) A remote joystick (E2320, E2321) is one in which the joystick is in one box that is mounted on the arm of the wheelchair and the controller electronics are located in a different box that is typically located under the seat of the wheelchair. These codes include remote joysticks that are used for hand control as well as joysticks that are used for chin control. Code E2320 includes any type of proportional remote joystick stick including, but not limited to standard, mini-proportional, compact, and short throw remote joysticks;

(L) When code E2320 or E2321 is used for a chin control interface, the chin cup is billed separately with code E2324;

(M) Code E2320 also describes a touchpad that is an interface similar to the pad-type mouse found on portable computers;

(N) Code E2322 describes a system of 3-5 mechanical switches that are activated by the client touching the switch. The switch that is selected determines the direction of the wheelchair. A mechanical stop switch and a mechanical direction change switch, if provided, are included in the allowance for the code;

(O) Code E2323 includes prefabricated joystick handles that have shapes other than a straight stick – e.g., U shape or T shape – or that have some other nonstandard feature – e.g., flexible shaft;

(P) A sip and puff interface (E2325) is a non-proportional interface in which the client holds a tube in their mouth and controls the wheelchair by either sucking in (sip) or blowing out (puff). A mechanical stop switch is included in the allowance for the code. E2325 does not include the breath tube kit that is described by code E2326;

(Q) A proportional, mechanical head control interface (E2327) is one in which a headrest is attached to a joystick-like device. The direction and amount of movement of the client’s head pressing on the headrest control the direction and speed of the wheelchair. A mechanical direction control switch is included in the code;

(R) A proportional, electronic head control interface (E2328) is one in which a client’s head movements are sensed by a box placed behind the client’s head.

The direction and amount of movement of the client’s head (which does not come in contact with the box) control the direction and speed of the wheelchair. A proportional, electronic extremity control interface (E2328) is one in which the direction and amount of movement of the client’s arm or leg control the direction and speed of the wheelchair;

(S) A non-proportional, contact switch head control interface (E2329) is one in which a client activates one of three mechanical switches placed around the back and sides of their head. These switches are activated by pressure of the head against the switch. The switch that is selected determines the direction of the wheelchair. A mechanical stop switch and a

mechanical direction change switch are included in the allowance for the code;

(T) A non-proportional, proximity switch head control interface (E2330) is one in which a client activates one of three switches placed around the back and sides of their head. These switches are activated by movement of the head toward the switch, though the head does not touch the switch. The switch that is selected determines the direction of the wheelchair. A mechanical stop switch and a mechanical direction change switch are included in the allowance for the code;

(U) The KC modifier (replacement of special power wheelchair interface):

(i) Is used in the following situations:

(I) Due to a change in the client’s condition an integrated joystick and controller is being replaced by another drive control interface – e.g., remote joystick, head control, sip and puff, etc.; or

(II) The client has a drive control interface described by codes E2320-E2322, E2325, or E2327-E2330 and both the interface (e.g., joystick, head control, sip and puff) and the controller electronics are being replaced due to irreparable damage;

(ii) The KC modifier is never used at the time of initial issue of a wheelchair;

(iii) The KC modifier specifically states replacement, therefore, the RP modifier is not required;

(n) Other Power Wheelchair Accessories: An electronic interface (E2351) to allow a speech generating device to be operated by the power wheelchair control interface may be covered if the client has a covered speech generating device. (See division 129, Speech-Language Pathology, Audiology and Hearing Aid Services.);

(o) Miscellaneous Accessories:

(A) Anti-rollback device (E0974) is covered if the client propels himself/herself and needs the device because of ramps;

(B) A safety belt/pelvic strap (E0978) is covered if the client has weak upper body muscles, upper body instability or muscle spasticity that requires use of this item for proper positioning;

(C) A shoulder harness/straps or chest strap (E0960) and a safety belt/pelvic strap (E0978) are covered only to treat a client’s medical symptoms:

(i) A medical symptom is defined as an indication or characteristic of a physical or psychological condition;

(ii) E0960 and E0978 are not covered when intended for use as a physical restraint or for purposes intended for discipline or convenience of others;

(D) One example (not all-inclusive) of a covered indication for swing-away, retractable, or removable hardware (E1028) would be to move the component out of the way so that a client could perform a slide transfer to a chair or bed;

(E) A fully reclining back option (E1226) is covered if the client spends at least 2 hours per day in the wheelchair and has one or more of the following conditions/needs:

(i) Quadriplegia;

(ii) Fixed hip angle;

(iii) Trunk or lower extremity casts/braces that require the reclining back feature for positioning;

(iv) Excess extensor tone of the trunk muscles; and/or

(v) The need to rest in a recumbent position two or more times during the day and transfer between wheelchair and bed is very difficult.

(2) Documentation Requirements: Submit documentation that supports coverage criteria in this rule are met and the specified information as follows with the prior authorization (PA) request:

(a) When code K0108 is billed, a narrative description of the item, the manufacturer, the model name or number (if applicable), and information justifying the medical appropriateness for the item;

(b) Options/accessories for individual consideration might include documentation on the client’s diagnosis, the client’s abilities and limitations as they relate to the equipment (e.g., degree of independence/dependence, frequency and nature of the activities the client performs, etc.), the duration of the condition, the expected prognosis, past experience using similar equipment;

(c) For a custom-fabricated seat cushion:

(A) A comprehensive written evaluation by a licensed clinician (who is not an employee of or otherwise paid by a DMEPOS provider) which clearly explains why a prefabricated seating system is not sufficient to meet the client’s seating and positioning needs, and;

(B) Diagnostic reports that support the medical condition;

(C) Dated and clear photographs;

ADMINISTRATIVE RULES

(D) Body contour measurements;

(d) Documentation that the coverage criteria in this rule have been met must be present in the client's medical record. This documentation and any additional medical information from the DMEPOS provider must be made available to the Division on request.

(3) **Table 122-0340 – 1**

(4) **Table 122-0340 – 2**

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

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

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; OMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 15-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0540

Ostomy Supplies

(1) Indications and Limitations of Coverage and Medical Appropriateness: The Division of Medical Assistance Programs (Division) may cover ostomy supplies for a client with a surgically created opening (stoma) to divert urine or fecal contents outside the body:

(a) Only one liquid barrier may be dispensed at a time:

(A) A liquid or spray (A4369); or

(B) Individual wipes or swabs (A5120);

(b) For a client with a continent stoma, only one of the following means to prevent/manage drainage may be covered on a given day:

(A) Stoma cap (A5055);

(B) Stoma plug (A5081); or

(C) Gauze pads (A6216);

(c) For a client with a urinary ostomy, only one of the following may be covered for drainage at night:

(A) Bag (A4357); or

(B) Bottle (A5102);

(d) Provision of ostomy supplies for a client is limited to a three month supply;

(e) The following services are not covered:

(A) Ostomy clamps;

(B) Ostomy supplies when a client is in a covered home health episode;

(C) Pouch covers.

(2) Documentation Requirements:

(a) For miscellaneous ostomy supplies (A4421), submit documentation which supports coverage criteria as specified in this rule are met to the responsible unit for prior authorization;

(b) Medical records which support conditions of coverage as specified in this rule are met must be kept on file by the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider and made available to the Division on request;

(c) A client's medical records must support the justification for supplies billed to the Division including when a greater quantity of supplies than the amounts listed in this rule are dispensed (e.g., client has more than one ostomy).

(3) **Table 122-0540-1**, Maximum Quantity of Supplies — Monthly Basis.

(4) **Table 122-0540-2**, Maximum Quantity of Supplies — 6-Month Basis.

(5) **Table 122-0540-3**, Faceplate Systems.

(6) **Table 122-0540-4**, Procedure Codes.

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

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

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0560

Urological Supplies

(1) Indications and Limitations of Coverage and Medical Appropriateness:

(a) The Division of Medical Assistance Programs (Division) may cover the following urinary catheters, external urinary collection devices, and medically appropriate related supplies when used to drain or collect urine for a client who has permanent urinary incontinence or permanent urinary retention;

(b) Indwelling Catheters (A4311 - A4316, A4338 - A4346):

(A) No more than one catheter per month for routine catheter maintenance;

(B) Non-routine catheter changes when documentation substantiates medical appropriateness, such as for the following indications:

(i) Catheter is accidentally removed (e.g., pulled out by client);

(ii) Catheter malfunctions (e.g., balloon does not stay inflated, hole in catheter);

(iii) Catheter is obstructed by encrustation, mucous plug, or blood clot;

(iv) History of recurrent obstruction or urinary tract infection for which it has been established that an acute event is prevented by a scheduled change frequency of more than once per month;

(C) A specialty indwelling catheter (A4340) or an all silicone catheter (A4344, A4312, or A4315) when documentation in the client's medical record supports the medical appropriateness for that catheter rather than a straight Foley type catheter with coating (such as recurrent encrustation, inability to pass a straight catheter, or sensitivity to latex);

(D) A three way indwelling catheter either alone (A4346) or with other components (A4313 or A4316) only if continuous catheter irrigation is medically appropriate;

(c) Catheter Insertion Tray (A4310-A4316, A4353, and A4354):

(A) Only one insertion tray per episode of indwelling catheter insertion;

(B) One intermittent catheter with insertion supplies (A4353) per episode of medically appropriate sterile intermittent catheterization;

(d) Urinary Drainage Collection System (A4314-A4316, A4354, A4357, A4358, A5102, and A5112):

(A) For routine changes of the urinary drainage collection system as noted in Table 122-0560-1;

(B) Additional charges for medically appropriate non-routine changes when the documentation substantiates the medical appropriateness (e.g., obstruction, sludging, clotting of blood, or chronic, recurrent urinary tract infection);

(C) A vinyl leg bag (A4358) or a latex leg bag (A5112) only for clients who are ambulatory or are chair or wheelchair bound;

(e) Intermittent Irrigation of Indwelling Catheters:

(A) Supplies for the intermittent irrigation of an indwelling catheter when they are used on an as needed (non-routine) basis in the presence of acute obstruction of the catheter;

(B) Routine intermittent irrigations of a catheter are not covered;

(C) Routine irrigations are defined as those performed at predetermined intervals;

(D) Covered supplies for medically appropriate non-routine irrigation of a catheter include either an irrigation tray (A4320) or an irrigation syringe (A4322), and sterile water/saline (A4217);

(f) Continuous Irrigation of Indwelling Catheters:

(A) Supplies for continuous irrigation of a catheter when there is a history of obstruction of the catheter and the patency of the catheter cannot be maintained by intermittent irrigation in conjunction with medically appropriate catheter changes;

(B) Continuous irrigation as a primary preventative measure (i.e., no history of obstruction) is not covered;

(C) Documentation must substantiate the medical appropriateness of catheter irrigation and in particular continuous irrigation as opposed to intermittent irrigation;

(D) The records must also indicate the rate of solution administration and the duration of need;

(E) Covered supplies for medically appropriate continuous bladder irrigation include a three-way Foley catheter (A4313, A4316, and A4346), irrigation tubing set (A4355), and sterile water/saline (A4217);

(i) The Division may cover one irrigation tubing set per day for continuous catheter irrigation;

(ii) Continuous irrigation is considered a temporary measure and may only be covered for up to 14 days;

ADMINISTRATIVE RULES

(g) Intermittent Catheterization: Intermittent catheter supplies when basic coverage criteria are met and the client or caregiver can perform the procedure:

(A) For each episode of covered catheterization, one catheter (A4351, A4352) and an individual packet of lubricant (A4332); or

(B) One sterile intermittent catheter kit (A4353) when the client requires catheterization and meets one of the following criteria (i-iv):

(i) The client is immunosuppressed. Examples of immunosuppressed clients include (but are not limited to) clients who are:

(I) On a regimen of immunosuppressive drugs post-transplant;

(II) On cancer chemotherapy;

(III) Have AIDS;

(IV) Have a drug-induced state such as chronic oral corticosteroid use;

(ii) The client has radiologically documented vesico-ureteral reflux while on a program of intermittent catheterization;

(iii) The client is a pregnant, spinal cord-injured female with neurogenic bladder (for duration of pregnancy only);

(iv) The client has had distinct, recurrent urinary tract infections, while on a program of sterile intermittent catheterization with A4351/A4352 and sterile lubricant (A4332), twice within the 12 month period prior to the initiation of sterile intermittent catheter kits. A urinary tract infection means a urine culture with greater than 10,000 colony forming units of a urinary pathogen; and documentation in the client's medical records of concurrent presence of one or more of the following signs, symptoms or laboratory findings:

(I) Fever (oral temperature greater than 38° C [100.4° F]);

(II) Systemic leukocytosis;

(III) Change in urinary urgency, frequency, or incontinence;

(IV) Appearance of new or increase in autonomic dysreflexia (sweating, bradycardia, blood pressure elevation);

(V) Physical signs of prostatitis, epididymitis, orchitis;

(VI) Increased muscle spasms;

(VII) Pyuria (greater than five white blood cells [WBCs] per high-powered field);

(B) The kit code (A4353) must be used for billing even if the components are packaged separately rather than together as a kit;

(h) Coude (Curved) Tip Catheters:

(A) Use of a Coude (curved) tip catheter (A4352) in female clients is rarely medically appropriate;

(B) For any client, when a Coude tip catheter is dispensed and billed, there must be specific documentation in the client's medical record why a Coude tip catheter is required rather than a straight tip catheter;

(i) External Catheters/Urinary Collection Devices:

(A) Male external catheters (condom-type) or female external urinary collection devices for clients who have permanent urinary incontinence when used as an alternative to an indwelling catheter;

(B) Coverage for male external catheters (A4349) is limited to 35 per month;

(C) Greater utilization of these devices must be accompanied by documentation of medical appropriateness;

(D) Male external catheters (condom-type) or female external urinary collection devices are not covered for clients who also use an indwelling catheter;

(E) DMAP may cover specialty type male external catheters such as those that inflate or that include a faceplate (A4326) or extended wear catheter systems (A4348) only when documentation substantiates the medical appropriateness for such a catheter;

(F) Coverage of female external urinary collection devices is limited to one metal cup (A4327) per week or one pouch (A4328) per day;

(j) Miscellaneous Supplies:

(A) Appliance cleaner (A5131): One unit of service (16 oz) per month when used to clean the inside of certain urinary collecting appliances (A5102, A5112);

(B) One external urethral clamp or compression device (A4356) every three months or sooner if the rubber/foam casing deteriorates;

(C) Adhesive catheter anchoring devices (A4333, three per week) and catheter leg straps (A4334, one per month) for indwelling urethral catheters;

(D) A catheter/tube anchoring device (A5200) separately payable when it is used to anchor a covered suprapubic tube or nephrostomy tube;

(E) Non-Sterile Gloves – The Division will not pay for more than 200 pairs of non-sterile gloves (A4927) per month;

(k) The following services are not covered:

(A) Creams, salves, lotions, barriers (liquid, spray, wipes, powder, paste) or other skin care products (A6250);

(B) Catheter care kits (A9270);

(C) Adhesive remover (A4456, A4455);

(D) Catheter clamp or plug (A9270);

(E) Disposable underpads, all sizes, diapers or incontinence garments, any type, disposable or reusable unless authorized under 410-122-0630 Incontinence Supplies;

(F) Drainage bag holder or stand (A9270);

(G) Urinary suspensory without leg bag (A4359);

(H) Measuring container (A9270);

(I) Urinary drainage tray (A9270);

(J) Gauze pads (A6216-A6218) and other dressings;

(K) Other incontinence products not directly related to the use of a covered urinary catheter or external urinary collection device (A9270);

(L) Irrigation supplies that are used for care of the skin or perineum of incontinent clients;

(M) Syringes, trays, sterile saline, or water used for routine irrigation;

(N) Disposable external urethral clamp or compression device, with pad and/or pouch, each.

(2) Guidelines:

(a) Permanent urinary retention is defined as retention that is not expected to be medically or surgically corrected within three months. A determination that there is no possibility that the client's condition may improve sometime in the future is not required. If the medical records, including the judgment of the attending treating practitioner, indicate the condition is of long and indefinite duration (ordinarily at least three months), the test of permanence is considered met;

(b) A urinary intermittent catheter with insertion supplies (A4353) is a kit, which includes a catheter, lubricant, gloves, antiseptic solution, applicators, drape, and a tray or bag in a sterile package intended for single use;

(c) Adhesive strips or tape used with male external catheters are included in the allowance for the code and are not separately payable;

(d) Catheter insertion trays (A4310-A4316, A4353, and A4354) that contain component parts of the urinary collection system, (e.g., drainage bags and tubing) are inclusive sets and payment for additional component parts may be allowed only per the stated criteria in each section of the policy;

(e) Extension tubing (A4331) may be covered for use with a latex urinary leg bag (A5112) and is included in the allowance for codes A4314, A4315, A4316, A4354, A4357, A4358, and A5105 and A4331 cannot be separately billed with these codes;

(f) Use A4333 when used to anchor an indwelling urethral catheter;

(g) Use code A5105 when billing for a urinary suspensory with leg bag;

(h) Replacement leg straps (A5113, A5114) are used with a urinary leg bag (A4358, A5105, or A5112). These codes are not used for a leg strap for an indwelling catheter;

(i) A4326 is a male external catheter with an integrated collection chamber that does not require the use of an additional leg bag.

(3) Documentation Requirements:

(a) For services requiring prior authorization (PA), submit documentation which supports coverage criteria as specified in this rule are met;

(b) Intermittent Catheterization:

(A) The practitioner's order must indicate the actual number of times intermittent catheterization is performed per day;

(B) The client's medical records must support the number of times per day intermittent catheterization is performed;

(c) When requesting quantities of supplies greater than the maximum units specified in this rule, submit documentation supporting the medical appropriateness for the higher utilization to the appropriate authorization authority for PA;

(d) Documentation, which supports condition of coverage requirements for codes billed in this rule, must be kept on file by the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider and made available to the Division on request;

(e) A client's medical records must support the justification for supplies billed to the Division.

(4) **Table 122-0560-1**, Maximum Quantity of Supplies

(5) **Table 122-0560-2**

(6) **Table 122-0560-3**, Procedure Codes

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

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

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-

ADMINISTRATIVE RULES

1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0625

Surgical Dressing

Procedure Codes: **Table 122-0625** Surgical Dressing.

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

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0630

Incontinent Supplies

(1) The Division of Medical Assistance Programs (Division) may cover incontinent supplies for urinary or fecal incontinence as follows:

(a) Category I Incontinent Supplies — For up to 220 units (any code or product combination in this category) per month, unless documentation supports the medical appropriateness for a higher quantity;

(b) Category II Underpads:

(A) Disposable underpads (T4541 and T4542): For up to 100 units (any combination of T4541 and T4542) per month, unless documentation supports the medical appropriateness for a higher quantity, up to a maximum of 150 units per month;

(B) Reusable/washable underpads: (T4537 and T4540) For up to eight units (any combination of T4537 and T4540) in a 12 month period;

(C) Category II Underpads are separately payable only with Category I Incontinent Supplies;

(D) T4541 and T4542 are not separately payable with T4537 and T4540 for the same dates of service or anticipated coverage period. For example, if a provider bills and is paid for eight reusable/washable underpads on a given date of service, a client would not be eligible for disposable underpads for the subsequent 12 months;

(c) Category III Washable Protective Underwear:

(A) For up to 12 units in a 12 month period;

(B) Category III Washable Protective Underwear are not separately payable with Category I Incontinent Supplies for the same dates of service or anticipated coverage period. For example, if a provider bills and is paid for 12 units of T4536 on a given date of service, a client would not be eligible for Category I Incontinent Supplies for the subsequent 12 months;

(d) The following services require prior authorization (PA):

(A) A4335 (Incontinence supply; miscellaneous); and

(B) Quantity of supplies greater than the amounts listed in this rule as the maximum monthly utilization (e.g., more than 220 units/month of Category I Incontinent Supplies).

(2) Incontinent supplies are not covered:

(a) For nocturnal enuresis; or

(b) For children under the age of three.

(3) A provider may only submit A4335 when there is no definitive Healthcare Common Procedure Coding System (HCPCS) code that meets the product description.

(4) Documentation requirements:

(a) The client's medical records must support the medical appropriateness for the services provided or being requested by the medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider, including, but not limited to:

(A) For all categories, the medical reason and condition causing the incontinence; and

(B) When a client is using urological or ostomy supplies at the same time as codes specified in this rule, information which clearly corroborates the overall quantity of supplies needed to meet bladder and bowel management is medically appropriate;

(b) For services requiring PA, submit documentation as specified in (4)(a)(A) and (B);

(c) The DMEPOS provider is required to keep supporting documentation on file and make available to the Division on request.

(5) Quantity specification:

(a) For PA and reimbursement purposes, a unit count for Category I — III codes is considered as single or individual piece of an item and not as multiple quantity;

(b) If an item quantity is listed as number of boxes, cases or cartons, the total number of individual pieces of that item contained within that respective measurement (box, case or carton) must be specified in the unit column on the PA request. See table 122-0630-2;

(c) For gloves (Category IV Miscellaneous), 100 gloves equal one unit.

(6) **Table 122-0630-1**

(7) **Table 122-0630-2**

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

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 64-2001, f. 12-28-01, cert. ef. 1-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 76-2003, f. & cert. ef. 10-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0655

External Breast Prostheses

(1) Indications and Limitations of Coverage and Medical Appropriateness:

(a) The Division of Medical Assistance Programs (Division) may cover an external breast prosthesis for a client who has had a mastectomy;

(b) An external breast prosthesis garment, with mastectomy form (L8015) may be covered for use in the postoperative period prior to a permanent breast prosthesis or as an alternative to a mastectomy bra and breast prosthesis;

(c) An external breast prosthesis of a different type may be covered if there is a change in the client's medical condition necessitating a different type of item;

(d) The Division will pay for only one breast prosthesis per side for the useful lifetime of the prosthesis;

(e) The Division will pay for a breast prosthesis for a client residing in a nursing facility;

(f) Two prostheses, one per side, are allowed for a client who has had bilateral mastectomies;

(g) More than one external breast prosthesis per side is not covered;

(h) An external breast prosthesis of the same type may be replaced if it is lost or is irreparably damaged (this does not include ordinary wear and tear);

(i) Replacement sooner than the useful lifetime because of ordinary wear and tear is not covered.

(2) Guidelines:

(a) Use code A4280 when billing for an adhesive skin support that attaches an external breast prosthesis directly to the chest wall;

(b) L8000 is limited to a maximum of four units every 12 months;

(c) Code L8015 describes a camisole type undergarment with polyester fill used post mastectomy;

(d) The right (RT) and left (LT) modifiers must be used with these codes. When the same code for two breast prostheses are billed for both breasts on the same date, the items (RT and LT) must be entered on the same line of the claim form using the RTLTL modifier and two units of service;

(e) The useful lifetime expectancy for silicone breast prostheses is two years;

(f) For fabric, foam, or fiber filled breast prostheses, the useful lifetime expectancy is six months.

(3) Requirements:

(a) For services that do not require prior authorization (PA), the durable medical equipment, prosthetic, orthotic and supplies (DMEPOS) provider must have documentation on file which supports conditions of coverage as specified in this rule are met;

(b) For services that require PA, the DMEPOS provider must submit documentation for review which supports conditions of coverage as specified in this rule are met;

(c) Medical records must be made available to the Division on request.

(4) **Table 122-0655** (Procedure Codes): The procedure codes in this table may be covered for purchase.

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 44-2004, f. & cert. ef. 7-1-04; Renumbered from 410-122-0255, DMAP 12-2007, f. 6-29-07,

ADMINISTRATIVE RULES

cert. ef. 7-1-07; DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0658

Gradient Compression Stockings

(1) Indications and Limitations of Coverage and Medical Appropriateness:

(a) The Division of Medical Assistance Programs (Division) may cover gradient compression stockings for the following indications:

- (A) Ulceration due to chronic venous insufficiency;
- (B) Varicose veins with ulcer or inflammation;
- (C) Phlebitis/thrombophlebitis;
- (D) Deep vein thrombosis (DVT) prophylaxis during pregnancy and postpartum, or immobilization due to surgery, trauma or debilitation;
- (E) Covered lymphedema conditions when an ulcer is present; and
- (F) Edema following a covered surgery, fracture, burns or other trauma;

(b) A gradient compression stocking may be covered when it is used to secure a primary dressing over an open venous stasis ulcer which is currently being treated by a practitioner and requires medically necessary debridement, and when the gradient stocking delivers compression less than 50 mmHg;

(c) On initial dispensing, two pair of gradient compression stockings may be provided;

(d) Any subsequent dispensing within the same calendar year requires detailed medical documentation (e.g., change in size, unusual drainage, wear that renders them ineffective);

(e) The following services are not covered:

(A) Antiembolism [surgical or Thrombo-Embolic Deterrent (TED)] stockings (Healthcare Common Procedure Coding System (HCPCS) codes A4490-A4510);

(B) Garter belts (A6544);

(C) Gradient compression stockings; below knee, 18-30 mmHg (A6530);

(D) Gradient compression stocking/sleeve, not otherwise specified (A6549);

(E) Prevention of stasis ulcers;

(F) Prevention of the reoccurrence of stasis ulcers that have healed;

(G) Stockings for the following conditions:

- (i) Solely for the purpose of air travel;
- (ii) Treatment of lymphedema in the absence of ulcers;
- (iii) Venous insufficiency without stasis ulcers;
- (H) Support hose (pantyhose).

(2) Documentation Requirements: Medical records that support the conditions of coverage are met, as specified in this rule, must be kept on file by the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider and made available to the Division on request.

(3) Table 122-0658

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

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

Stats. Implemented: ORS 414.065

Hist.: DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0662

Ankle-Foot Orthoses and Knee-Ankle-Foot Orthoses

(1) Indications and limitations of coverage and medical appropriateness: The Division of Medical Assistance Programs (Division) may cover some ankle-foot orthotics (AFOs) and knee-ankle-foot Orthotics (KAFOs) and related services for a covered condition, for this episode, when the covered device has not been billed to the Division with a Current Procedure Terminology (CPT) code, Healthcare Common Procedure Coding System (HCPCS) code or diagnosis code by any other healthcare provider, and in addition specifically for:

(a) AFOs not used during ambulation: A static AFO (L4396) may be covered when (A)-(E) are met:

(A) The client has a plantar flexion contracture of the ankle (Internal Classification of Diseases (ICD)-9 diagnosis code 718.47) with dorsiflexion on passive range of motion testing of at least 10 degrees (i.e., a nonfixed contracture);

(B) There is a reasonable expectation of the ability to correct the contracture;

(C) The contracture is interfering or expected to interfere significantly with the client's functional abilities;

(D) The static AFO is used as a component of a therapy program that includes active stretching of the involved muscles and/or tendons;

(E) The pre-treatment passive range of motion is measured with a goniometer and an appropriate stretching program carried out by professional staff (in a nursing facility) or caregiver (at home) is documented in the client's treatment plan;(b) AFOs and KAFOs used during ambulation:

(A) AFOs described by codes L1900, L1902-L1990, L2106-L2116, L4350, L4360 and L4386 with weakness or deformity of the foot and ankle requiring stabilization for medical reasons and with potential to benefit functionally;

(B) KAFOs described by codes L2000-L2038, L2126-L2136 and L4370 when conditions of coverage are met for an AFO and additional knee stability is required:

(C) AFOs and KAFOs that are molded-to-patient model, or custom-fabricated when basic coverage criteria for an AFO or KAFO are met and one of the following criteria is met:

(i) The client could not be fit with a prefabricated AFO;

(ii) The condition necessitating the orthotic is expected to be permanent or of longstanding duration (more than six months);

(iii) There is a need to control the knee, ankle or foot in more than one plane;

(iv) The client has a documented neurological, circulatory, or orthopedic status that requires custom fabricating over a model to prevent tissue injury;

(v) The client has a healing fracture that lacks normal anatomical integrity or anthropometric proportions;

(c) No more than one replacement interface (L4392) may be covered every six months for a covered static AFO;

(d) Evaluation of the client, measurement and/or casting and fitting of the orthotic are included in the allowance for the orthotic;

(e) Repairs/Replacement:

(A) Repairs to a covered orthotic due to wear or to accidental damage when necessary to make the orthotic functional. If the expense for repairs exceeds the estimated expense of providing another entire orthotic, no payment will be made for the amount in excess;

(B) Replacement of a complete orthotic or component of an orthotic due to loss, significant change in the client's condition or irreparable accidental damage if the device is still medically appropriate and conditions of coverage are met;

(C) L4205 (Repair of orthotic device, labor component, per 15 minutes):

(i) May only bill for the actual time involved in the repair of an orthotic;

(ii) May not use this code for any labor involved in the evaluation, fabrication or fitting of a new or full replacement orthotic;

(iii) Use for the labor component of repair of a previously provided orthotic;

(D) Labor Allowance:

(i) Included in the replacement of an orthotic component coded with a specific L code;

(ii) Not included in the replacement of an orthotic component coded with L4210;

(E) Replacement items with specific HCPCS codes:

(i) Use L4392 and L4394 for replacement soft interfaces used with ankle contracture orthotics or foot drop splints;

(ii) Use L2999 (Lower extremity orthotics, not otherwise specified) for replacement components that do not have a specific HCPCS code;

(iii) Addition codes L4002 - L4130, L4392 for replacement components are not payable at initial issue of a base orthotic;

(f) The codes specified in this rule may be covered for a client residing in a nursing facility;

(g) Quantities of supplies greater than those described in the policy as the usual maximum amounts only when supported by documentation clearly and maximum amounts only when supported by documentation clearly and specifically explaining the medical appropriateness of the excess quantities.

(2) Exclusions: The following services are not covered;

(a) A static AFO and replacement interface for:

(A) A fixed contracture; or

(B) A foot drop without an ankle flexion contracture;

(C) When used solely for the prevention or treatment of a heel pressure ulcer;

(b) A component of a static AFO that is used to address positioning of the knee or hip;

(c) A foot drop splint/recumbent positioning device (L4398) or replacement interface (L4394) for a non-ambulatory client when used solely for the prevention or treatment of a pressure ulcer;

ADMINISTRATIVE RULES

(d) An AFO or KAFO and any related addition for an ambulatory client when used solely for treatment of edema and/or prevention or treatment of a pressure ulcer;

(e) Walking boots used primarily to relieve pressure, especially on the sole of the foot or used solely for the prevention or treatment of a pressure ulcer;

(f) Elastic support garments (L1901);

(g) Socks (L2840, L2850) used in conjunction with orthotics;

(h) Replacement components (e.g., soft interfaces) that are provided on a routine basis, without regard to whether the original item is worn out;

(i) A foot pressure off-loading/supportive device (A9283);

(j) L coded additions to AFOs and KAFOs (L2180-L2550, L2750-L2768, L2780-L2830) if either the coverage criteria for the base orthotic is not met or the specific addition is not medically appropriate.

(3) Coding Guidelines:

(a) A prefabricated orthotic is one that is manufactured in quantity without a specific client in mind. A prefabricated orthotic may be trimmed, bent, molded (with or without heat), or otherwise modified for use by a specific client (i.e., custom fitted). An orthotic that is assembled from prefabricated components is considered prefabricated. Any orthotic that does not meet the definition of a custom-fabricated orthotic is considered prefabricated;

(b) A custom-fabricated orthotic is individually made for a specific client starting with basic materials including, but not limited to, plastic, metal, leather, or cloth in the form of sheets, bars, etc. It involves substantial work such as cutting, bending, molding, sewing, etc. It may involve some prefabricated components. It involves more than trimming, bending, or making other modifications to a substantially prefabricated item;

(c) A molded-to-patient model orthotic is a particular type of custom-fabricated orthotic in that an impression of the specific body part is made (by means of a plaster cast, computer-aided design and computer-aided manufacturing (CAD-CAM) technology, etc.). This impression is used to make a positive model (of plaster or other material) of the body part. The orthotic is then molded on this positive model;

(d) Ankle-foot orthotics extend well above the ankle (usually to near the top of the calf) and are fastened around the lower leg above the ankle. These features distinguish them from foot orthotics that are shoe inserts that do not extend above the ankle. A nonambulatory ankle-foot orthotic may be either an ankle contracture splint, night splint or a foot drop splint;

(e) A static AFO (L4396) is a prefabricated ankle-foot orthotic that has all of the following characteristics:

(A) Designed to accommodate an ankle with a plantar flexion contracture up to 45°;

(B) Applies a dorsiflexion force to the ankle;

(C) Used by a client who is minimally ambulatory or nonambulatory;

(D) Has a soft interface;

(f) A foot drop splint/recumbent positioning device (L4398) is a prefabricated ankle-foot orthotic that has all of the following characteristics:

(A) Designed to maintain the foot at a fixed position of 0° (i.e., perpendicular to the lower leg);

(B) Not designed to accommodate an ankle with a plantar flexion contracture;

(C) Used by a client who is nonambulatory;

(D) Has a soft interface.

(4) HCPCS Modifiers:

(a) EY — No physician or other licensed health care provider order for this item or service;

(b) GY — Item or service statutorily excluded or does not meet the definition of any Medicare benefit:

(A) If an AFO or a KAFO is used solely for the treatment of edema and/or for the prevention or treatment of a pressure ulcer, the GY modifier must be added to the base code and any related additional code;

(B) If a walking boot (L4360, L4386), static AFO (L4396) or foot drop splint/recumbent positioning device (L4398) is used solely for the prevention or treatment of a pressure ulcer, the GY modifier must be added to the base code and to the code for the replacement liner (L4392, L4394);

(C) When the GY modifier is added to a code there must be a short narrative statement indicating why the GY modifier was used – e.g., “used to prevent pressure ulcer” or “used to treat pressure ulcer” or “used to treat edema”. This statement must be entered in the narrative field of an electronic claim or attached to a hard copy claim;

(c) KX — Requirements specified in the medical policy have been met. The provider must add a KX modifier to the AFO/KAFO base and additional codes only if all the coverage criteria of this policy have been met and evidence of such is retained in the provider’s files;

(d) LT — Left Side; RT — Right Side:

(A) The right (RT) and left (LT) modifiers must be used with orthotic base codes, additions and replacement parts;

(B) When the same code for bilateral items (left and right) is billed on the same date of service, bill both items on the same claim line using the LTRT modifiers and 2 units of service.

(5) Documentation Requirements:

(a) L2999 is the only code in this rule that requires prior authorization (PA): For a PA request, submit documentation for review that supports conditions of coverage as specified in this rule are met, including the plan of care, if applicable;

(b) For services that do not require PA: Documentation from the medical record that supports conditions of coverage as specified in this rule are met must be kept on file with the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider;

(c) Prior to billing for each new or full replacement item, the DMEPOS provider must first have received a completed written, signed and dated physician’s order that includes:

(A) The treating diagnosis code that justifies the need for the orthotic device;

(B) Detailed description of the item including all options or additional features;

The unique features of the base code plus every addition that will be billed on a separate claim line;

(d) For custom-fabricated orthotics, documentation must support the medical appropriateness of that type device rather than a prefabricated orthotic;

(e) For L2999:

(A) The request for PA must include the following information:

(i) A narrative description of the item (for custom fabricated items);

or

(ii) The manufacturer’s name and model name/number (for pre-fabricated items); and

(iii) Justification of medical appropriateness for the item;

(iv) For replacement components, a HCPCS code or the manufacturer’s name and model name/number of the base orthotic;

(v) The manufacturer’s name and model name/number must be entered in the narrative field of an electronic claim;

(f) Repair of orthotic devices:

(A) A physician’s order is not required;

(B) A detailed description of the reason for the repair, part that is being repaired or replaced must be on file with the DMEPOS provider;

(C) The following information must be entered in the narrative field of an electronic claim:

(i) L4210 must include a description of each item that is billed;

(ii) L4205 must include an explanation of what is being repaired;

(D) All codes for repairs of orthotics billed with the same date of service must be submitted on the same claim;

(g) The provider must include the ICD-9 diagnosis code for the underlying condition on the claim for a static AFO (L4396) or replacement interface material (L4392);

(h) All codes for orthotics billed with the same date of service must be submitted on the same claim;

(i) When billing for quantities of supplies greater than those described in the policy as the usual maximum amounts, there must be documentation in the client’s medical record supporting the medical appropriateness for the higher utilization;

(j) The client’s medical record must support the medical appropriateness for items and all additions billed to the Division and this documentation must be made available to the Division on request.

(5) **Table 122-0662**

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

Stats. Implemented: ORS 414.065

Hist.: DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 40-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0680

Facial Prostheses

(1) Indications and Coverage:

(a) Covered when there is loss or absence of facial tissue due to disease, trauma, surgery, or a congenital defect;

(b) Adhesives, adhesive remover and tape used in conjunction with a facial prosthesis are covered. Other skin care products related to the prosthesis, including but not limited to cosmetics, skin cream, cleansers, etc., are not covered;

ADMINISTRATIVE RULES

(c) The following services and items are included in the allowance for a facial prosthesis:

- (A) Evaluation of the client;
- (B) Pre-operative planning;
- (C) Cost of materials;
- (D) Labor involved in the fabrication and fitting of the prosthesis;
- (E) Modifications to the prosthesis made at the time of delivery of the prosthesis or within 90 days thereafter;
- (F) Repair due to normal wear or tear within 90 days of delivery;
- (G) Follow-up visits within 90 days of delivery of the prosthesis;
- (d) Modifications to a prosthesis that occur more than 90 days after delivery of the prosthesis and that are required because of a change in the client's condition are covered;

(e) Repairs are covered when there has been accidental damage or extensive wear to the prosthesis that can be repaired. If the expense for repairs exceeds the estimated expense for a replacement prosthesis, no payments can be made for the amount of the excess;

(f) Follow-up visits which occur more than 90 days after delivery and which do not involve modification or repair of the prosthesis are non-covered services;

(g) Replacement of a facial prosthesis is covered in cases of loss or irreparable damage or wear or when required because of a change in the client's condition that cannot be accommodated by modification of the existing prosthesis;

(h) When a prosthesis is needed for adjacent facial regions, a single code must be used to bill for the item, whenever possible. For example, if a defect involves the nose and orbit, this should be billed using the hemifacial prosthesis code and not separate codes for the orbit and nose. This would apply even if the prosthesis is fabricated in two separate parts.

(2) Documentation: The following must be submitted for prior authorization (PA):

(a) An order for the initial prosthesis and/or related supplies which is signed and dated by the ordering prescribing practitioner must be kept on file by the prosthetist/supplier and submitted with request for PA;

(b) A separate prescribing practitioner order is not required for subsequent modifications, repairs or replacement of a facial prosthesis;

(c) A new prescribing practitioner order is required when different supplies are ordered;

(d) A photograph of the prosthesis and a photograph of the client without the prosthesis must be retained in the supplier's record and must be submitted with the PA request;

(e) When code L8048 is used for a miscellaneous prosthesis or prosthetic component, the authorization request must be accompanied by a clear description and a drawing/copy of photograph of the item provided and the medical appropriateness;

(f) Requests for replacement, repair or modification of a facial prosthesis must include an explanation of the reason for the service;

(g) When replacement involves a new impression/moulage rather than use of a previous master model, the reason for the new impression/moulage must be clearly documented in the authorization request.

(3) Procedure Codes – Table 122-0680.

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

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

Stats. Implemented: ORS 414.065

Hist.: HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

410-122-0720

Pediatric Wheelchairs

(1) Indications and Limitations of Coverage and Medical Appropriateness:

(a) The Division of Medical Assistance Programs (Division) may cover a pediatric wheelchair when all of the following criteria are met:

(A) The client has a mobility limitation that significantly impairs their ability to accomplish mobility-related activities of daily living (MRADLs); places the client at reasonably determined heightened risk of morbidity or mortality secondary to the attempts to perform a MRADL; or the client is unable to sustain safely the performance of MRADLs throughout the course of a regular day. See OAR 410-122-0010 Definitions for complete definition of MRADL;

(B) An appropriately fitted cane or walker cannot sufficiently resolve the client's mobility limitation;

(C) The client's home provides adequate maneuvering space, maneuvering surfaces, and access between rooms for use of the pediatric wheelchair that is being requested;

(D) Use of a pediatric wheelchair will significantly improve the client's ability to move within the home to the areas customarily used for their MRADL so that the client can complete these MRADLs within a reasonable time frame;

(E) The client is willing to use the requested pediatric wheelchair in the home, and will use it on a regular basis in the home;

(F) The client has either:

(i) Sufficient upper extremity function and other physical and mental capabilities needed to safely self-propel the requested pediatric wheelchair in the home, during a typical day. Proper assessment of upper extremity function should consider limitations of strength, endurance, range of motion, coordination, presence of pain, and deformity or absence of one or both upper extremities; or

(ii) A caregiver who is available, willing, and able to provide assistance with the wheelchair;

(b) Only when conditions of coverage as specified in (1)(a) of this rule are met, may the Division authorize a pediatric wheelchair for any of the following situations:

(A) When the wheelchair can be reasonably expected to improve the client's ability to complete MRADLs by compensating for other limitations in addition to mobility deficits and the client is compliant with treatment:

(i) Besides MRADLs deficits, when other limitations exist, and these limitations can be ameliorated or compensated sufficiently such that the additional provision of a pediatric wheelchair will be reasonably expected to significantly improve the client's ability to perform or obtain assistance to participate in MRADLs in the home, a pediatric wheelchair may be considered for coverage;

(ii) If the amelioration or compensation requires the client's compliance with treatment, for example medications or therapy, substantive non-compliance, whether willing or involuntary, can be grounds for denial of pediatric wheelchair coverage if it results in the client continuing to have a significant limitation. It may be determined that partial compliance results in adequate amelioration or compensation for the appropriate use of a pediatric wheelchair;

(B) For a purchase request, when a client's current wheelchair is no longer medically appropriate, or repair and/or modifications to the wheelchair exceed replacement cost;

(C) When a covered, client-owned wheelchair is in need of repair (for one month's rental of a wheelchair). See OAR 410-122-0184 Repairs, Maintenance, Replacement, Delivery and Dispensing;

(c) A pediatric tilt-in-space wheelchair (E1231- E1234) may be covered when a client meets all of the following conditions:

(A) A standard base with a reclining back option will not meet the client's needs;

(B) Is dependent for transfers;

(C) Spends a minimum of six hours a day in a wheelchair;

(D) The plan of care addresses the need to change position at frequent intervals and the client is not left in the tilt position most of the time; and

(E) Has one of the following:

(i) High risk of skin breakdown;

(ii) Poor postural control, especially of the head and trunk;

(iii) Hyper/hypotonia;

(iv) Need for frequent changes in position and has poor upright sitting;

(d) One month's rental for a manual pediatric tilt-in-space wheelchair (E1231-E1234) may be covered for a client residing in a nursing facility when all of the following conditions are met:

(A) The anticipated nursing facility length of stay is 30 days or less;

(B) The conditions of coverage for a manual tilt-in-space wheelchair as described in (1) (c) (A) (E) are met;

(C) The client is expected to have an ongoing need for this same wheelchair after discharge to the home setting;

(D) Coverage is limited to one month's rental;

(e) The Division does not reimburse for another wheelchair if the client has a medically appropriate wheelchair, regardless of payer;

(f) The client's living quarters must be able to accommodate and allow for the effective use of the requested wheelchair. The Division does not reimburse for adapting living quarters;

(g) The Division does not cover services or upgrades that primarily allow performance of leisure or recreational activities. Such services include but are not limited to backup wheelchairs, backpacks, accessory bags, clothing guards, awnings, additional positioning equipment if wheelchair meets the same need, custom colors, and wheelchair gloves;

(h) Reimbursement for wheelchair codes includes all labor charges involved in the assembly of the wheelchair, as well as support services such

ADMINISTRATIVE RULES

as emergency services, delivery, set-up, pick-up and delivery for repairs/modifications, education, and ongoing assistance with the use of the wheelchair;

(i) Power mobility devices and related options and accessories must be supplied by a DMEPOS provider that employs a Rehabilitation Engineering and Assistive Technology Society of North America (RESNA)-certified Assistive Technology Professional (ATP) who specializes in wheelchairs and who has direct, in-person involvement in the wheelchair selection for the client;

(j) The provider's ATP must be employed by a provider in a full-time, part-time or contracted capacity as is acceptable by state law. The provider's ATP, if part-time or contracted, must be under the direct control of the provider;

(k) Documentation must be complete and detailed enough so a third party would be able to understand the nature of the provider's ATP involvement, if any, in the licensed/certified medical professional (LCMP) specialty evaluation;

(l) The provider's ATP may not conduct the provider evaluation at the time of delivery of the power mobility device to the client's residence;

(m) A Group 5 (Pediatric) power wheelchair (PWC) with Single Power Option (K0890) or with Multiple Power Options (K0891) may be covered when:

(i) The coverage criteria for a PWC (see 410-122-0325, Motorized/Power Wheelchair Base) are met; and

(ii) The client is expected to grow in height; and

(iii) Either of the following criteria is met:

(I) The Group 2 Single Power Option in 410-122-0325, Motorized/Power Wheelchair Base, (2)(a)(C)(i)(I-II); or

(II) Multiple Power Options in 410-122-0325, Motorized/Power Wheelchair Base, (2) (a)(D) (i) (I-II);

(iv) The delivery of a PWC must be within 120 days following completion of the face-to-face examination with the physician;

(v) A PWC may not be ordered by a podiatrist;

(n) A pediatric wheelchair for use only outside the home is not covered;

(o) For more information on coverage criteria regarding repairs and maintenance, see 410-122-0184 Repairs, Maintenance, Replacement, Delivery and Dispensing.

(2) Coding Guidelines:

(a) For individualized wheelchair features that are medically appropriate to meet the needs of a particular client, use the correct codes for the wheelchair base, options and accessories (see 410-122-0340 Wheelchair Options/Accessories);

(b) For wheelchair frames that are modified in a unique way to accommodate the client, submit the code for the wheelchair base used and submit the modification with code K0108 (wheelchair component or accessory, not otherwise specified);

(c) Wheelchair "poundage" (pounds) represents the weight of the usual configuration of the wheelchair with a seat and back, but without front riggings;

(d) A manual wheelchair with a seat width and/or depth of 14" or less is considered a pediatric size wheelchair and is billed with codes E1231-E1238 or E1229 unless determination by the Medicare Pricing, Data Analysis and Coding (PDAC) contractor for the wheelchair is otherwise indicated;

(e) A PWC with a seat width or depth of 14" or less is considered a pediatric PWC base and is coded E1239, PWC, pediatric size, not otherwise specified;

(f) Pediatric seating system codes E2291-E2294 may only be billed with pediatric wheelchair base codes;

(g) Contact the Medicare Pricing, Data Analysis and Coding (PDAC) contractor regarding correct coding. See 410-122-0180 Healthcare Common Procedure Coding System (HCPCS) Level II Coding for more information.

(3) Documentation requirements:

(a) Functional Mobility Evaluation:

(A) Durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) providers must submit medical documentation which supports conditions of coverage in this rule are met for purchase and modifications of all covered, client-owned pediatric wheelchairs;

(B) Information must include, but is not limited to:

(i) Medical justification, needs assessment, order, and specifications for the wheelchair, completed by a physical therapist (PT), occupational therapist (OT) or treating physician. The person who provides this infor-

mation must have no direct or indirect financial relationship, agreement or contract with the DMEPOS provider requesting authorization; and

(ii) Client identification and rehab technology supplier identification information which may be completed by the DMEPOS provider; and

(iii) Signature and date by the treating physician and PT or OT;

(C) If the information on this form includes all the elements of an order, the provider may submit the completed form in lieu of an order;

(b) Additional Documentation:

(A) Information from a PT, OT or treating physician that specifically indicates:

(i) The client's mobility limitation and how it interferes with the performance of activities of daily living;

(ii) Why a cane or walker can't meet this client's mobility needs in the home;

(B) Pertinent information from a PT, OT or treating physician about the following elements that support coverage criteria are met for a pediatric wheelchair; only relevant elements need to be addressed:

(i) Symptoms;

(ii) Related diagnoses;

(iii) History:

(I) How long the condition has been present;

(II) Clinical progression;

(III) Interventions that have been tried and the results;

(IV) Past use of walker, pediatric wheelchair, power-operated vehicle (POV), or PWC and the results;

(iv) Physical exam:

(I) Weight;

(II) Impairment of strength, range of motion, sensation, or coordination of arms and legs;

(III) Presence of abnormal tone or deformity of arms, legs, or trunk;

(IV) Neck, trunk, and pelvic posture and flexibility;

(V) Sitting and standing balance;

(v) Functional assessment — any problems with performing the following activities including the need to use a cane, walker, or the assistance of another person:

(I) Transferring between a bed, chair, and a wheelchair or power mobility device;

(II) Walking around their home — to bathroom, kitchen, living room, etc. — provide information on distance walked, speed, and balance;

(C) Documentation from a PT, OT or treating physician that clearly distinguishes the client's abilities and needs within the home from any additional needs for use outside the home since the Division determines coverage of a wheelchair solely by the client's mobility needs within the home, even though a client who qualifies for coverage of a pediatric wheelchair may use the wheelchair outside the home; and

(D) For all requested equipment and accessories, the manufacturer's name, product name, model number, standard features, specifications, dimensions and options, including growth capabilities; and

(E) Detailed information about client-owned equipment (including serial numbers), as well as any other equipment being used or available to meet the client's medical needs, including how long it has been used by the client and why it can't be grown or modified, if applicable; and

(F) For the home assessment, prior to delivery of the wheelchair, the DMEPOS provider or practitioner must perform an on-site, written evaluation of the client's living quarters. This assessment must support that the client's home can accommodate and allow for the effective use of a wheelchair. This assessment must include, but is not limited to, evaluation of physical layout, doorway widths, doorway thresholds, surfaces, counter/table height, accessibility (e.g., ramps), electrical service, etc.; and

(G) All HCPCS codes, including the base, options and accessories, whether prior authorization (PA) is required or not, that will be separately billed;

(c) A written order by the treating physician, identifying the specific type of pediatric wheelchair needed. If the order does not specify the type requested by the DMEPOS provider on the authorization request, the provider must obtain another written order that lists the specific pediatric wheelchair that is being ordered and any options and accessories requested. The DMEPOS provider may enter the items on this order. This order must be signed and dated by the treating physician, received by the DMEPOS provider and submitted to the authorizing authority; and

(d) For a PWC request: See 410-122-0325, Motorized/Power Wheelchair Base for documentation requirements; and

(e) Any additional documentation that supports indications of coverage are met as specified in this policy; and

(f) For a manual wheelchair rental, submit all of the following:

ADMINISTRATIVE RULES

(A) A written order from the treating physician, identifying the specific type of manual wheelchair needed:

(i) If the order does not specify the type of wheelchair requested by the DMEPOS provider on the authorization request, the provider must obtain another written order that lists the specific manual wheelchair that is being ordered and any options and accessories requested;

(ii) The DMEPOS provider may enter the items on this order;

(iii) This order must be signed and dated by the treating physician, received by the DMEPOS provider and submitted to the authorizing authority;

(B) HCPCS codes;

(C) Documentation from the DMEPOS provider which supports that the client's home can accommodate and allow for the effective use of the requested wheelchair;

(g) The above documentation must be kept on file by the DMEPOS provider; and

(h) Documentation that the coverage criteria have been met must be present in the client's medical records and this documentation must be made available to the Division on request; and

(i) For PWC's furnished on a rental basis with dates of services prior to October 1, 2006, use code E1239 as appropriate.

(4) **Table 122-0720 – Pediatric Wheelchairs**

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

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

Stats. Implemented: ORS 414.065

Hist.: OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04;

OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05;

OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07;

DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08;

DMAP 15-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10

Rule Caption: July 2010 rule revisions.

Adm. Order No.: DMAP 14-2010

Filed with Sec. of State: 6-10-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 410-123-1000, 410-123-1160, 410-123-1220, 410-123-1260

Subject: The Dental Services program administrative rules govern DMAP payment for services to certain clients. DMAP amended rules listed above to add orthodontia coverage for clients with the diagnosis of cleft palate; to add coverage of fixed partial denture sectioning in limited circumstances; to change and clarify the timeframe limitation for fabrication of dentures for non-pregnant adults (within six months of most recent extractions); to clarify limitations for adjustments and repairs of dentures; to change limitation for laboratory re-line after placement of immediate denture; and other minor clarifications. DMAP amended rules to clarify current policies and procedures to ensure these rules are not open to interpretation by the provider or outside parties and to help eliminate confusion possibly resulting in non-compliance and help facilitate provider compliance with eligibility, service coverage and limitations, prior authorizations, and billing requirements. Text may be revised to improve readability and take care of necessary housekeeping corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-123-1000

Eligibility, Providing Services and Billing

(1) Eligibility:

(a) Providers are responsible to verify client eligibility and must do so before providing any service or billing the Division of Medical Assistance Programs (Division) or any Oregon Health Plan (OHP) Prepaid Health Plan (PHP);

(b) The Division will not pay for services provided to an ineligible client even if services were authorized. Refer to General Rules OAR 410-120-1140 (Verification of Eligibility) for details.

(2) Billing:

(a) Providers must follow the Division rules in effect on the date of service. All Division rules are intended to be used in conjunction with the DMAP General Rules (chapter 410, division 120), the OHP Administrative Rules (chapter 410, division 141), Pharmaceutical Services Rules (chapter 410, division 121) and other relevant Division OARs applicable to the service provided, where the service is delivered, and the qualifications of the

person providing the service including the requirement for a signed provider enrollment agreement;

(b) Third Party Resources: A third party resource (TPR) is an alternate insurance resource, other than the Division, available to pay for medical/dental services and items on behalf of OHP clients. Any alternate insurance resource must be billed before the Division or any OHP PHP can be billed. Indian Health Services or Tribal facilities are not considered to be a TPR pursuant to General Rules (OAR 410-120-1280);

(c) Fabricated Prosthetics:

(A) If a dentist or denturist provides an eligible client with fabricated prosthetics that require the use of a dental laboratory, the date of the final impressions must have occurred:

(i) Prior to the client's loss of eligibility; and

(ii) For dentures for non-pregnant adults, no later than six months from the date of the last extraction from the jaw for which the denture is being provided;

(B) The dentist/denturist should use the date of final impression as the date of service only when criteria in (A) is met and the fabrication extends beyond:

(i) The client's OHP eligibility; or

(ii) Six months after the extractions (for dentures for non-pregnant adults);

(C) The date of delivery must be within 45 days of the date of the final impression and the date of delivery must also be indicated on the claim. These are the only exceptions to General Rules (OAR 410-120-1280). All other services must be billed using the date the service was provided;

(d) Refer to OAR 410-123-1160 for information regarding dental services requiring prior authorization (PA). Refer to OAR 410-123-1100 for information regarding dental services that require providers to submit reports for review ("by report" - BR) prior to reimbursement;

(e) The client's records must include documentation to support the appropriateness of the service and level of care rendered;

(f) The Division will only reimburse for dental services that are dentally appropriate as defined in OAR 410-123-1060;

(g) Refer to OAR 410 division 147 for information about reimbursement for dental services provided through a Federally Qualified Health Center (FQHC) or Rural Health Center (RHC);

(3) Treatment Plans: Being consistent with established dental office protocol and the standard of care within the community, scheduling of appointments is at the discretion of the dentist. The agreed upon treatment plan established by the dentist and patient will establish appointment sequencing. Eligibility for medical assistance programs does not entitle a client to any services or consideration not provided to all clients.

Stat. Auth.: ORS 409.050, 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; OMAP 13-

1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP

23-1999, f. & cert. ef. 4-30-99; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-

2002, f. & cert. ef. 10-1-02; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03; DMAP 25-2007, f.

12-11-07, cert. ef. 1-1-08; DMAP 18-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 41-2009, f.

12-15-09, cert. ef. 1-1-10; DMAP 14-2010, f. 6-10-10, cert. ef. 7-1-10

410-123-1160

Prior Authorization (PA)

(1) Division of Medical Assistance Programs (Division) prior authorization (PA) requirements:

(a) For fee-for-service (FFS) dental clients, the following services require PA:

(A) Crowns (porcelain fused to metal);

(B) Crown repair;

(C) Retreatment of previous root canal therapy – anterior;

(D) Complete dentures;

(E) Immediate dentures;

(F) Partial dentures;

(G) Prefabricated post and core in addition to fixed partial denture retainer;

(H) Fixed partial denture repairs;

(I) Skin graft; and

(J) Orthodontics (when covered pursuant to OAR 410-123-1260);

(b) Hospital dentistry always requires PA, regardless of the client's enrollment status. Refer to OAR 410-123-1490 for more information;

(c) Oral surgical services require PA when performed in an ambulatory surgical center (ASC) or an outpatient or inpatient hospital setting and related anesthesia. Refer to OAR 410-123-1260 (Oral Surgery Services), and the current Medical Surgical Services administrative rule OAR 410-130-0200 for information;

ADMINISTRATIVE RULES

(d) Maxillofacial surgeries may require PA in some instances. Refer to the current Medical Surgical Services administrative rule 410-130-0200, for information.

(2) The Division does not require PA for outpatient or inpatient services related to life-threatening emergencies. The client's clinical record must document any appropriate clinical information that supports the need for the hospitalization.

(3) How to request PA:

(a) Submit the request to the Division in writing. Refer to the Dental Services Supplemental Information for specific instructions and forms to use. Telephone calls requesting PA will not be accepted;

(b) Treatment justification: The Division may request the treating dentist to submit appropriate radiographs or other clinical information that justifies the treatment:

(A) When radiographs are required they must be:

(i) Readable copies;

(ii) Mounted or loose;

(iii) In an envelope, stapled to the PA form;

(iv) Clearly labeled with the dentist's name and address and the client's name; and

(v) If digital x-ray, they must be of photo quality;

(B) Do not submit radiographs unless it is required by the Dental Services administrative rules or they are requested during the PA process.

(4) The Division will issue a decision on PA requests within 30 days of receipt of the request. The Division will provide PA for services when:

(a) The prognosis is favorable;

(b) The treatment is practical;

(c) The services are dentally appropriate; and

(d) A lesser-cost procedure would not achieve the same ultimate results.

(5) PA does not guarantee eligibility or reimbursement. It is the responsibility of the provider to check the client's eligibility on the date of service.

(6) For certain services and billings, the Division will seek a general practice consultant or an oral surgery consultant for professional review to determine if a PA will be approved. The Division will deny PA if the consultant decides that the clinical information furnished does not support the treatment of services.

(7) For managed care PA requirements:

(a) For services other than hospital dentistry, contact the client's DCO for PA requirements for individual services and/or supplies listed in the Dental Services administrative rules. DCOs may not have the same PA requirements for dental services as listed in this administrative rule;

(b) For hospital dentistry, refer to OAR 410-123-1490 for details regarding PA requirements.

Stat. Auth.: ORS 409.050, 414.051, 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 32-1994, f. & cert. ef. 11-1-94; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; DMAP 25-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 38-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 16-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 41-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 14-2010, f. 6-10-10, cert. ef. 7-1-10

410-123-1220

Coverage according to the Prioritized List of Health Services

(1) This rule incorporates by reference the "Covered and Non-Covered Dental Services" document, dated July 1, 2010, located on the Department of Human Services Web site at www.dhs.state.or.us/policy/healthplan/guides/dental/main.html;

(a) The "Covered and Non-Covered Dental Services" document lists coverage of Current Dental Terminology (CDT) procedure codes according to the Oregon Health Services Commission (HSC) Prioritized List of Health Services and the client's specific Oregon Health Plan benefit package;

(b) This document is subject to change if there are funding changes to the HSC Prioritized List.

(2) Changes to services funded on the HSC Prioritized List are effective on the date of the List change:

(a) The Division of Medical Assistance Programs (Division) administrative rules (chapter 410-division 123) will not reflect the most current HSC Prioritized List changes until they have gone through the Division rule filing process;

(b) For the most current HSC Prioritized List, refer to the HSC Web site at www.oregon.gov/OHPPR/HSC/current_prior.shtml;

(c) In the event of an alleged variation between a Division-listed code and a national code, the Division will apply the national code in effect on the date of request or date of service.

(3) Refer to OAR 410-123-1260 for information about limitations on procedures funded according to the HSC Prioritized List of Health Services. Examples of limitations include frequency and client's age.

(4) The HSC Prioritized List does not include or fund the following general categories of dental services and the Division does not cover them for any client. Several of these services are considered "cosmetic" in nature (i.e., done for the sake of appearance):

(a) Desensitization;

(b) Implant and implant services;

(c) Mastique or veneer procedure;

(d) Orthodontia (except when it is treatment for cleft palate);

(e) Overhang removal;

(f) Procedures, appliances or restorations solely for aesthetic/ cosmetic purposes;

(g) Temporomandibular joint dysfunction treatment; and

(h) Tooth bleaching.

Stat. Auth.: ORS 409.050, 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 21-1994(Temp), f. 4-29-94, cert. ef. 5-1-94; HR 32-1994, f. & cert. ef. 11-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; HR 9-1996, f. 5-31-96, cert. ef. 6-1-96; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03; DMAP 25-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 38-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 16-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 41-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 14-2010, f. 6-10-10, cert. ef. 7-1-10

410-123-1260

Dental Exams, Diagnostic and Procedural Services

(1) GENERAL:

(a) Early and Periodic Screening, Diagnosis and Treatment (EPSDT):

(A) Refer to Code of Federal Regulations (42 CFR 441, Subpart B) and OAR 410 division 120 for definitions of the EPSDT program, eligible clients, and related services. EPSDT dental services includes, but are not limited to:

(i) Dental screening services for eligible EPSDT individuals; and

(ii) Dental diagnosis and treatment which is indicated by screening, at as early an age as necessary, needed for relief of pain and infections, restoration of teeth and maintenance of dental health;

(B) Providers must provide EPSDT services for eligible Division of Medical Assistance Programs (Division) clients according to the following documents:

(i) The Dental Services administrative rules (OAR 410 division 123), for dentally appropriate services funded by the Prioritized List of Health Services; and

(ii) The "Oregon Health Plan (OHP) – Recommended Dental Periodicity Schedule," dated January 1, 2010. This rule incorporates by reference the OHP periodicity schedule posted on the Department of Human Services Web site at www.dhs.state.or.us/policy/healthplan/guides/dental/main.html;

(b) Restorative, periodontal and prosthetic treatments:

(A) Such treatments must be consistent with the prevailing standard of care, documentation must be included in the client's charts to support the treatment, and may be limited as follows:

(i) When prognosis is unfavorable;

(ii) When treatment is impractical;

(iii) A lesser-cost procedure would achieve the same ultimate result;

or

(iv) The treatment has specific limitations outlined in this rule;

(B) Prosthetic treatment (including porcelain fused to metal crowns) are limited until rampant progression of caries is arrested and a period of adequate oral hygiene and periodontal stability is demonstrated; periodontal health needs to be stable and supportive of a prosthetic.

(2) DIAGNOSTIC SERVICES:

(a) Exams:

(A) For children (under 19 years of age):

(i) The Division will reimburse exams (billed as D0120, D0145, D0150, or D0180) a maximum of twice every 12 months with the following limitations:

(I) D0150: once every 12 months when performed by the same practitioner;

(II) D0150: twice every 12 months only when performed by different practitioners;

(III) D0180: once every 12 months;

(ii) The Division will reimburse D0160 only once every 12 months when performed by the same practitioner;

ADMINISTRATIVE RULES

(B) For adults (19 years of age and older) — The Division will reimburse exams (billed as D0120, D0150, D0160, or D0180) by the same practitioner once every 12 months;

(C) For each emergent episode, use D0140 for the initial exam. Use D0170 for related dental follow-up exams;

(D) The Division only covers oral exams by medical practitioners when the medical practitioner is an oral surgeon;

(E) As the American Dental Association's Current Dental Terminology (CDT) codebook specifies the evaluation, diagnosis and treatment planning components of the exam are the responsibility of the dentist, the Division does not reimburse dental exams when furnished by a dental hygienist (with or without a limited access permit);

(b) Radiographs:

(A) The Division will reimburse for routine radiographs once every 12 months;

(B) The Division will reimburse bitewing radiographs for routine screening once every 12 months;

(C) The Division will reimburse a maximum of six radiographs for any one emergency;

(D) For clients under age six, radiographs may be billed separately every 12 months as follows:

(i) D0220 — once;

(ii) D0230 — a maximum of five times;

(iii) D0270 — a maximum of twice, or D0272 once;

(E) The Division will reimburse for panoramic (D0330) or intra-oral complete series (D0210) once every five years, but both cannot be done within the five-year period;

(F) Clients must be a minimum of six years old for billing intra-oral complete series (D0210). The minimum standards for reimbursement of intra-oral complete series are:

(i) For clients age six through 11- a minimum of 10 periapicals and two bitewings for a total of 12 films;

(ii) For clients ages 12 and older — a minimum of 10 periapicals and four bitewings for a total of 14 films;

(G) If fees for multiple single radiographs exceed the allowable reimbursement for a full mouth complete series (D0210), the Division will reimburse for the complete series;

(H) Additional films may be covered if dentally or medically appropriate, e.g., fractures (Refer to OAR 410-123-1060 and 410-120-0000);

(I) If the Division determines the number of radiographs to be excessive, payment for some or all radiographs of the same tooth or area may be denied;

(J) The exception to these limitations is if the client is new to the office or clinic and the office or clinic was unsuccessful in obtaining radiographs from the previous dental office or clinic. Supporting documentation outlining the provider's attempts to receive previous records must be included in the client's records;

(K) Digital radiographs, if printed, should be on photo paper to assure sufficient quality of images.

(3) PREVENTIVE SERVICES:

(a) Prophylaxis:

(A) For children (under 19 years of age) — Limited to twice every 12 months;

(B) For adults (19 years of age and older) — Limited to once every 12 months;

(C) Additional prophylaxis benefit provisions may be available for persons with high risk oral conditions due to disease process, pregnancy, medications or other medical treatments or conditions, severe periodontal disease, rampant caries and/or for persons with disabilities who cannot perform adequate daily oral health care;

(D) Are coded using the appropriate Current Dental Terminology (CDT) coding:

(i) D1110 (Prophylaxis — Adult) — Use for clients 14 years of age and older; and

(ii) D1120 (Prophylaxis — Child) — Use for clients under 14 years of age;

(b) Topical fluoride treatment:

(A) For adults (19 years of age and older) — Limited to once every 12 months;

(B) For children (under 19 years of age) — Limited to twice every 12 months;

(C) For children under 7 years of age who have limited access to a dental practitioner, topical fluoride varnish may be applied by a medical practitioner during a medical visit:

(i) Bill the Division directly regardless of whether the client is fee-for-service (FFS) or enrolled in a Fully Capitated Health Plan (FCHP) or Physician Care Organization (PCO);

(ii) Bill using a professional claim format with the appropriate CDT code (D1206 — Topical Fluoride Varnish);

(iii) An oral screening by a medical practitioner is not a separate billable service and is included in the office visit;

(D) Additional topical fluoride treatments may be available, up to a total of 4 treatments per client within a 12-month period, when high-risk conditions or oral health factors are clearly documented in chart notes for the following clients who:

(i) Have high-risk oral conditions due to disease process, medications, other medical treatments or conditions, or rampant caries;

(ii) Are pregnant;

(iii) Have physical disabilities and cannot perform adequate, daily oral health care;

(iv) Have a developmental disability or other severe cognitive impairment that cannot perform adequate, daily oral health care; or

(v) Are under seven year old with high-risk oral health factors, such as poor oral hygiene, deep pits and fissures (grooves) in teeth, severely crowded teeth, poor diet, etc;

(c) Sealants:

(A) Are covered only for children under 16 years of age;

(B) The Division limits coverage to:

(i) Permanent molars; and

(ii) Only one sealant treatment per molar every five years, except for visible evidence of clinical failure;

(d) Tobacco cessation:

(A) For services provided during a dental visit, bill as a dental service using CDT code D1320 when the following brief counseling is provided:

(i) Ask patients about their tobacco-use status at each visit and record information in the chart;

(ii) Advise patients on their oral health conditions related to tobacco use and give direct advice to quit using tobacco;

(iii) Assess the patient's current level of readiness to quit;

(iv) Assist patients, for example by providing self-help cessation materials, recommending tobacco cessation therapy products through the patient's primary care physician (e.g. nicotine patches, oral medications intended for tobacco cessation treatment and gum) and encouraging the setting of a quit date; and

(v) Arrange to follow up with patients at their next office visit and provide local tobacco-use cessation resources, if needed;

(B) The Division allows a maximum of 10 services within a three-month period;

(C) For tobacco cessation services provided during a medical visit follow criteria outlined in OAR 410-130-0190;

(e) Space management:

(A) The Division will cover fixed and removable space maintainers (D1510, D1515, D1520, and D1525) only for clients under 19 years of age;

(B) The Division will not reimburse for replacement of lost or damaged removable space maintainers.

(4) RESTORATIVE SERVICES:

(a) Restorations — amalgam and composite:

(A) Resin-based composite crowns on anterior teeth (D2390) are only covered for clients under 21 years of age or who are pregnant;

(B) The Division limits payment to the maximum restoration fee of four surfaces per tooth. Refer to the American Dental Association (ADA) CDT codebook for definitions of restorative procedures;

(C) Combine and bill one line per tooth using the appropriate code. For example, if tooth #30 has a buccal amalgam and a mesial-occlusal-distal (MOD) amalgam, then bill MOD, B, using code D2161 (four or more surfaces);

(D) The Division will not reimburse for an amalgam or composite restoration and a crown on the same tooth;

(E) The Division reimburses for a surface once in each treatment episode regardless of the number or combination of restorations;

(F) The restoration fee includes payment for occlusal adjustment and polishing of the restoration;

(G) The Division reimburses for posterior composite restorations at the same rate as amalgam restorations;

(H) The Division limits payment for replacement of posterior composite restorations to once every five years;

(b) Crowns:

(A) Acrylic heat or light cured crowns (D2970) — allowed only for anterior permanent teeth;

ADMINISTRATIVE RULES

(B) The following types of crowns are covered only for clients under 21 years of age or who are pregnant:

(i) Prefabricated plastic crowns (D2932) — allowed only for anterior teeth, permanent or primary;

(ii) Stainless steel crowns (D2930/D2931) — allowed only for posterior teeth, permanent or primary;

(iii) Prefabricated stainless steel crowns with resin window (D2933) — allowed only for anterior teeth, permanent or primary;

(C) Permanent crowns (resin-based composite — D2710, and porcelain fused to metal (PFM) — D2751 and D2752):

(i) Limited to teeth numbers 6-11, 22 and 27 only, if dentally appropriate;

(ii) Up to four (4) permanent crowns allowed in a seven-year period;

(iii) A replacement of a crown previously covered under OHP is included in the maximum limit of 4 permanent crowns, and would need to meet the criteria for a replacement crown;

(iv) Only allowed for clients at least 16 years and under 21 years of age or who are pregnant; and

(v) Rampant caries are arrested and the client demonstrates a period of oral hygiene before prosthetics are proposed;(vi) PFM crowns (D2751 and D2752) must also meet the following additional criteria:

(I) The dental practitioner has attempted all other dentally appropriate restoration options, and documented failure of those options;

(II) Written documentation in the client's chart indicates that PFM is the only restoration option that will restore function;

(III) The dental practitioner submits radiographs to the Division for review; history, diagnosis, and treatment plan may be requested. See OAR 410-123-1100 (Services Reviewed by DMAP);

(IV) The client has documented stable periodontal status with pocket depths within 1 – 3 millimeters. If PFM crowns are placed with pocket depths of 4 millimeter and over, documentation must be maintained in the client's chart of the dentist's findings supporting stability and why the increased pocket depths will not adversely affect expected long term prognosis;

(V) The crown has a favorable long-term prognosis; and

(VI) If tooth to be crowned is clasp/abutment tooth in partial denture, both prognosis for crown itself and tooth's contribution to partial denture must have favorable expected long-term prognosis;

(D) The fee for the crown includes payment for preparation of the gingival tissue;

(E) The Division limits payment for retention pins to four per tooth;

(F) Prefabricated post and core in addition to crowns (D2954 and D2957) is only covered for clients under 21 years of age or who are pregnant;

(G) The Division covers crowns only when there is significant loss of clinical crown and no other restoration will restore function:

(i) The Division will cover crowns if the crown-to-root ratio is 50:50 or better and the tooth is restorable without other surgical procedures;

(ii) The following is not covered:

(I) Endodontic therapy alone (with or without a post);

(II) Aesthetics (cosmetics);

(III) Crowns in cases of advanced periodontal disease or when a poor crown/root ratio exists for any reason;

(H) The Division limits permanent crown replacement to once every seven years and all other crown replacement to once every five years per tooth and only when dentally appropriate. The Division may make exceptions to this limitation for crown damage due to acute trauma, based on the following factors:

(i) Extent of crown damage;

(ii) Extent of damage to other teeth or crowns;

(iii) Extent of impaired mastication;

(iv) Tooth is restorable without other surgical procedures; and

(v) If loss of tooth would result in coverage of removable prosthetic.

(5) ENDODONTIC SERVICES:

(a) Pulp capping:

(A) The Division includes direct and indirect pulp caps in the restoration fee; no additional payment will be made for clients with the OHP Plus benefit package;

(B) The Division covers direct pulp caps as a separate service for clients with the OHP Standard benefit package because restorations are not a covered benefit under this benefit package;

(b) Endodontic Therapy:

(A) Endodontic therapy (D3230, D3240, D3330) is covered only for clients under 21 years of age or who are pregnant;

(B) The Division covers endodontics only if the crown-to-root ratio is 50:50 or better and the tooth is restorable without other surgical procedures;

(c) Endodontic retreatment and apicoectomy/periradicular surgery:

(A) The Division does not cover retreatment of a previous root canal or apicoectomy/periradicular surgery for bicuspid or molars;

(B) The Division limits either a retreatment or an apicoectomy (but not both procedures for the same tooth) to symptomatic anterior teeth when:

(i) Crown-to-root ratio is 50:50 or better;

(ii) The tooth is restorable without other surgical procedures; or

(iii) If loss of tooth would result in the need for removable prosthodontics;

(C) Retrograde filling (D3430) is covered only when done in conjunction with a covered apicoectomy of an anterior tooth;

(d) The Division does not allow separate reimbursement for open-and-drain as a palliative procedure when the root canal is completed on the same date of service, or if the same practitioner or dental practitioner in the same group practice completed the procedure;

(e) The Division does not cover root canal therapy for third molars;

(f) The Division covers endodontics if the tooth is restorable within the OHP benefit coverage package;

(g) Apexification/recalcification procedures:

(A) The Division limits payment for apexification to a maximum of five treatments on permanent teeth only;

(B) Apexification/recalcification procedures are covered only for clients under 21 years of age or who are pregnant;

(h) Canal preparation and fitting of preformed dowel or post (D3950) should not be reported in conjunction with D2952, D2953, D2954, or D2957 by the same practitioner.

(6) PERIODONTIC SERVICES:

(a) Surgical periodontal services (includes six months routine postoperative care):

(A) D4210 and D4211 — limited to coverage for severe gingival hyperplasia where enlargement of gum tissue occurs that prevents access to oral hygiene procedures, e.g., Dilantin hyperplasia;

(B) The Division covers the following services only for clients under 21 years of age or who are pregnant:

(i) D4240, D4241, D4260 and D4261 — allowed once every three years unless there is a documented medical/dental indication;

(ii) D4245 and D4268;

(b) Non-surgical periodontal services:

(A) D4341 and D4342 — allowed once every two years. A maximum of two quadrants on one date of service is payable, except in extraordinary circumstances. Quadrants are not limited to physical area, but are further defined by the number of teeth with pockets 5 mm or greater;

(B) D4355 — allowed only once every 2 years;

(c) Other periodontal services — D4910 — limited to following periodontal therapy and allowed once every six months. For further consideration of more frequent periodontal maintenance benefits, office records must clearly reflect clinical indication, i.e., chart notes, pocket depths and radiographs;

(d) Records must clearly document the clinical indications for all periodontal procedures, including current pocket depth charting and/or radiographs;

(e) The Division will not reimburse for procedures identified by the following codes if performed on the same date of service:

(A) D1110 (Prophylaxis — adult);

(B) D1120 (Prophylaxis — child);

(C) D4210 (Gingivectomy or gingivoplasty — four or more contiguous teeth or bounded teeth spaces per quadrant);

(D) D4211 (Gingivectomy or gingivoplasty — one to three contiguous teeth or bounded teeth spaces per quadrant);

(E) D4260 (Osseous surgery, including flap entry and closure — four or more contiguous teeth or bounded teeth spaces per quadrant);

(F) D4261 (Osseous surgery, including flap entry and closure — one to three contiguous teeth or bounded teeth spaces per quadrant);

(G) D4341 (Periodontal scaling and root planning — four or more teeth per quadrant);

(H) D4342 (Periodontal scaling and root planning — one to three teeth per quadrant);

(I) D4355 (Full mouth debridement to enable comprehensive evaluation and diagnosis); and

(J) D4910 (Periodontal maintenance).

(7) REMOVABLE PROSTHODONTIC SERVICES:

ADMINISTRATIVE RULES

(a) Clients age 16 years and older are eligible for removable resin base partial dentures (D5211-D5212) and full dentures (complete or immediate, D5110-D5140);

(b) The Division limits full dentures for non-pregnant clients age 21 and older to only those clients who are recently edentulous:

(A) For the purposes of this rule:

(i) "Edentulous" means all teeth removed from the jaw for which the denture is being provided; and

(ii) "Recently edentulous" means the most recent extractions from that jaw occurred within six months of the delivery of the final denture (or, for fabricated prosthetics, the final impression) for that jaw;

(B) See OAR 410-123-1000 for detail regarding billing fabricated prosthetics;

(c) The fee for the partial and full dentures includes payment for adjustments during the six-month period following delivery to clients;

(d) Resin partial dentures (D5211-D5212):

(A) The Division will not approve resin partial dentures if stainless steel crowns are used as abutments;

(B) The client must have one or more anterior teeth missing or four or more missing posterior teeth per arch with resulting space equivalent to that loss demonstrating inability to masticate. Third molars are not a consideration when counting missing teeth;

(C) The dental practitioner must note the teeth to be replaced and teeth to be clasped when requesting prior authorization (PA);

(e) Replacement of removable partial or full dentures, when it cannot be made clinically serviceable by a less costly procedure (e.g., relining, rebase, repair, tooth replacement), is limited to the following:

(A) For clients at least 16 years and under 21 years of age or who are pregnant - the Division will replace full or partial dentures once every ten years, only if dentally appropriate. This does not imply that replacement of dentures or partials must be done once every ten years, but only when dentally appropriate;

(B) For non-pregnant clients 21 years of age and older - the Division will not cover replacement of full dentures, but will cover replacement of partial dentures once every 10 years only if dentally appropriate;

(C) The ten year limitations apply to the client regardless of the client's OHP or Dental Care Organization (DCO) enrollment status at the time client's last denture or partial was received. For example: a client receives a partial on February 1, 2002, and becomes a FFS OHP client in 2005. The client is not eligible for a replacement partial until February 1, 2012. The client gets a replacement partial on February 3, 2012 while FFS and a year later enrolls in a DCO. The client would not be eligible for another partial until February 3, 2022, regardless of DCO or FFS enrollment;

(D) Replacement of partial dentures with full dentures is payable ten years after the partial denture placement. Exceptions to this limitation may be made in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical and/or medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene will not warrant replacement;

(f) The Division limits reimbursement of adjustments and repairs of dentures that are needed beyond six months after delivery of the denture as follows for non-pregnant clients 21 years of age and older:

(A) A maximum of 4 times per year for:

(i) Adjusting complete and partial dentures, per arch (D5410-D5422);

(ii) Replacing missing or broken teeth on a complete denture — each tooth (D5520);

(iii) Replacing broken tooth on a partial denture — each tooth (D5640);

(iv) Adding tooth to existing partial denture (D5650);

(B) A maximum of 2 times per year for:

(i) Repairing broken complete denture base (D5510);

(ii) Repairing partial resin denture base (D5610);

(iii) Repairing partial cast framework (D5620);

(iv) Repairing or replacing broken clasp (D5630);

(v) Adding clasp to existing partial denture (D5660);

(g) Denture rebase procedures:

(A) Rebase should only be done if a relining will not adequately solve the problem. The Division limits payment for rebase to once every three years;

(B) The Division may make exceptions to this limitation in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not

limited to, cancer and periodontal disease resulting from pharmacological, surgical and/or medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene will not warrant rebasing;

(h) Denture relining procedures:

(A) The Division limits payment for relining of complete or partial dentures to once every three years;

(B) The Division may make exceptions to this limitation under the same conditions warranting replacement;

(C) Laboratory relines:

(i) Are not payable prior to six months after placement of an immediate denture; and

(ii) Are limited to once every three years;

(i) Interim partial dentures (D5820-D5821, also referred to as "flip-pers"):

(A) Are allowed if the client has one or more anterior teeth missing; and

(B) The Division will reimburse for replacement of interim partial dentures once every 5 years, but only when dentally appropriate;

(j) Tissue conditioning:

(A) Is allowed once per denture unit in conjunction with immediate dentures; and

(B) Is allowed once prior to new prosthetic placement.

(8) MAXILLOFACIAL PROSTHETIC SERVICES:

(a) Maxillofacial prosthetics are medical services. Refer to the "Covered and Non-Covered Dental Services" document and OAR 410-123-1220;

(b) Bill for maxillofacial prosthetics using the professional (CMS-1500, DMAP 505 or 837P) claim format:

(A) For clients receiving services through an FCHP or PCO, bill maxillofacial prosthetics to the FCHP or PCO;

(B) For clients receiving medical services through FFS, bill the Division.

(9) ORAL SURGERY SERVICES:

(a) Bill the following procedures in an accepted dental claim format using CDT codes:

(A) Procedures that are directly related to the teeth and supporting structures that are not due to a medical, including such procedures performed in an ambulatory surgical center (ASC) or an inpatient or outpatient hospital setting;

(B) Services performed in a dental office setting (including an oral surgeon's office):

(i) Such services include, but are not limited to, all dental procedures, local anesthesia, surgical postoperative care, radiographs and follow-up visits;

(ii) Refer to OAR 410-123-1160 for any PA requirements for specific procedures;

(b) Bill the following procedures using the professional claim format and the appropriate American Medical Association (AMA) CPT procedure and ICD-9 diagnosis codes:

(A) Procedures that are a result of a medical condition (i.e., fractures, cancer);

(B) Services requiring hospital dentistry that are the result of a medical condition/diagnosis (i.e., fracture, cancer);

(c) Refer to the "Covered and Non-Covered Dental Services" document to see a list of CDT procedure codes on the HSC's Prioritized List of Health Services that may also have CPT medical codes. See OAR 410-123-1220. The procedures listed as "medical" on the table may be covered as medical procedures, and the table may not be all-inclusive of every dental code that has a corresponding medical code;

(d) For clients enrolled in a DCO, the DCO is responsible for payment of those services in the dental plan package;

(e) Oral surgical services performed in an ASC or an inpatient or outpatient hospital setting:

(A) Require PA;

(B) For clients enrolled in a FCHP, the facility charge and anesthesia services are the responsibility of the FCHP. For clients enrolled in a PCO, the outpatient facility charge (including ASCs) and anesthesia are the responsibility of the PCO. Refer to the current Medical Surgical Services administrative rules in OAR chapter 410 — division 130 for more information;

(C) If a client is enrolled in a FCHP or a PCO, it is the responsibility of the provider to contact the FCHP or the PCO for any required authorization before the service is rendered;

(f) All codes listed as "by report" require an operative report;

ADMINISTRATIVE RULES

(g) The Division covers payment for tooth re-implantation only in cases of traumatic avulsion where there are good indications of success;

(h) Biopsies collected are reimbursed as a dental service. Laboratory services of biopsies are reimbursed as a medical service;

(i) The Division does not cover surgical excisions of soft tissue lesions (D7410 — D7415);

(j) Extractions — Includes local anesthesia and routine postoperative care, including treatment of a dry socket if done by the provider of the extraction. Dry socket is not considered a separate service;

(k) Surgical extractions:

(A) Include local anesthesia and routine post-operative care;

(B) The Division limits payment for surgical removal of impacted teeth or removal of residual tooth roots to treatment for only those teeth that have acute infection or abscess, severe tooth pain, and/or unusual swelling of the face or gums;

(C) The Division does not cover alveoplasty in conjunction with extractions (D7310 and D7311) separately from the extraction;

(D) The Division covers alveoplasty not in conjunction with extractions (D7320) only for clients under 21 years of age or who are pregnant.

(10) ORTHODONTIA SERVICES:

(a) The Division limits orthodontia services and extractions to eligible clients:

(A) With the ICD-9-CM diagnosis of:

(i) Cleft palate; or

(ii) Cleft palate with cleft lip; and

(B) Whose orthodontia treatment began prior to 21 years of age; or

(C) Whose surgical corrections of cleft palate or cleft lip were not completed prior to age 21;

(b) PA is required for orthodontia exams and records. A referral letter from a physician or dentist indicating diagnosis of cleft palate/cleft lip must be included in the client's record and a copy sent with the PA request;

(c) Documentation in the client's record must include diagnosis, length and type of treatment;

(d) Payment for appliance therapy includes the appliance and all follow-up visits;

(e) Orthodontists evaluate orthodontia treatment for cleft palate/cleft lip as two phases. Stage one is generally the use of an activator (palatal expander) and stage two is generally the placement of fixed appliances (banding). The Division will reimburse each phase individually (separately);

(f) The Division will pay for orthodontia in one lump sum at the beginning of each phase of treatment. Payment for each phase is for all orthodontia-related services. If the client transfers to another orthodontist during treatment, or treatment is terminated for any reason, the orthodontist must refund to the Division any unused amount of payment, after applying the following formula: Total payment minus \$300.00 (for banding) multiplied by the percentage of treatment remaining;

(g) The Division will use the length of the treatment plan from the original request for authorization to determine the number of treatment months remaining;

(h) As long as the orthodontist continues treatment, the Division will not require a refund even though the client may become ineligible for medical assistance sometime during the treatment period;

(i) Code:

(A) D8660 — PA required (reimbursement for required orthodontia records is included);

(B) Codes D8010-D8999 — PA required.

(11) ADJUNCTIVE GENERAL AND OTHER SERVICES:

(a) Fixed partial denture sectioning (D9120) is covered only when extracting a tooth connected to a fixed prosthesis and a portion of the fixed prosthesis is to remain intact and serviceable, preventing the need for more costly treatment;

(b) Anesthesia:

(A) Only use general anesthesia or IV sedation for those clients with concurrent needs: age, physical, medical or mental status, or degree of difficulty of the procedure (D9220, D9221, D9241 and D9242);

(B) The Division reimburses providers for general anesthesia or IV sedation as follows:

(i) D9220 or D9241: For the first 30 minutes;

(ii) D9221 or D9242: For each additional 15-minute period, up to three hours on the same day of service. Each 15-minute period represents a quantity of one. Enter this number in the quantity column;

(C) The Division reimburses administration of Nitrous Oxide (D9230) per date of service, not by time;

(D) Oral pre-medication anesthesia for conscious sedation:

(i) Limited to clients under 13 years of age;

(ii) Limited to four times per year;

(iii) Includes payment for monitoring and Nitrous Oxide; and

(iv) Requires use of multiple agents to receive payment;

(E) Upon request, providers must submit a copy of their permit to administer anesthesia, analgesia and/or sedation to the Division;

(F) For the purpose of Title XIX and Title XXI, the Division limits payment for code D9630 to those oral medications used during a procedure and is not intended for "take home" medication;

(c) The Division limits reimbursement of house/extended care facility call (D9410) only for urgent or emergent dental visits that occur outside of a dental office. This code is not reimbursable for provision of preventive services or for services provided outside of the office for the provider or facilities' convenience;

(d) Office visit for observation (D9430):

(A) Is covered only for clients under 21 years of age or who are pregnant; and

(B) The Division reimburses a maximum of three visits per year;

(e) Oral devices/appliances (E0485, E0486):

(A) These may be placed or fabricated by a dentist or oral surgeon, but are considered a medical service;

(B) Bill the Division or the FCHP/PCO for these codes using the professional claim format.

Stat. Auth.: ORS 409.050, 414.065, 414.707

Stats. Implemented: ORS 414.065, 414.707

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03; OMAP 55-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 12-2005, f. 3-11-05, cert. ef. 4-1-05; DMAP 25-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 18-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 38-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 16-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 41-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 14-2010, f. 6-10-10, cert. ef. 7-1-10

Rule Caption: July 1, 2010 – EPSDT program; add services; update tables for Prior Authorization, Not-Covered/Bundled Services, and Immunization.

Adm. Order No.: DMAP 15-2010

Filed with Sec. of State: 6-10-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 410-130-0200, 410-130-0220, 410-130-0245, 410-130-0255

Subject: The Medical-Surgical Services program administrative rules govern DMAP payment for services to certain clients. DMAP amended rules as follows:

410-130-0200-to clarify services for which treating practitioners are responsible for obtaining prior authorization (PA) and to clarify that clients who are dual-eligible for both Medicare and Medicaid enrollment must have PA for bariatric services and evaluations;

410-130-0220- to add codes that are excluded for coverage by the Health Services Commission and to delete codes that are now covered for reimbursement;

410-130-0245 to include and clarify one-time lead investigation reimbursement;

410-130-0255 to update immunization codes covered under Vaccines for Children (VFC).

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-130-0200

Prior Authorization

(1) For fee-for-service clients prior authorization (PA) is required for all procedure codes listed in Table 130-0200-1 regardless of the setting they are performed in. For details on where to obtain PA: download a copy of the Medical-Surgical Services Supplemental Information booklet at: <http://www.dhs.state.or.us/policy/healthplan/guides/medsurg/medsurgsuppl1109.pdf>

(2) For clients enrolled in a prepaid health plan (PHP), providers must obtain PA from the client's PHP.

(3) PA is not required:

(a) For clients with both Medicare and Medical Assistance Program coverage and the service is covered by Medicare. However, PA is still required for bariatric surgeries and evaluations and most transplants, even if they are covered by Medicare;

ADMINISTRATIVE RULES

- (b) For kidney and cornea transplants, unless they are performed out-of-state;
- (c) For emergent or urgent procedures or services;
- (d) For hospital admissions, unless the procedure requires PA.
- (4) A second opinion may be requested by the Division of Medical Assistance Programs or the contractor before PA is given for a surgery.
- (5) Treating and performing practitioners are responsible for obtaining PA.
- (6) Refer to Table 130-0200-1 for all services/procedures requiring PA.

(7) Table 130-0200-1

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

Stat. Auth.: ORS 409.010, 414.065

Stats. Implemented: ORS 414.065

Hist.: AFS 868, f. 12-30-77, ef. 2-1-78; AFS 65-1980, f. 9-23-80, ef. 10-1-80; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 23-1986, f. 3-19-86, ef. 5-1-86; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89, Renumbered from 461-014-0045; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90, Renumbered from 461-014-0630; HR 25-1990(Temp), f. 8-31-90, cert. ef. 9-1-90; HR 44-1990, f. & cert. ef. 11-30-90; HR 17-1991(Temp), f. 4-12-91, cert. ef. 5-1-91; HR 24-1991, f. & cert. ef. 6-18-91; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 8-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 50-2005, f. 9-30-05, cert. ef. 10-1-05; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 27-2007(Temp), f. & cert. ef. 12-20-07 thru 5-15-08; DMAP 12-2008, f. 4-29-08, cert. ef. 5-1-08; DMAP 20-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 18-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 15-2010, f. 6-10-10, cert. ef. 7-1-10

410-130-0220

Not Covered/Bundled Services

(1) Refer to the Oregon Health Plan administrative rules (chapter 410, division 141) and General Rules (chapter 410, division 120) for coverage of services. Refer to Table 130-0220-1, in this rule, for additional information regarding not-covered services or for services that the Division of Medical Assistance Programs (Division) considers to be bundled.

(2) The following are examples of not-covered services. This is not an all-inclusive list:

(a) Psychotherapy services (covered only through local mental health clinics and Mental Health Organizations);

(b) Routine postoperative visits (included in the payment for the surgery) during 90 days following major surgery (global period) or 10 days following minor surgery.

(c) Services that are normally provided in the practitioner's office but at the client's request are provided in a location other than the practitioner's office.

(d) Telephone calls for purposes other than tobacco cessation, maternity case management and telemedicine.

(3) For specific information, see General Rules OAR 410-120-1200, Medical Assistance Benefits: Excluded Services and Limitations.

(4) Table 130-0220-1

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

Stat. Auth.: ORS 409.050, 414.065

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90, Renumbered from 461-014-0640; HR 14-1991(Temp), f. & cert. ef. 3-7-91; HR 21-1991, f. 4-16-91, cert. ef. 5-1-91; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 16-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 30-1998, f. & cert. ef. 9-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 37-1999, f. & cert. ef. 10-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 8-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 45-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 20-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 18-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 15-2010, f. 6-10-10, cert. ef. 7-1-10

410-130-0245

Early and Periodic Screening, Diagnostic and Treatment Program

(1) The Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program, formerly called Medichex, offers "well-child" medical exams with referral for medically appropriate comprehensive diagnosis and treatment for all children (birth through age 20) covered by the Oregon Health Plan (OHP) Plus benefit package.

(2) Screening Exams:

(a) Physicians (MD or DO), nurse practitioners, licensed physician assistants and other licensed health professionals may provide EPSDT services. Screening services are based on the definition of "Preventive Services" in Oregon Health Plan OAR 410-141-0000, Definitions;

- (b) Periodic EPSDT screening exams must include:
 - (A) A comprehensive health and developmental history including assessment of both physical and mental health development;
 - (B) Assessment of nutritional status;
 - (C) Comprehensive unclothed physical exam including inspection of teeth and gums;
 - (D) Appropriate immunizations;
 - (E) Lead testing for children under age 6 as required. See the "Blood Lead Screening" section of this rule;
 - (F) Other appropriate laboratory tests (such as anemia test, sickle cell test, and others) based on age and client risk;
 - (G) Health education including anticipatory guidance;
 - (H) Appropriate hearing and vision screening.

(c) The provider may bill for both lab and non-lab services using the appropriate Current Procedural Terminology (CPT) and Health care Common Procedure Coding System (HCPCS) codes. Immunizations must be billed according to the guidelines listed in OAR 410-130-0255;

(d) Inter-periodic EPSDT screening exams are any medically appropriate encounters with a physician (MD or DO), nurse practitioner, licensed physician assistant, or other licensed health professional within their scope of practice.

(3) Referrals:

(a) If, during the screening process (periodic or inter-periodic), a medical, mental health, substance abuse, or dental condition is discovered, the client may be referred to medical providers, Addictions and Mental Health Division (AMH), or dental providers for further diagnosis and/or treatment;

(b) The screening provider shall explain the need for the referral to the client, client's parent, or guardian;

(c) If the client, client's parent, or guardian agrees to the referral, assistance in finding an appropriate referral provider and making an appointment should be offered;

(d) The caseworker or local branch will assist in making other necessary arrangements.

(4) Blood Lead Screening: All children ages 12 months to 72 months are considered at risk for lead poisoning. Children ages 12 months to 72 months with Medical Assistance Program coverage must be screened for possible exposure to lead poisoning. Because the prevalence of lead poisoning peaks at age two, children screened or tested at age one should be re-screened or re-tested at age two. Screening consists of a Lead Risk Assessment Questionnaire (DMAP form 9033) and/or blood lead tests as indicated.

(5) Lead Risk Assessment Questionnaire: Complete the Lead Risk Assessment Questionnaire (DMAP form 9033) found in the Medical-Surgical Services Supplemental Information. Beginning at 1 year of age, the questionnaire must be used at each EPSDT exam to assess the potential for lead exposure. Retain this questionnaire in the client's medical record. Do not attach the DMAP 9033 form to the claim for reimbursement. The Division does not stock this form; photocopy the form and the instructions from the Medical-Surgical Services Supplement Information.

(6) Blood Lead Testing: Any "yes" or "don't know" answer in Part B, questions 1-8 on the Lead Risk Assessment Questionnaire (DMAP 9033) means that the child should receive a screening blood lead test. An elevated blood lead level is defined as greater than or equal to 10 $\mu\text{g}/\text{dL}$. Children with an elevated blood lead screening test should have a confirmatory blood lead test performed according to the schedule described in Table 130-0245-1 of this rule. If the confirmatory blood lead test is elevated, follow-up blood lead tests should be performed approximately every three months until two consecutive test results are less than 10 $\mu\text{g}/\text{dL}$. Comprehensive follow-up services based on the results of the confirmatory blood lead test are described in Table 130-0245-2 and section (7) of this rule.

(7) Children with a confirmatory blood lead level test of greater than or equal to 10 $\mu\text{g}/\text{dL}$ are eligible for a one-time comprehensive environmental lead investigation, not including laboratory analysis, of the child's home. The child may also receive follow-up case management services.

(a) The investigation of the child's home and follow-up case management services must be provided by a Division-enrolled medical-surgical provider who has received Oregon Public Health Division training to perform these services. Refer to Medical-Surgical Services rule 410-130-0000 for a list of the medical-surgical providers DMAP enrolls.

(b) To bill for these services, use HCPCS code T1029. Payment for code T1029 includes the home investigation and any follow-up case management services provided after the home investigation is completed. The Division limits reimbursement of T1029 to one time per dwelling. For clients enrolled in managed care plans, the service is payable by the Division; do not bill the managed care plan.

ADMINISTRATIVE RULES

(8) Method of Blood Collection: Either venipuncture or capillary draw is acceptable for the screening blood lead test. All confirmatory blood lead tests must be obtained by venipuncture. Erythrocyte protoporphyrin (EP) testing is not a substitute for either a screening or a confirmation blood lead test.

(9) Additional Lead-Related Services: Families should be provided anticipatory guidance and lead education prenatally and at each well-child visit, as described in Tables 130-0245-3 and 130-0245-4 of this rule.

(10) **Table 130-0245-1**

(11) **Table 130-0245-2**

(12) **Table 130-0245-3**

(13) **Table 130-0245-4**

(14) **Table 130-0245-5**

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

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 16-1993, f. & cert. ef. 7-2-93; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 37-1999, f. & cert. ef. 10-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; Renumbered from 410-130-0080, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 15-2010, f. 6-10-10, cert. ef. 7-1-10

410-130-0255

Immunizations and Immune Globulins

(1) Use standard billing procedures for vaccines that are not part of the Vaccines for Children (VFC) Program.

(2) The Division of Medical Assistance Programs (Division) covers Synagis (palivizumab-rsv-igm) only for high-risk infants and children as defined by the American Academy of Pediatric guidelines. Bill 90378 for Synagis.

(3) Providers are encouraged to administer combination vaccines when medically appropriate and cost effective.

(4) VFC Program:

(a) Under this federal program, vaccine serums are free for clients' ages 0 through 18. Division will not reimburse the cost of privately purchased vaccines that are provided through the VFC Program, but will reimburse for the administration of those vaccines;

(b) Only providers enrolled in the VFC Program can receive free vaccine serums. To enroll as a VFC provider, contact the Public Health Immunization Program. For contact information, see the Medical-Surgical Supplemental Information found at <http://www.dhs.state.or.us/policy/healthplan/guides/medsurg/med-surgsupp1109.pdf>

(c) The Division will reimburse providers for the administration of any vaccine provided by the VFC Program. Whenever a new vaccine becomes available through the VFC Program, administration of that vaccine is also covered by the Division;

(d) Refer to Table 130-0255-1 for immunization codes provided through the VFC Program. Recommendations as to who may receive influenza vaccines vary from season to season and may not be reflected in Table 130-0255-1;

(e) Use the following procedures when billing for the administration of a VFC vaccine:

(A) When the sole purpose of the visit is to administer a VFC vaccine, the provider should bill the appropriate vaccine procedure code with modifier -26 or -SL for each injection. Do not bill Current Procedural Terminology (CPT) code 90465-90474 or 99211;

(B) When the vaccine is administered as part of an Evaluation and Management service (e.g., well-child visit) the provider should bill the appropriate immunization code with modifier -26, or -SL for each injection in addition to the Evaluation and Management code. **Table 130-0255-1**

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

Stat. Auth.: ORS 409.050, 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 4-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; Renumbered from 410-130-0800, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 45-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 20-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 18-2009, f. 6-12-09, cert. ef. 7-1-09; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 15-2010, f. 6-10-10, cert. ef. 7-1-10

Rule Caption: July 2010 – update criteria for definitions, pharmacy, continuity of care, quality improvement, accessibility, hearings, member education, ENCC, Ombudsman, billing and quality assurance.

Adm. Order No.: DMAP 16-2010

Filed with Sec. of State: 6-11-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 410-141-0000, 410-141-0070, 410-141-0160, 410-141-0200, 410-141-0220, 410-141-0300, 410-141-0405, 410-141-0407, 410-141-0420, 410-141-0740

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 amended rules as follows:

410-141-0000: to update definitions;

410-141-0070 and 410-141-0420: to update pharmacy criteria;

410-141-0160, 410-141-0200, 410-141-0220, 410-141-0300, 410-141-0405 to update ENCC definition; and

410-141-0740: to update quality assurance criteria.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0000

Definitions

(1) Action – In the case of a Prepaid Health Plan (PHP):

(a) The denial or limited authorization of a requested covered service, including the type or level of service;

(b) The reduction, suspension or termination of a previously authorized service;

(c) The denial in whole or in part, of payment for a service;

(d) The failure to provide services in a timely manner, as defined by the Division;

(e) The failure of a PHP to act within the timeframes provided in 42 CFR 438.408(b); or

(f) For a Division member in a single Fully Capitated Health Plan (FCHP) or Mental Health Organization (MHO) Service Area, the denial of a request to obtain covered services outside of the FCHP or MHO's participating provider panel pursuant to OAR 410-141-0160 and 410-141-0220.

(2) Addictions and Mental Health Division (AMH) – The Department office responsible for the administration of the state's policy and programs for mental health, chemical dependency prevention, intervention, and treatment services.

(3) Administrative Hearing – A Department hearing related to an Action, including a denial, reduction or termination of benefits that is held when requested by the Oregon Health Plan (OHP) client or Division member. A hearing may also be held when requested by an OHP client or Division member who believes a claim for services was not acted upon with reasonable promptness or believes the payor took an action erroneously.

(4) Advance Directive – A form that allows a person to have another person make health care decisions when he/she cannot make decisions and tells a doctor if the person does not want any life sustaining help if he/she is near death.

(5) Aged – Individuals who meet eligibility criteria established by the Department Seniors and People with Disabilities Division (SPD) for receipt of medical assistance because of age.

(6) Americans with Disabilities Act (ADA) – Federal law promoting the civil rights of persons with disabilities. The ADA requires that reasonable accommodations be made in employment, service, delivery and facility accessibility.

(7) Alternative Care Settings – Sites or groups of practitioners that provide care to DMAP members under contract with the Division Member's PHP. Alternative care settings include but are not limited to urgent care centers, hospice, birthing centers, out-placed medical teams in community or mobile health care facilities, and outpatient surgicenters.

(8) Ancillary Services – Those medical services under the OHP not identified in the definition of a Condition/Treatment Pair, but Medically Appropriate to support a service covered under the OHP Benefit Package. Ancillary Services and limitations are referenced in the General Rules Benefit Packages (410-120-1210), Exclusions (410-120-1200) and applicable individual program rules.

(9) Appeal – A request for review of an Action as defined in this rule.

ADMINISTRATIVE RULES

(10) Automated Voice Response (AVR) – A Department computer system that provides information on the current eligibility status of OHP clients and Division members by phone or by Web access.

(11) Blind – Individuals who meet eligibility criteria established by the Department SPD for receipt of medical assistance because of a condition or disease that causes or has caused blindness.

(12) Capitated Services – Those covered services that a PHP or Primary Care Manager (PCM) agrees to provide for a Capitation Payment under the Division OHP Contract or agreement.

(13) Capitation Payment:

(a) Monthly prepayment to a PHP for the provision of all Capitated Services needed by OHP clients enrolled with the PHP;

(b) Monthly prepayment to a PCM to provide Primary Care Management Services for an OHP client enrolled with the PCM. Payment is made on a per OHP client, per month basis.

(14) Centers for Medicare and Medicaid Services (CMS) – The federal agency under the Department of Health and Human Services (DHHS), responsible for approving the waiver request to operate the OHP Medicaid Demonstration Project.

(15) CFR – Code of Federal Regulations.

(16) Chemical Dependency Organization (CDO) – PHP that provides and coordinates chemical dependency outpatient, intensive outpatient and opiate substitution treatment services as capitated services under the OHP. All Chemical Dependency services covered under the OHP are covered as capitated services by the CDO.

(17) Chemical Dependency Services – Assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol and/or other drug abusing or dependent clients and their family members or significant others, consistent with Level I and/or Level II of the “Chemical Dependency Placement, Continued Stay, and Discharge Criteria.”

(18) Children’s Health Insurance Program (CHIP) – A Federal and State funded portion of the Division established by Title XXI of the Social Security Act and administered in Oregon by the Department .

(19) Children Receiving Children, Adults and Families (CAF) Child Welfare or Oregon Youth Authority (OYA) Services – Individuals who are receiving medical assistance under ORS 414.025(2)(f), (i), (j), (k) and (o), 418.034, and 418.187 to 418.970. These individuals are generally children in the care and/or custody of CAF, the Department, or OYA who are in placement outside of their homes.

(20) Claim – (1) a bill for services, (2) a line item of a service or (3) all services for one client within a bill.

(21) Client Enrollment Services (CES) – The Division unit responsible for adjustments to enrollments, retroactive Disenrollment and Enrollment of newborns.

(22) Clinical Record – The Clinical Record includes the medical, dental or mental health records of an OHP client or Division member. These records include the PCP’s record, the inpatient and outpatient hospital records and the Exceptional Needs Care Coordinator (ENCC), Complaint and Disenrollment for cause records that may reside in the PHP’s administrative offices.

(23) Cold Call Marketing – Any unsolicited personal contact by a PHP with a potential member for marketing as defined in this rule.

(24) Comfort Care – The provision of medical services or items that give comfort and/or pain relief to an individual who has a Terminal Illness. Comfort care includes the combination of medical and related services designed to make it possible for an individual with Terminal Illness to die with dignity and respect and with as much comfort as is possible given the nature of the illness. Comfort Care includes but is not limited to care provided through a hospice program (see Hospice rules), pain medication, and palliative services including those services directed toward ameliorating symptoms of pain or loss of bodily function or to prevent additional pain or disability. Comfort Care includes nutrition, hydration and medication for disabled infants with life-threatening conditions not covered under Condition/Treatment Pairs. These guarantees are provided pursuant to 45 CFR, Chapter XIII, 1340.15. Where applicable Comfort Care is provided consistent with Section 4751 OBRA 1990 – Patient Self Determination Act and ORS 127 relating to health care decisions as amended by the Sixty-Seventh Oregon Legislative Assembly, 1993. Comfort Care does not include diagnostic or curative care for the primary illness or care focused on active treatment of the primary illness with the intent to prolong life.

(25) Community Mental Health Program (CMHP) – The organization of all services for persons with mental or emotional disorders and developmental disabilities operated by, or contractually affiliated with, a local Mental Health Authority, operated in a specific geographic area of the state

under an intergovernmental agreement or direct contract with the Department Addictions and Mental Health Division (AMH).

(26) Co-morbid Condition – A medical condition/diagnosis (i.e., illness, disease and/or disability) coexisting with one or more other current and existing conditions/diagnoses in the same patient.

(27) Community Standard – Typical expectations for access to the health care delivery system in the Division member’s or PCM member’s community of residence. Except where the Community Standard is less than sufficient to ensure quality of care, the Division requires that the health care delivery system available to Division members in PHPs and to PCM members take into consideration the Community Standard and be adequate to meet the needs of the Division and PCM members.

(28) Condition/Treatment Pair – Diagnoses described in the International Classification of Diseases Clinical Modifications, 9th edition (ICD-9-CM), the Diagnostic and Statistical Manual of Mental Disorders, 4th edition (DSM-IV), and treatments described in the Current Procedural Terminology, 4th edition (CPT-4) or American Dental Association Codes (CDT-2), or the Department AMH Medicaid Procedure Codes and Reimbursement Rates, which, when paired by the Health Services Commission, constitute the line items in the Prioritized List of Health Services. Condition/Treatment Pairs may contain many diagnoses and treatments. The Condition/Treatment Pairs are referred to in OAR 410-141-0520.

(29) Continuing Treatment Benefit – A benefit for OHP clients who meet criteria for having services covered that were either in a course of treatment or were scheduled for treatment on the day immediately prior to the date of conversion to an OHP Benefit Package that doesn’t cover the treatment.

(30) Co-payment – The portion of a covered service that a Division member must pay to a provider or a facility. This is usually a fixed amount that is paid at the time one or more services are rendered.

(31) Contract – The Contract between the State of Oregon, acting by and through its Department, the Division and an FCHP, Dental Care Organization (DCO), Physician Care Organization (PCO), or a CDO, or between AMH and an MHO for the provision of covered services to eligible DMAP members for a Capitation Payment. A contract may also be referred to as a Service Agreement.

(32) Corrective Action or Corrective Action Plan – A Division initiated request for Contractor or a Contractor initiated request for subcontractor to develop and implement a time specific plan, that is acceptable to the Division, for the correction of Division identified areas of noncompliance, as described in Exhibit H, Encounter Data Minimum Data Set Requirements and Corrective Action, Schedule 4, Pharmacy Data Requirements and Corrective Action, and in Exhibit B, Part VI, Section 2, Sanctions.

(33) Covered Services – Are medically appropriate health services that are funded by the Legislature and described in ORS 414.705 to 414.750; OAR 410-120-1210; OAR 410-141-0120; OAR 410-141-0520; and OAR 410-141-0480; except as excluded or limited under OAR 410-141-0500 and rules in Chapter 410, Division 120.

(34) Dentally Appropriate – Services that are required for prevention, diagnosis or treatment of a dental condition and that are:

(a) Consistent with the symptoms of a dental condition or treatment of a dental condition;

(b) Appropriate with regard to standards of good dental practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of the OHP member or a provider of the service;

(d) The most cost effective of the alternative levels of dental services that can be safely provided to a Division member.

(35) Dental Care Organization (DCO) – A PHP that provides and coordinates capitated dental services. All dental services covered under the OHP are covered as capitated services by the DCO; no dental services are paid by the Division on a Fee-for-Service (FFS) basis for OHP clients enrolled with a DCO provider.

(36) Dental Case Management Services – Services provided to ensure that eligible Division members obtain dental services including a comprehensive, ongoing assessment of the dental and medical needs related to dental care of the Division member plus the development and implementation of a plan to ensure that eligible Division members obtain capitated services.

(37) Dental Emergency Services – Dental services may include, but are not limited to the treatment of severe tooth pain, unusual swelling of the face or gums, and avulsed tooth consistent with OAR 410-123-1060.

ADMINISTRATIVE RULES

(38) Dental Practitioner – A practitioner who provides dental services to Division members under an agreement with a DCO, or is a FFS practitioner. Dental practitioners are licensed and/or certified by the state in which they practice, as applicable, to provide services within a defined scope of practice.

(39) Department – The Department or any of its programs or offices means the Department established in ORS Chapter 409, including such divisions, programs and offices as may be established therein. Wherever the former Division is used in contract or in administrative rule, it shall mean the Division. Wherever the former Office of Mental Health and Addiction Services or OMHAS is used in contract or in rule, it shall mean the Addictions and Mental Health Division (AMH). Wherever the former Seniors and People with Disabilities or SPD is used in contract or in rule, it shall mean the Seniors and People with Disabilities Division (SPD). Wherever the former Children Adults and Families or CAF is used in contract or in rule, it shall mean the Children, Adults and Families Division (CAF). Wherever the former Health Division is used in Contract or in rule, it shall mean the Public Health Division (PHD).

(40) Diagnostic Services – Those services required to diagnose a condition, including but not limited to radiology, ultrasound, other diagnostic imaging, electrocardiograms, laboratory and pathology examinations, and physician or other professional diagnostic or evaluative services.

(41) Disabled – Individuals who meet eligibility criteria established by the DHS' SPD for receipt of Medical Assistance because of a disability.

(42) Disenrollment – The act of discharging an OHP client from a PHP's or PCM's responsibility. After the effective date of Disenrollment an OHP client is no longer required to obtain capitated services from the PHP or PCM, nor be referred by the PHP for Medical Case Managed Services or by the PCM for PCM Case Managed Services.

(43) Division – The Division of the Department is responsible for coordinating Medical Assistance Programs, including the OHP Medicaid Demonstration, in Oregon and CHIP. The Division writes and administers the state Medicaid rules for medical services, contracts with providers, maintains records of client eligibility and processes and pays Division providers.

(44) DMAP Member – An OHP client enrolled with a PHP.

(45) Emergency Medical Condition – a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. An "Emergency Medical Condition" is determined based on the presenting symptoms (not the final diagnosis) as perceived by a prudent layperson (rather than a Health Care Professional) and includes cases in which the absence of immediate medical attention would not in fact have had the adverse results described in the previous sentence. (This definition does not apply to clients with CAWEM benefit package. CAWEM emergency services are governed by OAR 410-120-1210(3)(f)(B))

(46) Emergency Services – covered services furnished by a provider that is qualified to furnish these services and that are needed to evaluate or stabilize an emergency medical condition. Emergency services include all inpatient and outpatient treatment that may be necessary to assure within reasonable medical probability that no material deterioration of the patient's condition is likely to result from, or occur during, discharge of the Division member or transfer of the Division member to another facility.

(47) Enrollment – OHP clients, subject to OAR 410-141-0060, become Division members of a PHP or PCM members of a PCM that contracts with the Division to provide capitated services. An OHP client's enrollment with a PHP indicates that the Division member must obtain or be referred by the PHP for all capitated services and referred by the PHP for all medical case managed services subsequent to the effective date of enrollment. An OHP client's enrollment with a PCM indicates that the PCM member must obtain or be referred by the PCM for preventive and primary care and referred by the PCM for all PCM case managed services subsequent to the effective date of enrollment.

(48) Enrollment Area – client Enrollment is based on the client's residential address and zip code. The address is automatically assigned a county code or Federal Information Processing Standard (FIPS) code by the system, which indicates to the Department worker that PHPs are in the area.

(49) Enrollment Year – A twelve-month period beginning the first day of the month of enrollment of the OHP client in a PHP and, for any subsequent year(s) of continuous enrollment, beginning that same day in each

such year(s). The enrollment year of OHP clients who re-enroll within a calendar month of Disenrollment shall be counted as if there were no break in enrollment.

(50) End Stage Renal Disease (ESRD) – End stage renal disease is defined as that stage of kidney impairment that appears irreversible and requires a regular course of dialysis or kidney transplantation to maintain life. In general, 5% or less of normal kidney function remains. If the person is 36 or more months post-transplant, the individual is no longer considered to have ESRD.

(51) Exceptional Needs Care Coordination (ENCC) – A specialized case management service provided by FCHPs to Division members identified as aged, blind or disabled who have complex medical needs. Consistent with OAR 410-141-0405. ENCC includes:

(a) Early identification of those Division members who are aged, blind, disabled or who have complex medical needs;

(b) Assistance to ensure timely access to providers and capitated services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of capitated services and discharge planning; and

(e) Aid with coordinating community support and social service systems linkage with medical care systems, as necessary and appropriate.

(52) Family Health Insurance Assistance Program (FHIAP) – A program in which the State subsidizes premiums in the commercial market for uninsured individuals and families with income below 185% of the Federal Poverty Level (FPL). FHIAP is funded with federal and states funds through Title XIX, XXI or both.

(53) Family Planning Services – Services for clients of childbearing age (including minors who can be considered sexually active) who desire such services and which are intended to prevent pregnancy or otherwise limit family size.

(54) Fee-for-Service (FFS) Health Care providers – Health care providers who bill for each service provided and are paid by the Division for services as described in the Division provider rules. Certain services are covered but are not provided by PHPs or by PCMs. The client may seek such services from an appropriate FFS provider. PCMs provide primary care services on a FFS basis and may refer PCM members to specialists and other providers for FFS care. In some parts of the state, the State may not enter into contracts with any managed care providers. OHP clients in these areas will receive all services from FFS providers.

(55) FPL – Federal Poverty Level.

(56) Free-Standing Mental Health Organization (MHO) – The single MHO in each county that provides only mental health services and is not affiliated with an FCHP for that service area. In most cases this "carve-out" MHO is a county CMHP or a consortium of CMHPs, but may be a private behavioral health care company.

(57) Fully Capitated Health Plan (FCHP) – PHPs that contract with the Division to provide capitated services under the OHP. The distinguishing characteristic of FCHPs is the coverage of hospital inpatient services.

(58) Fully Dual Eligible – For the purposes of Medicare Part D coverage, Medicare clients who are also eligible for Medicaid, meeting the income and other eligibility criteria adopted by the Department for full medical assistance coverage, including those not enrolled in a Medicare Part D plan.

(59) Grievance – A DMAP member's or representative's expression of dissatisfaction to Contractor or to a participating provider about any matter other than an Action.

(60) Grievance System – The overall system that includes complaints and Appeals handled at the PHP level and access to the state fair hearing process. Possible subjects for grievances include, but are not limited to, the quality of care or services provided and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the Division member's rights.

(61) Health Care Professionals – Persons with current and appropriate licensure, certification, or accreditation in a medical, mental health or dental profession, which include but are not limited to: Medical Doctors (including Psychiatrists), Dentists, Osteopathic Physicians, Psychologists, Registered Nurses, Nurse Practitioners, Licensed Practical Nurses, Certified Medical Assistants, Licensed Physicians Assistants, Qualified Mental Health Professionals (QMHPs), and Qualified Mental Health Associates (QMHA), Dental Hygienists, Denturists, and Certified Dental Assistants. These professionals may conduct health, mental health or dental assessments of Division members and provide Screening Services to OHP clients within their scope of practice, licensure or certification.

ADMINISTRATIVE RULES

(62) Health Insurance Portability and Accountability Act (HIPAA) of 1996 – HIPAA is a federal law (Public Law 104-191, August 21, 1996) with the legislative objective to assure health insurance portability, reduce health care fraud and abuse, enforce standards for health information and guarantee security and privacy of health information.

(63) Health Plan New/Noncategorical client (HPN) – A person who is 19 years of age or older, is not pregnant, is not receiving Medicaid through another program and who must meet eligibility requirements in OAR 461-136-1100(2), in addition to all other OHP eligibility requirements to become an OHP client.(64) Health Services Commission – An eleven member commission that is charged with reporting to the Governor the ranking of health benefits from most to least important, and representing the comparable benefits of each service to the entire population to be served.

(65) Hospice Services – A public agency or private organization or subdivision of either that is primarily engaged in providing care to terminally ill individuals, is certified for Medicare and/or accredited by the Oregon Hospice Association, is listed in the Hospice Program Registry, and has a valid provider agreement.

(66) Hospital Hold – A hospital hold is a process that allows a hospital to assist an individual admitted to the hospital for an inpatient hospital stay to secure a date of request when the individual is unable to apply for the OHP due to inpatient hospitalization. OHP clients shall be exempted from mandatory enrollment with an FCHP if clients become eligible through a Hospital Hold process and are placed in the adults/couples category.

(67) Indian Health Care provider – An Indian Health Program or an Urban Indian Organization.

(68) Indian Health Program – An Indian Health Service facility, any federally recognized tribe or tribal organization or any tribe 638 FQHC enrolled with the Department as an American Indian/Alaska Native (AI/AN) provider.

(69) Line Items – Condition/Treatment Pairs or categories of services included at specific lines in the Prioritized List of Services developed by the Health Services Commission for the OHP Medicaid Demonstration Project.

(70) Local and Regional Allied Agencies include the following: local Mental Health Authority; CMHPs; local DHS offices; Commission on Children and Families; OYA; Department of Corrections; Housing Authorities; local health departments, including WIC Programs; local schools; special education programs; law enforcement agencies; adult and juvenile criminal justices; developmental disability services; chemical dependency providers; residential providers; state hospitals, and other PHPs.

(71) Marketing – Any communication from a PHP to an OHP client not enrolled in that PHP which can reasonably be interpreted as an attempt to influence the OHP client:

- (a) To enroll in that particular PHP;
- (b) To either disenroll or not to enroll with another PHP.

(72) Marketing Materials – Any medium produced by, or on behalf of, a PHP that can reasonably be interpreted as intended for marketing as defined in this rule.

(73) Medicaid – A federal and state funded portion of the Medical Assistance Program established by Title XIX of the Social Security Act, as amended, and administered in Oregon by DHS.

(74) Medical Assistance Program – A program for payment of health care provided to eligible Oregonians. Oregon's Medical Assistance Program includes Medicaid services including the OHP Medicaid Demonstration, and CHIP. The Medical Assistance Program is administered and coordinated by the Division, a section of the Department.

(75) Medical Care Identification – The preferred term for what is commonly called the “medical card” That is the size of a business card and issued to Medical Assistance Program clients.

(76) Medical Case Management Services – Services provided to ensure that Division members obtain health care services necessary to maintain physical and emotional development and health. Medical case management services include a comprehensive, ongoing assessment of medical and/or dental needs plus the development and implementation of a plan to obtain needed medical or dental services that are capitated services or non-capitated services, and follow-up, as appropriate, to assess the impact of care.

(77) Medically Appropriate – Services and medical supplies that are required for prevention, diagnosis or treatment of a health condition which encompasses physical or mental conditions, or injuries, and which are:

- (a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an OHP client or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to a Division member or PCM member in the PHP's or PCM's judgment.

(78) Medicare – The federal health insurance program for the aged and disabled administered by CMS under Title XVIII of the Social Security Act.

(79) Medicare Advantage – An organization approved by CMS to offer Medicare health benefits plans to Medicare beneficiaries.

(80) Mental Health Assessment – The determination of a Division member's need for mental health services. A Qualified Mental Health Professional collects and evaluates data pertinent to a member's mental status, psychosocial history and current problems through interview, observation and testing.

(81) Mental Health Case Management – Services provided to Division member's who require assistance to ensure access to benefits and services from local, regional or state allied agencies or other service providers. Services provided may include: advocating for the Division member's treatment needs; providing assistance in obtaining entitlements based on mental or emotional disability; referring Division member's to needed services or supports; accessing housing or residential programs; coordinating services, including educational or vocational activities; and establishing alternatives to inpatient psychiatric services. ENCC Services are separate and distinct from Mental Health Case Management.

(82) Mental Health Organization (MHO) – A PHP under contract with AMH that provides mental health services as capitated services under the OHP. MHOs can be FCHPs, CMHPs or private behavioral organizations or combinations thereof.

(83) National Provider Identifier (NPI) – A federally directed provider number mandated for use on Health Insurance Portability and Accountability Act (HIPAA) transactions; individuals, provider organizations and subparts of provider organizations that meet the definition of health care providers (45 CFR 160.103) and who conduct HIPAA covered transactions electronically are eligible to apply for an NPI; Medicare covered entities are required to apply for an NPI.

(84) Non-Capitated Services – Those OHP-covered services paid for on a FFS basis and for which a capitation payment has not been made to a PHP.

(85) Non-Covered Services – Services or items for which the Division Program is not responsible for payment. Services may be covered under the Oregon Division Program, but not covered under the OHP. Non-covered services for the OHP are identified in:

- (a) OAR 410-141-0500;
- (b) Exclusions and limitations described in OAR 410-120-1200; and
- (c) Individual provider administrative rules.

(86) Non-Participating Provider – A provider who does not have a contractual relationship with the PHP, i.e. is not on their panel of providers.

(87) Ombudsman Services – Services provided by the Department to OHP client's who are aged, blind or disabled who have complex medical needs by the Department ombudsman staff who may serve as the OHP client's advocate whenever the OHP client, representative, a physician or other medical personnel, or other personal advocate serving the OHP client, is reasonably concerned about access to, quality of or limitations on the care being provided by a health care provider under the OHP. Ombudsman services include response to individual complaints about access to care, quality of care or limits to care; and response to complaints about OHP systems.

(88) Oregon Health Plan (OHP) – The Medicaid and Children's Health Insurance (CHIP) Demonstration Project which expands Medicaid and CHIP eligibility to eligible OHP clients. The OHP relies substantially upon prioritization of health services and managed care to achieve the public policy objectives of access, cost containment, efficacy, and cost effectiveness in the allocation of health resources.

(89) Oregon Health Plan (OHP) Plus Benefit Package – A benefit package available to eligible OHP clients as described in OAR 410-120-1210.

(90) Oregon Health Plan (OHP) Standard Benefit Package – A benefit package available to eligible OHP clients who are not otherwise eligible for Medicaid (including families, adults and couples) as described in OAR 410-120-1210.

ADMINISTRATIVE RULES

(91) Oregon Health Plan (OHP) client – An individual found eligible by the Department to receive services under the OHP. The OHP categories eligible for enrollment are defined as follows:

(a) Temporary Assistance to Needy Families (TANF) are OHP clients categorically eligible with income under current eligibility rules;

(b) CHIP – children under one year of age who have income under 185% FPL and do not meet one of the other eligibility classifications;

(c) Poverty Level Medical (PLM) Adults under 100% of the FPL are OHP clients who are pregnant women with income under 100% of FPL;

(d) PLM Adults over 100% of the FPL are OHP clients who are pregnant women with income between 100% and 185% of the FPL;

(e) PLM children under one year of age have family income under 133% of the FPL or were born to mothers who were eligible as PLM Adults at the time of the child's birth;

(f) PLM or CHIP children one through five years of age who have family income under 185% of the FPL and do not meet one of the other eligibility classifications;

(g) PLM or CHIP children six through eighteen years of age who have family income under 185% of the FPL and do not meet one of the other eligibility classifications;

(h) OHP Adults and Couples are OHP clients aged 19 or over and not Medicare eligible, with income below 100% of the FPL who do not meet one of the other eligibility classifications, and do not have an unborn child or a child under age 19 in the household;

(i) OHP Families are OHP clients, aged 19 or over and not Medicare eligible, with income below 100% of the FPL who do not meet one of the other eligibility classifications, and have an unborn child or a child under the age of 19 in the household;

(j) General Assistance (GA) Recipients are OHP clients who are eligible by virtue of their eligibility under the Oregon General Assistance program, ORS 411.710 et seq.;

(k) Assistance to Blind and Disabled (AB/AD) with Medicare eligibles are OHP clients with concurrent Medicare eligibility with income under current eligibility rules;

(l) AB/AD without Medicare eligibles are OHP clients without Medicare with income under current eligibility rules;

(m) Old Age Assistance (OAA) with Medicare eligibles are OHP clients with concurrent Medicare Part A or Medicare Parts A & B eligibility with income under current eligibility rules;

(n) OAA with Medicare Part B only are OAA eligibles with concurrent Medicare Part B only income under current eligibility rules;

(o) OAA without Medicare eligibles are OHP clients without Medicare with income under current eligibility rules;

(p) CAF Children are OHP clients who are children with medical eligibility determined by CAF or OYA receiving OHP under ORS 414.025(2)(f), (I), (j), (k) and (o), 418.034 and 418.187 to 418.970. These individuals are generally in the care and/or custody of CAF or OYA who are in placement outside of their homes.

(92) Oregon Youth Authority (OYA) – The state department charged with the management and administration of youth correction facilities, state parole and probation services and other functions related to state programs for youth corrections.

(93) Participating Provider – An individual, facility, corporate entity, or other organization which supplies medical, dental, chemical dependency services, or mental health services or medical and dental items and that has agreed to provide those services or items to Division members under an agreement or contract with a PHP and to bill in accordance with the signed agreement or contract with a PHP.

(94) PCM Case Managed Services include the following: Preventive Services, primary care services and specialty services, including those provided by physicians, nurse practitioners, physician assistants, naturopaths, chiropractors, podiatrists, Rural Health Clinics (RHC), Migrant and Community Health Clinics, Federally Qualified Health Centers (FQHC), County Health Departments, Indian Health Service Clinics and Tribal Health Clinics, CMHPs, MHOs; inpatient hospital services; and outpatient hospital services except laboratory, X-ray, and maternity management services.

(95) PCM Member – An OHP client enrolled with a PCM.

(96) PHP Coordinator – the Department Division employee designated by the Division as the liaison between the Division and the PHP.

(97) Physician Care Organization (PCO) – PHP that contracts with the Division to provide partially capitated health services under the OHP. The distinguishing characteristic of a PCO is the exclusion of inpatient hospital services.

(98) Post Hospital Extended Care Benefit – A 20-day benefit for non-Medicare Division members enrolled in a FCHP who meet Medicare criteria for a post-hospital skilled nursing placement.

(99) Post Stabilization Services – covered services, related to an emergency medical condition that is provided after a Division member is stabilized in order to maintain the stabilized condition or to improve or resolve the Division member's condition.

(100) Potential DMAP member – An OHP client who is subject to mandatory enrollment in managed care, or may voluntarily elect to enroll in a managed care program, but is not yet enrolled with a specific PHP.

(101) Practitioner – A person licensed pursuant to State law to engage in the provision of health care services within the scope of the practitioner's license and/or certification.

(102) Prepaid Health Plan (PHP) – A managed health, dental, chemical dependency, physician care organization, or mental health care organization that contracts with the Division and/or AMH on a case managed, prepaid, capitated basis under the OHP. PHPs may be DCOs, FCHPs, MHOs, PCOs or CDOs.

(103) Preventive Services – Those services as defined under expanded definition of preventive services for OHP clients in OAR 410-141-0480, and OAR 410-141-0520.

(104) Primary Care Management Services – Primary Care Management Services are services provided to ensure PCM members obtain health care services necessary to maintain physical and emotional development and health. Primary Care Management Services include a comprehensive, ongoing assessment of medical needs plus the development, and implementation of a plan to obtain needed medical services that are preventive or primary care services or PCM Case Managed Services and follow-up, as appropriate, to assess the impact of care.

(105) Primary Care Manager (PCM) – A physician (MD or DO), nurse practitioner, physician assistant; or naturopath with physician back-ups, who agrees to provide Primary Care Management Services as defined in rule to PCM members. PCMs may also be hospital primary care clinics, RHCs, Migrant and Community Health Clinics, FQHCs, County Health Departments, Indian Health Service Clinics or Tribal Health Clinics. The PCM provides Primary Care Management Services to PCM members for a Capitation Payment. The PCM provides preventive and primary care services on a FFS basis.

(106) Primary Care Dentist (PCD) – A Dental practitioner who is responsible for supervising and coordinating initial and primary dental care within their scope of practice for Division members. PCDs initiate referrals for care outside their scope of practice, consultations and specialist care, and assure the continuity of appropriate dental or medical care.

(107) Primary Care Provider (PCP) – A practitioner who has responsibility for supervising and coordinating initial and primary care within their scope of practice for Division members. PCPs initiate referrals for care outside their scope of practice, consultations and specialist care, and assure the continuity of appropriate dental or medical care.

(108) Prioritized List of Health Services – The listing of Condition and Treatment Pairs developed by the Health Services Commission for the purpose of implementing the OHP Demonstration Project. See OAR 410-141-0520, for the listing of Condition and Treatment Pairs.

(109) Professional Liability Insurance – Professional Liability Insurance Is coverage under the Federal Tort Claims Act (the "FTCA") if Contractor is deemed covered under the FTCA, and to the extent the FTCA covers Contractor's professional liability under this Contract

(110) Proof of Indian Heritage – Proof of Native American and/or Alaska Native descent as evidenced by written identification that shows status as an "Indian" in accordance with the Indian Health Care Improvement Act (P.L. 94-437, as amended). This written proof supports his/her eligibility for services under programs of the Indian Health Service – services provided by Indian Health Service facilities, tribal health clinics/programs or urban clinics. Written proof may be a tribal identification card, a certificate of degree of Indian blood, or a letter from the Indian Health Service verifying eligibility for health care through programs of the Indian Health Service.

(111) Provider – An individual, facility, institution, corporate entity or other organization which supplies medical, dental or mental health services or medical and dental items.

(112) Provider Taxonomy Codes: is a standard administrative code set, as defined under HIPAA in federal regulations at 45 CFR 162, for identifying the provider type and area of specialization for all providers.

(113) Quality Improvement – Quality improvement is the effort to improve the level of performance of a key process or processes in health services or health care. A quality improvement program measures the level

ADMINISTRATIVE RULES

of current performance of the processes, finds ways to improve the performance and implements new and better methods for the processes. Quality Improvement (as used in these rules) includes the goals of quality assurance, quality control, quality planning and quality management in health care where “quality of care is the degree to which health services for individuals and populations increases the likelihood of desired health outcomes and are consistent with current professional knowledge.”

(114) Representative – A person who can make OHP related decisions for OHP clients who are not able to make such decisions themselves. A representative may be, in the following order of priority, a person who is designated as the OHP client’s health care representative, a court-appointed guardian, a spouse, or other family member as designated by the OHP client, the Individual Service Plan Team (for developmentally disabled clients), a Department case manager or other Department designee.

(115) Rural – A geographic area is 10 or more map miles from a population center of 30,000 people or less.

(116) Seniors and People with Disabilities Division (SPD) – The division within the Department responsible for providing services such as:

(a) Assistance with the cost of long-term care through the Medicaid Long Term Care Program and the Oregon Project Independence (OPI) Program;

(b) Cash assistance grants for persons with long-term disabilities through GA and the Oregon Supplemental Income Program (OSIP); and

(c) Administration of the federal Older Americans Act.

(117) Service Area – The geographic area the PHP has identified in their Contract or Agreement with the Department, to provide services under the OHP.

(118) Stabilize – No material deterioration of the emergency medical condition is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility.

(119) Terminal Illness – An illness or injury in which death is imminent irrespective of treatment, where the application of life-sustaining procedures or the artificial administration of nutrition and hydration serves only to postpone the moment of death.

(120) Triage – Evaluations conducted to determine whether or not an emergency condition exists, and to direct the Division member to the most appropriate setting for medically appropriate care.

(121) Urban – A geographic area is less than 10 map miles from a population center of 30,000 people or more.

(122) Urgent Care Services – Covered Services that are medically appropriate and immediately required in order to prevent a serious deterioration of an Division member’s health that results from an unforeseen illness or an injury. Services that can be foreseen by the individual are not considered urgent services.

(123) Valid Claim:

(a) An invoice received by the PHP for payment of covered health care services rendered to an eligible client that:

(A) Can be processed without obtaining additional information from the provider of the service or from a third party; and

(B) Has been received within the time limitations prescribed in these Rules.

(b) A valid claim does not include a claim from a provider who is under investigation for fraud or abuse, or a claim under review for medical appropriateness. A valid claim is synonymous with the federal definition of a clean claim as defined in 42 CFR 447.45(b).

(124) Valid Pre-Authorization – A request received by the PHP for approval of the provision of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the service or from a third party; and

(b) Has been received within the time limitations prescribed in these Rules.

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

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

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 13-2002, f. & cert. ef. 4-1-02; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 50-2003, f. 7-31-03, cert. ef. 8-1-03; OMAP 37-2004(Temp), f. 5-27-04, cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04, cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 45-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10

410-141-0070

Oregon Health Plan Fully Capitated Health Plan (FCHP) and Physician Care Organization (PCO) Pharmaceutical Drug List Requirements

(1) Prescription drugs are a covered service based on the funded Condition/Treatment Pairs. Fully Capitated Health Plan (FCHP)’s and Physician Care Organization (PCO)’s shall pay for prescription drugs, except:

(a) As otherwise provided, such as Class 7 & 11 medications (based on the National Drug Code (NDC) as submitted by the manufacturer to First Data Bank);

(b) Depakote, Lamictal and those drugs that the Division specifically carved out from capitation according to sections (8) through (11) of this rule;

(c) Any applicable Co-payments;

(d) For drugs covered under Medicare Part D when the Client is Fully Dual Eligible.

(2) FCHPs and PCOs may use a restrictive drug list as long as it allows access to other drug products not on the drug list through some process such as prior authorization (PA). The drug list must:

(a) Include Federal Drug Administration (FDA)-approved drug products for each therapeutic class sufficient to ensure the availability of covered drugs with minimal prior approval intervention by the provider of pharmaceutical services;

(b) Include at least one item in each therapeutic class of over-the-counter medications; and

(c) Be revised periodically to assure compliance with this requirement.

(3) FCHPs and PCOs shall provide their participating providers and their pharmacy subcontractor with:

(a) Their drug list and information about how to make non-drug list-request requests;

(b) Updates made to their drug list within 30 days of a change that may include, but is not limited to:

(A) Addition of a new drug;

(B) Removal of a previously listed drug; and

(C) Generic substitution.

(4) If a drug cannot be approved within the 72-hour time requirement for prior authorization of drugs and the medical need for the drug is immediate, FCHPs and PCOs must provide (within 24 hours of receipt of the drug prior authorization request) for the dispensing of at least a 72-hour supply of a drug that requires prior authorization

(5) FCHPs and PCOs shall authorize the provision of a drug requested by the Primary Care Physician (PCP) or referring provider, if the approved prescriber certifies medical necessity for the drug such as:

(a) The equivalent of the drug listed has been ineffective in treatment;

or

(b) The drug listed causes or is reasonably expected to cause adverse or harmful reactions to the Division Member.

(6) Prescriptions for Physician Assisted Suicide under the Oregon Death with Dignity Act are excluded; payment is governed solely by OAR 410-121-0150.

(7) FCHPs and PCOs shall not authorize payment for any Drug Efficacy Study Implementation (DESI) Less-Than-Effective drugs which have reached the FDA Notice-of-Opportunity-for Hearing stage. The DESI Less-Than-Effective list is available at the Division’s Web site at <http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/misc_files/desi1.pdf>.

(8) The Division may exclude (commonly called “carve out”) drugs from FCHP and PCO capitation that are FDA approved to treat a serious mental health disorder, such as major depressive, bi-polar and schizophrenic disorders.

(9) In order for a drug to be considered for carve out from FCHP and PCO capitation for the January contract period, the Division must receive the request for carve out from the FCHP or PCO no later than March 1 of the previous calendar year to be considered for carve out for the following January contract cycle. The request must include:

(a) The drug name;

(b) The FDA approved indications that include an FDA approved use to treat a severe mental health condition; and

(c) The reason that the Division should consider this drug for carve out.

(10) The Division determines whether or not to carve out a drug.

ADMINISTRATIVE RULES

(11) The Division will pay for a drug that is subject to carve out pursuant to the Pharmaceutical Services Rules (Chapter 410, Division 121). An FCHP or PCO may not reimburse providers for carved out drugs.

Stat. Auth.: ORS 409.050

Stats. Implemented: 414.065

Hist.: OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05;

OMAP 57-2005, f. 10-25-05, cert. ef. 11-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06;

OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07;

DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10

410-141-0160

Oregon Health Plan Prepaid Health Plan (PHP) Coordination and Continuity of Care

(1) PHPs shall have written policies, procedures, and monitoring systems that ensure the provision of Medical Case Management Services, delivery of primary care to and coordination of health care services for all Division members:

(a) PHPs are to coordinate and manage capitated services and non-capitated services, and ensure that referrals made by the PHP's providers to other providers for covered services are noted in the appropriate Division member's clinical record;

(b) PHPs shall ensure Division members receiving Exceptional Needs Care Coordination (ENCC) services for the aged, blind or disabled who have complex medical needs as described in 410-141-0405, are noted in the appropriate Division member's record. ENCC is a service available through Fully Capitated Health Plans (FCHPs) or Physician Care Organizations (PCOs) that is separate from and in addition to medical case management services;

(c) These procedures must ensure that each Division member has an ongoing source of primary care appropriate to his or her needs and a Practitioner or entity formally designated as primarily responsible for coordinating the health care services furnished to the Division member in accordance with OAR 410-141-0120;

(d) FCHPs and PCOs shall communicate these policies and procedures to providers, regularly monitor providers' compliance with these policies and procedures and take any corrective action necessary to ensure provider compliance. FCHPs and PCOs shall document all monitoring and corrective action activities;

(A) PHPs shall develop and maintain a formal referral system consisting of a network of consultation and referral Providers, including applicable Alternative Care Settings, for all services covered by contracts/agreements with the Division and/or Addictions and Mental Health Division (AMH) formerly known as Office of Mental Health and Addictions Services (OMHAS). PHPs shall ensure that access to and quality of care provided in all referral settings is monitored. Referral services and services received in alternative care settings shall be reflected in the Division member's clinical record. PHPs shall establish and follow written procedures for participating and non-participating providers in the PHP's referral system. Procedures shall include the maintenance of records within the referral system sufficient to document the flow of referral requests, approvals and denials in the system;

(B) The Division member shall obtain all covered services, either directly or upon referral, from the PHP or PCM responsible for the service from the date of enrollment through the date of disenrollment, except when the Division member is enrolled in a Medicare HMO or Medicare Advantage FCHP or PCO:

(i) FCHPs or PCOs with a Medicare HMO component or Medicare Advantage and MHOs have significant and shared responsibility for prepaid services, and shall coordinate benefits for the Division member to ensure that the Division member receives all medically appropriate services covered under respective capitation payments;

(ii) If the Division member is enrolled in a FCHP or PCO with a Medicare HMO component or Medicare Advantage, then Medicare covered mental health services shall be obtained from the FCHP or PCO or upon referral by the FCHP or PCO, respectively. Mental health services that are not covered by the FCHP or PCO, but are covered by the MHO, shall be obtained from the MHO or upon referral by the MHO.

(C) PHPs shall have written procedures for referrals which ensure adequate prior notice of the referral to referral Providers and adequate documentation of the referral in the Division member's clinical record;

(D) PHPs shall designate a staff member who is responsible for the arrangement, coordination and monitoring of the PHP's referral system;

(E) PHPs shall ensure that any staff member responsible for denying or reviewing denials of requests for referral is a Health Care Professional;

(F) PHPs shall have written procedures that ensure that relevant medical, mental health, and/or dental information is obtained from referral providers, including telephone referrals. These procedures shall include:

(i) Review of information by the referring provider;

(ii) Entry of information into the Division member's clinical record;

(iii) Monitoring of referrals to ensure that information, including information pertaining to ongoing referral appointments, is obtained from the referral providers, reviewed by the referring practitioner, and entered into the clinical record.

(G) PHPs shall have written procedures to orient and train their staff, participating practitioners and their staff, and the staff in Alternative Care Settings, and urgent and emergency care facilities in the appropriate use of the PHP's referral, alternative care, and urgent and emergency care systems. Procedures and education shall ensure use of appropriate settings of care;

(H) PHPs shall have written procedures which ensure that an appropriate staff person responds to calls from other providers requesting approval to provide care to Division members who have not been referred to them by the PHP. If the person responding to the call is not a Health Care Professional, the PHP shall have established written protocols that clearly describe when a Health Care Professional needs to respond to the call. These procedures and protocols shall be reviewed by the PHP for appropriateness. The procedures shall address notification of acceptance or denial and entry of information into the PCP's clinical record;

(I) FCHPs and PCOs shall have written policies and procedures to ensure information on all emergency department visits is entered into the Division member's appropriate PCP's clinical record. FCHPs and PCOs shall communicate this policy and procedure to providers, monitor providers' compliance with this policy and procedure, and take corrective action necessary to ensure compliance;

(J) If a Division member is hospitalized in an inpatient or outpatient setting for a covered service, PHPs shall ensure that:

(i) A notation is made in the Division member's appropriate PCP's clinical record of the reason, date, and expected duration of the hospitalization;

(ii) Upon discharge, a notation is made in the Division member's appropriate PCP's clinical record of the actual duration of the hospitalization and follow-up plans, including appointments for provider visits; and

(iii) Pertinent reports from the hospitalization are entered in the Division member's appropriate PCP's clinical record. Such reports shall include, as applicable, the reports of consulting practitioners physical history, psycho-social history, list of medications and dosages, progress notes, and discharge summary.

(2) For Division members living in residential facilities or homes providing ongoing care, PHPs shall work with the appropriate staff person identified by the facility to ensure that the Division member has timely and appropriate access to covered services and to ensure coordination of care provided by the PHP and care provided by the facility or home. PHPs shall make provisions for a PCP or the facility's "house doctor or dentist" to provide care to Division members who, due to physical, emotional, or medical limitations, cannot be seen in a PCP office.

(3) For Division members living in residential facilities or homes providing ongoing care, FCHPs and PCOs shall provide medications in a manner that is consistent with the appropriate medication dispensing system of the facility, which meets state dispensing laws. FCHPs and PCOs shall provide emergency prescriptions on a 24-hour basis.

(4) For DMAP members who are discharged to post hospital extended care, the FCHP shall notify the appropriate Department office at the time of admission to the skilled nursing facility (SNF) and begin appropriate discharge planning. The FCHP is not responsible for the post hospital extended care benefit unless the Division member was a member of the FCHP during the hospitalization preceding the nursing facility placement. The FCHP shall notify the nursing facility and the Division member no later than two full working days prior to discharge from post hospital extended care. For Division members who are discharged to Medicare Skilled Care, the appropriate DHS office shall be notified at the time the FCHP learns of the admission. The FCHP shall initiate appropriate discharge planning at the time of the notification to the Department office.

(5) PHPs shall coordinate the services the PHP furnishes to Division members with the services the Division member receives from any other PHP (FCHP, PCO, DCO, CDO, or MHO) in accordance with OAR 410-141-0120(6). PHPs shall ensure that in the process of coordinating care, each Division member's privacy is protected in accordance with the privacy requirements of 45 CFR parts 160 and 164 subparts A and E to the extent that they are applicable.

(6) When a Division member's care is being transferred from one PHP to another or for OHP clients transferring from fee-for-service to a PHP, the PHP shall make every reasonable effort within the laws governing confi-

ADMINISTRATIVE RULES

dentiality to coordinate transfer of the OHP client into the care of a PHP participating provider.

(7) PHPs shall make attempts to contact targeted Division population(s) by mail, telephone, in person or through the Department within the first three months of enrollment to assess medical, mental health or dental needs, appropriate to the PHP. The PHP shall, after reviewing the assessment, refer the Division member to his/her PCP or other resources as indicated by the assessment. Targeted Division population(s) shall be determined by the PHP and approved by the Division.

(8) MHOs shall establish working relationships with the Local Mental Health Authorities (LMHAs) and Community Mental Health Programs (CMHPs) operating in the service area for the purposes of maintaining a comprehensive and coordinated mental health delivery system and to help ensure Division member access to mental health services which are not provided under the capitation payment.

(9) MHOs shall ensure that Division members receiving services from extended or long term psychiatric care programs (e.g., secure residential facilities, PASSAGES projects, state hospital) will receive follow-up services as medically appropriate to ensure discharge within five working days of receiving notification of discharge readiness.

(10) MHOs shall coordinate with Community Emergency Service Agencies (e.g., police, courts and juvenile justice, corrections, and the LMHAs and CMHPs) to promote an appropriate response to Division members experiencing a mental health crisis.

(11) MHOs shall use a multi-disciplinary team service planning and case management approach for Division members requiring services from more than one public agency. This approach shall help avoid service duplication and assure timely access to a range and intensity of service options that provide individualized, medically appropriate care in the least restrictive treatment setting (e.g., clinic, home, school, community).

(12) MHOs shall consult with, and provide technical assistance to, FCHPs and PCOs to help assure that mental health conditions of Division members are identified early so that intervention and prevention .

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10

410-141-0200

Oregon Health Plan Prepaid Health Plan Quality Improvement (QI) System

(1) QI Program:

(a) FCHPs, PCOs, DCOs and CDOs shall maintain an effective process for monitoring, evaluating, and improving the access, quality and appropriateness of services provided to Division Members. This process shall include an internal Quality Improvement (QI) program based on written policies, evidenced-based practice guidelines, standards and procedures that are in accordance with relevant law and the community standards for dental care, and/or with accepted medical practice, whichever is applicable, and with accepted professional standards. The QI program shall include policies, standards, and written procedures that adequately address the needs of Division Members, including those who are aged, blind or disabled who have complex medical needs; or children receiving CAF (SOSCF) or OYA services. FCHPs, PCOs, DCOs and CDOs shall establish or adopt written criteria to monitor and evaluate the provision of adequate medical and/or dental care. The QI program must include QI projects that are designed to improve the access, quality and utilization of services;

(b) MHOs shall abide by the Quality Assurance Requirements as stated in the MHO Agreement.

(2) The positions of Medical or Dental Director and the QI Coordinator shall have the qualifications, responsibility, experience, authority, and accountability necessary to assure compliance with this rule. FCHPs, PCOs, DCOs and CDOs shall designate a QI Coordinator who shall develop and coordinate systems to facilitate the work of the QI Committee. The Quality Improvement Coordinator is generally responsible for the operations of the QI program and must have the management authority to implement changes to the QI program as directed by the QI Committee. The QI Coordinator shall be qualified to assess the care of Division Members including those who are aged, blind or disabled who have complex medical needs and children receiving CAF (SOSCF) or OYA services, or shall be able to retain consultation from individuals who are qualified.

(3) FCHPs, PCOs, DCOs and CDOs shall establish a QI Committee that shall meet at least every two months; The Committee shall retain

authority and accountability to the Board of Directors for the assurance of quality of care. Committee membership shall include, but is not limited to, the Medical or Dental Director, the QI Coordinator, and other health professionals who are representative of the scope of the services delivered. If any QI functions are delegated, the QI Committee shall maintain oversight and accountability for those delegated functions. The QI Committee shall:

(a) Record and produce dated minutes of Committee deliberations. Document recommendations regarding corrective actions to address issues identified through the QI Committee review process; and review of results, progress, and effectiveness of corrective actions recommended at previous meetings;

(b) Conduct and submit to the Division an annual written evaluation of the QI Program and of DMAP Member care as measured against the written procedures and protocols of Division Member care. The evaluation of the QI program and Division Member care is to include a description of completed and ongoing QI activities, Division Member education and an evaluation of the overall effectiveness of the QI program. This evaluation shall include:

(A) Prevention programs;

(B) Care of Division Members who are aged, blind or disabled who have complex medical needs or children receiving CAF (SOSCF) or OYA services, and FCHP or PCO review of the Quality of Exceptional Needs Care Coordination program;

(C) Disease management programs;

(D) Adverse outcomes of Division Members and Division Members who are aged, blind or disabled who have complex medical needs or children receiving CAF (SOSCF) or OYA services;

(E) Actions taken by the FCHPs, PCOs, DCOs or CDOs to address health care concerns identified by Division Members or their Representatives and changes which impact quality or access to care. This may include: clinical record keeping; utilization review; referrals; comorbidities; prior authorizations; Emergency Services; out of FCHPs, PCOs, DCOs or CDOs utilization; medication review; FCHPs, PCOs, DCOs or CDOs initiated disenrollments; encounter data management; and access to care and services.

(c) Conduct a quarterly review and analysis of all complaints and appeals received including a focused review of any persistent and significant Division Member complaints and appeals;

(d) Review written procedures, protocols and criteria for Division Member care no less than every two years, or more frequently as needed to maintain currency with clinical guidelines and administrative principles.

(4) FCHPs or PCOs that are NCQA accredited or accredited by other Division recognized accreditation organizations shall be deemed for Section (3)(b) of this rule. FCHPs and PCOs deemed by the Division shall annually submit to the Division an evaluation of the Exceptional Needs Care Coordination program; and an evaluation of Division Member care for Division Members who are aged, blind or disabled who have complex medical needs or children receiving CAF (SOSCF) or OYA services. Copies of accreditation reports shall be submitted to the Division within 60 days of issuance.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 15-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10

410-141-0220

Oregon Health Plan Prepaid Health Plan Accessibility Accessibility

(1) Prepaid Health Plans (PHPs) shall have written policies and procedures that ensure access to all covered services for all Division members. PHPs shall communicate these policies and procedures to participating providers, regularly monitor participating providers' compliance with these policies and procedures, and take any corrective action necessary to ensure participating provider compliance. PHPs shall document all monitoring and corrective action activities. PHPs shall not discriminate between Division members and non-Division members as it relates to benefits and covered services to which they are both entitled:

(a) PHPs shall have written policies and procedures which ensure that for 90% of their Division members in each service area, routine travel time or distance to the location of the PCP does not exceed the community standard for accessing health care participating providers. The travel time or distance to PCPs shall not exceed the following, unless otherwise approved by the Division:

ADMINISTRATIVE RULES

(A) In urban areas – 30 miles, 30 minutes or the community standard, whichever is greater;

(B) In rural areas – 60 miles, 60 minutes or the community standard, whichever is greater.

(b) PHPs shall maintain and monitor a network of appropriate participating providers sufficient to ensure adequate service capacity to provide availability of, and timely access to, medically appropriate covered services for Division members:

(A) PHPs shall have an access plan that establishes standards for access, outlines how capacity is determined and establishes procedures for monthly monitoring of capacity and access, and for improving access and managing risk in times of reduced participating provider capacity. The access plan shall also identify populations in need of interpreter services and populations in need of accommodation under the Americans with Disabilities Act;

(B) PHPs shall make the services it provides including: specialists, pharmacy, hospital, vision and ancillary services, as accessible to Division members in terms of timeliness, amount, duration and scope as those services are to non-Division persons within the same service area. If the PHP is unable to provide those services locally, it must so demonstrate to the Division and shall provide reasonable alternatives for Division members to access care that must be approved by the Division. PHPs shall have a monitoring system that will demonstrate to the Division or AMH, as applicable, that the PHP has surveyed and monitored for equal access of Division members to referral providers pharmacy, hospital, vision and ancillary services;

(C) PHPs shall have written policies and procedures and a monitoring system to ensure that Division members who are aged, blind, or disabled who have complex medical needs or who are children receiving CAF (SOSCF services) or OYA services have access to primary care, dental care, mental health providers and referral, as applicable. These providers shall have the expertise to treat, take into account and accommodate the full range of medical, dental or mental health conditions experienced by these Division members, including emotional, disturbance and behavioral responses, and combined or multiple diagnoses.

(2) PHPs and Primary Care Managers (PCMs) Enrollment Standards:

(a) PHPs and PCMs shall remain open for enrollment unless the Department has closed enrollment because the PHP or PCM has exceeded their enrollment limit or does not have sufficient capacity to provide access to services as mutually agreed upon by the Division or AMH, as appropriate, and the PHP or PCM;

(b) PHPs enrollment may also be closed by the Division or AMH, as appropriate due to sanction provisions;

(c) PHPs and PCMs shall accept all OHP clients, regardless of health status at the time of enrollment, subject to the stipulations in contracts/agreements with DHS to provide covered services or Primary Care management services;

(d) PHPs and PCMs may confirm the enrollment status of an OHP client by one of the following:

(A) The individual's name appears on the monthly or weekly enrollment list produced by the Division;

(B) The individual presents a valid medical care identification that shows he or she is enrolled with the PHP or PCM;

(C) The Automated Voice Response (AVR) verifies that the individual is currently eligible and enrolled with the PHP or PCM;

(D) An appropriately authorized staff member of the Department states that the individual is currently eligible and enrolled with the PHP or PCM.

(e) PHPs shall have open enrollment for 30 continuous calendar days during each twelve-month period of January through December, regardless of the PHPs enrollment limit. The open enrollment periods for consecutive years may not be more than 14 months apart.

(3) If a PHP is assumed by another PHP, Division members shall be automatically enrolled in the succeeding PHP. The Division member will have 30 calendar days to request disenrollment from the succeeding PHP. If the succeeding PHP is a Medicare Advantage plan, those Division members who are Medicare beneficiaries shall not be automatically enrolled but shall be offered enrollment in the succeeding PHP.

(4) If a PHP engages in an activity, such as the termination of a participating provider or participating provider group which has significant impact on access in that Service Area and necessitates either transferring Division members to other providers or the PHP withdrawing from part or all of a service area, the PHP shall provide the Department at least 90 calendar days written notice prior to the planned effective date of such activity:

(a) A PHP may provide less than the required 90 calendar days notice to the Department upon approval by the Department when the PHP must terminate a participating provider or participating provider group due to problems that could compromise Division member care, or when such a participating provider or participating provider group terminates its contract with the PHP and refuses to provide the required 90 calendar days notice;

(b) If DHS must notify Division members of a change in participating providers or PHPs, the PHP shall provide the Department with the name, prime number, and address label of the Division members affected by such changes at least 30 calendar days prior to the planned effective date of such activity. The PHP shall provide Division members with at least 30 calendar-days notice of such changes.

(5) PHPs shall have written policies and procedures that ensure scheduling and rescheduling of Division member appointments are appropriate to the reasons for, and urgency of, the visit:

(a) PHPs shall have written policies and procedures and a monitoring system to assure that Division members have access to appointments according to the following standards:

(A) FCHPs and PCOs:

(i) Emergency Care – The Division member shall be seen immediately or referred to an emergency department depending on the Division member's condition;

(ii) Urgent Care – The Division member shall be seen within 48 hours; and

(iii) Well Care – The Division member shall be seen within 4 weeks or within the community standard.

(B) DCOs:

(i) Emergency Care – The Division member shall be seen or treated within 24-hours;

(ii) Urgent Care – The Division member shall be seen within one to two weeks depending on Division member's condition; and

(iii) Routine Care – The Division member shall be seen for routine care within an average of eight (8) weeks and within twelve (12) weeks or the community standard, whichever is less, unless there is a documented special clinical reason which would make access longer than 12 weeks appropriate.

(C) MHOs and CDOs:

(i) Emergency Care – Division member shall be seen within 24-hours or as indicated in initial screening;

(ii) Urgent Care – Division member shall be seen within 48 hours or as indicated in initial screening;

(iii) Non-Urgent Care – Division member shall be seen for an intake assessment within 2 weeks from date of request.

(b) PHPs shall have written policies and procedures to schedule patients and provide appropriate flow of Division members through the office such that Division members are not kept waiting longer than non-Division member patients, under normal circumstances. If Division members are kept waiting or if a wait of over 45 minutes from the time of a scheduled appointment is anticipated, Division members shall be afforded the opportunity to reschedule the appointment. PHPs must monitor waiting time for clients at least through complaint and appeal reviews, Division termination reports, and Division member surveys to determine if waiting times for clients in all settings are appropriate;

(c) PHPs shall have written procedures and a monitoring system for timely follow-up with Division member(s) when participating providers have notified the PHP that the Division member(s) have failed to keep scheduled appointments. The procedures shall address determining why appointments are not kept, the timely rescheduling of missed appointments, as deemed medically or dentally appropriate, documentation in the clinical record or non-clinical record of missed appointments, recall or notification efforts, and outreach services. If failure to keep a scheduled appointment is a symptom of the Division member's diagnosis or disability or is due to lack of transportation to the PHP's participating provider office or clinic, PHPs shall provide outreach services as medically appropriate

(d) PHPs shall have policies and procedures that ensure participating providers will attempt to contact Division members if there is a need to cancel or reschedule the Division member's appointment and there is sufficient time and a telephone number available;

(e) PHPs shall have written policies and procedures to Triage the service needs of Division members who walk into the PCP's office or clinic with medical, mental health or dental care needs. Such Triage services must be provided in accordance with OAR 410-141-0140, Oregon Health Plan Prepaid Health Plan Emergency and Urgent Care Services;

ADMINISTRATIVE RULES

(f) DMAP members with non-emergent conditions who walk into the PCP's office or clinic should be scheduled for an appointment as appropriate to the Division member's needs or be evaluated for treatment within two hours by a medical, mental health or dental provider.

(6) PHPs shall have written policies and procedures that ensure the maintenance of 24-hour telephone coverage (not a recording) either on site or through call sharing or an answering service, unless this requirement is waived in writing by the Division and/or AMH because the PHP submits an alternative plan that will provide equal or improved telephone access:

(a) Such policies and procedures shall ensure that telephone coverage provides access to 24-hour care and shall address the standards for PCPs or clinics callback for emergency, urgent, and routine issues and the provision of interpreter services after office hours;

(b) FCHPs and PCOs shall have an adequate on-call PCP or clinic backup system covering internal medicine, family practice, OB/Gyn, and pediatrics, as an operative element of FCHP's and PCO's after hours care;

(c) Such policies and procedures shall ensure that relevant information is entered into the appropriate clinical record of the Division member regardless of who responds to the call or the time of day the call is received. PHPs shall monitor for compliance with this requirement;

(d) Such policies and procedures shall include a written protocol specifying when a medical, mental health or dental provider must be consulted. When medically appropriate, all such calls shall be forwarded to the on-call PCP who shall respond immediately to calls which may be emergent in nature. Urgent calls shall be returned appropriate to the Division member's condition, but in no event more than 30 minutes after receipt. If information is inadequate to determine if the call is urgent, the call shall be returned within 60 minutes;

(e) Such policies and procedures shall ensure that all persons answering the telephone (both for the PHP and the PHP's participating providers) have sufficient communication skills and training to reassure Division members and encourage them to wait for a return call in appropriate situations. PHPs shall have written procedures and trained staff to communicate with hearing impaired Division members via TDD/TTY;

(f) PHPs shall monitor compliance with the policies and procedures governing 24-hour telephone coverage and on-call PCP coverage, take corrective action as needed, and report findings to the PHP's quality improvement committee;

(g) PHPs shall monitor such arrangements to ensure that the arrangements provide access to 24-hour care. PHPs shall, in addition, have telephone coverage at PHP's administrative offices that will permit access to PHPs' administrative staff during normal office hours, including lunch hours.

(7) PHPs shall develop written policies and procedures for communicating with, and providing care to Division members who have difficulty communicating due to a medical condition or who are living in a household where there is no adult available to communicate in English or where there is no telephone:

(a) Such policies and procedures shall address the provision of qualified interpreter services by phone, in person, in PHP administrative offices, especially those of Division member services and complaint and grievance representatives and in emergency rooms of contracted hospitals;

(b) PHPs shall provide or ensure the provision of qualified interpreter services for covered medical, mental health or dental care visits, including home health visits, to interpret for Division members with hearing impairment or in the primary language of non-English speaking Division members. Such interpreters shall be linguistically appropriate and be capable of communicating in English and the primary language of the Division member and be able to translate clinical information effectively. Interpreter services shall be sufficient for the Provider to be able to understand the Division member's complaint; to make a diagnosis; respond to Division member's questions and concerns; and to communicate instructions to the Division member;

(c) PHPs shall ensure the provision of care and interpreter services which are culturally appropriate, i.e., demonstrating both awareness for and sensitivity to cultural differences and similarities and the effect of those on the medical care of the Division member;

(d) PHPs shall have written policies and procedures that ensure compliance with requirements of the Americans with Disabilities Act of 1990 in providing access to covered services for all Division members and shall arrange for services to be provided by Non-participating referral providers when necessary;

(A) PHPs shall have a written plan for ensuring compliance with these requirements and shall monitor for compliance;

(B) Such a plan shall include procedures to determine whether Division members are receiving accommodations for access and to determine what will be done to remove existing barriers and/or to accommodate the needs of Division members;

(C) This plan shall include the assurance of appropriate physical access to obtain covered services for all Division members including, but not limited to, the following:

(i) Street level access or accessible ramp into facility;

(ii) Wheelchair access to lavatory;

(iii) Wheelchair access to examination room; and

(iv) Doors with levered hardware or other special adaptations for wheelchair access.

(e) PHPs shall ensure that participating providers, their facilities and personnel are prepared to meet the complex medical needs of Division members who are aged, blind or disabled:

(A) PHPs shall have a written plan for meeting the complex medical needs of Division members who are aged, blind or disabled;

(B) PHPs shall monitor participating providers for compliance with the access plan and take corrective action, when necessary.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 38-1998, f. & cert. ef. 10-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10

410-141-0300

Oregon Health Plan Prepaid Health Plan Member Education

CDO: Chemical Dependency Organization

DCO: Dental Care Organization

DHS: Department of Human Services

ENCC: Exceptional Needs Care Coordination

FCHP: Fully Capitated Health Plan

MHO: Mental Health Organization

OHP: Oregon Health Plan

DMAP: Division of Medical Assistance Programs

AMH: Addictions and Mental Health Division

PCD: Primary Care Dentist

PCO: Physician Care Organization

PCP: Primary Care Provider

PHP: Prepaid Health Plan (FCHP, PCO, DCO, CDO and MHO)

(1) PHPs shall have an ongoing process of Division member education and information sharing that includes orientation to the PHP, a PHP Division member handbook and health education. Division member education shall include: (a) The availability of ENCC through FCHPs and PCOs for Division members with special health care needs, who are aged, blind or disabled who have complex medical needs; and

(b) The appropriate use of the delivery system, including a proactive and effective education of Division members on how to access emergency services and urgent care services appropriately.

(2) PHPs shall offer PHP orientation to new Division members by mail, phone, or in person within 30 days of enrollment unless no address can be obtained, a telephone number is not provided by the Division, and the Department is unable to assist in delivering the information to the Division member.

(3) PHP Division member handbook materials:

(a) The PHP Division member handbook shall be made available for new Division members, as described in OAR 410-141-0280, Oregon Health Plan PHP Informational Requirements, and shall be distributed within 14 calendar days of the Division member's effective date of coverage with PHP;

(b) At a minimum the information in the PHP Division member handbook shall contain the following elements:

(A) Location(s), office hours and availability of physical access for Division members with disabilities to PHP and PCP and PCD offices;

(B) Telephone number(s) (including TTY) for Division members to call for more information and telephone numbers relating to information listed below;

(C) Division member's choice and use of PCPs, PCDs and policies on changing PCPs, PCDs;

(D) Use of the PHP's appointment system;

(E) Use of the PHP's referral system, including procedures for obtaining benefits, including authorization requirements;

(F) How Division members are to access urgent care services and advice;

(G) How and when Division members are to use emergency services including information on post-stabilization care services, related to an

ADMINISTRATIVE RULES

emergency medical condition that are provided after a Division member is stabilized in order to maintain the stabilized condition, or, under the circumstances to improve or resolve the Division member's condition;

(H) Information on the PHP's complaint process and information on fair hearing procedures;

(I) How Division members are to access interpreter services including sign interpreters;

(J) Information on the Division member's rights and responsibilities;

(K) Information on the Division member's possible responsibility for charges including Medicare deductibles and coinsurances (if they go outside of PHP for non-emergent care), co-payments, and charges for non-covered services;

(L) The transitional procedures for new Division members to obtain prescriptions, supplies and other necessary items and/or services in the first month of Enrollment with the PHP if they are unable to meet with a PCP, PCD, other prescribing practitioner or obtain new orders during that period;

(M) What services can be self-referred to both participating and non-participating providers (FCHPs, PCOs and MHOs only);

(N) To adult Division members written information on advance directive policies including:

(i) A description of applicable state law;

(ii) Division member rights under Oregon law;

(iii) The contractor's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience.

(O) How to request information on the PHP's physician incentives;

(P) The Division member's right to request and obtain copies of their clinical records (and that they may be charged a reasonable copying fee) and to request that the record be amended or corrected;

(Q) How Division members are to obtain emergent and non-emergent ambulance services (FCHP and PCO only) and other medical transportation to appointments, as appropriate;

(R) Explanation of the amount, scope and duration of covered and non-covered services in sufficient detail to ensure that Division members understand the benefits to which they are entitled;

(S) How Division members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs (FCHPs and PCOs only);

(T) PHP's confidentiality policy;

(U) Name, locations, telephone numbers of, and non-English languages offered by current participating providers, including information on PHP's PCPs/PCDs that are not accepting new Division members (not MHOs) including at a minimum, information on PCPs, specialists and hospitals in the Division member's service area;

(V) The extent to which; and how, Division members may obtain benefits, including family planning services, from non-participating providers;

(W) Any restrictions on the Division member's freedom of choice among participating providers;

(X) Policies on referrals for specialty care and for other benefits not furnished by the Division member's PCP;

(Y) How and where Division members are to access any benefits that are available under OHP but are not covered under the PHPs' contract, including any cost sharing, and how transportation is provided.

(c) If the PHP Division member handbook is returned with a new address, the PHP shall re-mail the PHP Division member handbook or use the telephone number provided by the Department to reach the Division member. If the PHP is unable to reach the Division member by either mail or telephone, the PHP shall retain the PHP Division member handbook and have it available upon request for the Division member;

(d) PHPs shall, at a minimum, annually and upon request provide the PHP Division member handbook to Division members, Division member's Representative and to clinical offices for distribution to Division members;

(e) The PHP Division member handbook shall be reviewed by PHP for accuracy at least yearly and updated with new or corrected information as needed to reflect the PHP's internal changes and regulatory changes. If changes impact the Division members' ability to use services or benefits, the updated materials shall be distributed to all Division members;

(f) The Department "Oregon Health Plan Client Handbook" is in addition to the PHP Division member handbook and cannot be used to substitute for the PHP Division member handbook.

(4) PHPs shall have written procedures and criteria for health education of Division members. Health education shall include: information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-

care, and disease and accident prevention. Health education may be provided by PHP's practitioner(s) or other individual(s) or program(s) approved by the PHP. PHPs shall endeavor to provide health education in a culturally sensitive manner in order to communicate most effectively with individuals from non-dominant cultures: PHPs shall ensure development and maintenance of an individualized health educational plan for Division members who have been identified by their practitioner as requiring specific educational intervention. The Department may assist in developing materials that address specifically identified health education problems to the population in need.

(5) PHPs shall provide an identification card to Division members, unless waived by the Division and/or AMH, which contains simple, readable and usable information on how to access care in an urgent or emergency situation. Such identification cards shall confer no rights to services or other benefits under the Oregon Health Plan and are solely for the convenience of the PHP's, Division members and providers.

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

Stat. Auth.: ORS ORS 409.050

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10

410-141-0405

Oregon Health Plan Fully Capitated Health Plan and Physician Care Organization Exceptional Needs Care Coordination (ENCC)

DMAP may have specific definitions for common terms. Please use OAR 410-141-0000, Definitions, in conjunction with this rule. Fully Capitated Health Plans (FCHPs) and Physician Care Organizations (PCOs) provide Exceptional Needs Care Coordination (ENCC) under the Oregon Health Plan:

(1) FCHPs and PCOs shall make available ENCC services as defined in OAR 410-141-0000, Definitions, for all capitated services;

(2) FCHPs and PCOs shall make ENCC services available to Division members (see definition) or Division member's representative (see definition) identified as aged, blind or disabled who have complex medical needs at the request of a Division member or Division member's representative, a physician, other medical personnel serving the Division member, or the Division member's agency case manager;

(3) FCHPs and PCOs shall make Exceptional Needs Care Coordinators available for training, Regional OHP meetings and case conferences involving Division members or Division member's representative identified as aged, blind or disabled who have complex medical needs in all their service areas;

(4) FCHP and PCO staff who coordinate or provide ENCC services shall be trained to and exhibit skills in communication with and sensitivity to the unique health care needs of people who are aged, blind, disabled or who have complex medical needs. FCHPs and PCOs shall have a written position description for the staff member(s) responsible for managing ENCC services and for staff who provide ENCC services;

(5) FCHPs and PCOs shall have written policies that outline how the level of staffing dedicated to ENCC is determined;

(6) FCHPs and PCOs shall make ENCC services available to Division members identified as aged, blind or disabled who have complex medical needs during normal office hours, Monday through Friday. Information on ENCC services shall be made available when necessary to a Division member's representative during normal business hours, Monday through Friday;

(7) FCHPs and PCOs shall provide the aged, blind or disabled who have complex medical needs Division member or Division member's representative who requests ENCC services with an initial response by the next working day following the request, as appropriate;

(8) FCHPs and PCOs shall periodically inform all of their practitioners (see definition) and the practitioner's staff of the availability of ENCC services, provide training for medical office staff on ENCC services and other support services available for serving the aged, blind, disabled or who have complex medical needs Division members or Division member's representative; FCHPs and PCOs shall assure that the ENCC's name(s) and telephone number(s) are made available to both agency staff and Division members or Division member's representative;

(9) FCHPs and PCOs shall have written procedures that describe how they will respond to ENCC requests;

(10) FCHPs and PCOs shall make ENCC services available to coordinate the provision of covered services to aged, blind or disabled who have complex medical needs to Division members or Division member's repre-

ADMINISTRATIVE RULES

sentative who exhibit inappropriate, disruptive or threatening behaviors in a practitioner's office;

(11) Exceptional Needs Care Coordinators shall document ENCC services in Division member medical records as appropriate and/or in a separate Division member case file.

Stat. Auth.: ORS 409.010, 414.050, 409.110, 414.065

Stats. Implemented: ORS 414.725

Hist.: HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 45-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10

410-141-0407

Oregon Health Plan Ombudsman Services

(1) The Department provides ombudsman services to all Division members who are aged, blind or disabled who have complex medical needs as defined in OAR 410-141-0000, Definitions.

(2) The Department shall inform all Division members who are aged, blind or disabled who have complex medical needs of the availability of ombudsman services.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 414.725

Hist.: HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10

410-141-0420

Oregon Health Plan Prepaid Health Plan Billing and Payment Under the Oregon Health Plan

DMAP may have specific definitions for common terms. Please use OAR 410-141-0000, Definitions, in conjunction with this rule.

(1) All billings for Oregon Health Plan clients to Prepaid Health Plans (PHPs) and to the Division shall be submitted within four (4) months and twelve (12) months, respectively, of the date of service, subject to other applicable Division billing rules. Submissions shall be made to PHPs within the four (4) month time frame except in the following cases:

(a) Pregnancy;

(b) Eligibility issues such as retroactive deletions or retroactive enrollments;

(c) Medicare is the primary payor;

(d) Other cases that could have delayed the initial billing to the PHP (which does not include failure of provider to certify the Division member's (see definition) eligibility); or

(e) Third Party Resource (TPR). Pursuant to 42 CFR 36.61, subpart G; Indian Health Services and the amended Public Law 93-638 under the Memorandum of Agreement that Indian Health Service and 638 Tribal Facilities are the payor of last resort and is not considered an alternative resource or TPR.

(2) Providers must be enrolled with the Division to be eligible for Fee-for-Service (FFS) payment by the Division. Mental health Providers, except Federally Qualified Health Centers, must be approved by the Local Mental Health Authority (LMHA) and the Addictions and Mental Health Division (AMH) before enrollment with DMAP. Providers may be retroactively enrolled, in accordance with OAR 410-120-1260, Provider Enrollment.

(3) Providers, including mental health providers (see definition), do not have to be enrolled with the Division to be eligible for payment for services by PHPs except that providers who have been excluded as Medicare/Medicaid providers by the Division, CMS or by lawful court orders are ineligible to receive payment for services by PHPs.

(4) Providers shall verify, before rendering services, that the Division member is eligible for the Medical Assistance Program on the date of service and that the service to be rendered is covered under the Oregon Health Plan Benefit Package of covered services. Providers shall also identify the party responsible for covering the intended service and seek pre-authorizations from the appropriate payor before rendering services. Providers shall inform Division members of any charges for non-covered services (see definition) prior to the services being delivered.

(5) Capitated Services:

(a) PHPs receive a capitation payment to provide services to Division members. These services are referred to as capitated services;

(b) PHPs are responsible for payment of all capitated services. Such services should be billed directly to the PHP, unless the PHP or the Division specifies otherwise. PHPs may require providers to obtain preauthorization to deliver certain capitated services.

(6) Payment by the PHP to providers for capitated services is a matter between the PHP and the provider, except as follows:

(a) Pre-authorizations:

(A) PHPs shall have written procedures for processing pre-authorization requests received from any provider. The procedures shall specify time frames for:

(i) Date stamping pre-authorization requests when received;

(ii) Determining within a specific number of days from receipt whether a pre-authorization request is valid or non-valid;

(iii) The specific number of days allowed for follow up on pended preauthorization requests to obtain additional information;

(iv) The specific number of days following receipt of the additional information that a redetermination must be made;

(v) Providing services after office hours and on weekends that require preauthorization;

(vi) Sending notice of the decision with Appeal rights to the Division member when the determination is made to deny the requested service as specified in 410-141-0263.

(B) PHPs shall make a determination on at least 95% of Valid Pre-Authorization requests, within two working days of receipt of a preauthorization or reauthorization request related to urgent services; alcohol and drug services; and/or care required while in a skilled nursing facility. Pre-authorizations for prescription drugs must be completed and the pharmacy notified within 24 hours. If a pre-authorization for a prescription cannot be completed within the 24 hours, the PHP must provide for the dispensing of at least a 72-hour supply if the medical need for the drug is immediate. PHP shall notify providers of such determination within 2 working days of receipt of the request;

(C) For expedited prior authorization requests in which the provider indicates, or the PHP determines, that following the standard timeframe could seriously jeopardize the Division member's life or health or ability to attain, maintain, or regain maximum function:

(i) The PHP must make an expedited authorization decision and provide notice as expeditiously as the Division member's health condition requires and no later than three working days after receipt of the request for service;

(ii) The PHP may extend the three working days time period by up to 14 calendar days if the Division member requests an extension, or if the PHP justifies to Division a need for additional information and how the extension is in the Division member's interest.

(D) For all other pre-authorization requests, PHPs shall notify providers of an approval, a denial or a need for further information within 14 calendar days of receipt of the request. PHPs must make reasonable efforts to obtain the necessary information during that 14-day period. However, the PHP may use an additional 14 days to obtain follow-up information, if the PHP justifies (to the Division upon request) the need for additional information and how the delay is in the interest of the Division member. The PHP shall make a determination as the Division member's health condition requires, but no later than the expiration of the extension.

(b) Claims Payment:

(A) PHPs shall have written procedures for processing claims submitted for payment from any source. The procedures shall specify time frames for:

(i) Date stamping claims when received;

(ii) Determining within a specific number of days from receipt whether a claim is valid or non-valid;

(iii) The specific number of days allowed for follow up of pended claims to obtain additional information;

(iv) The specific number of days following receipt of additional information that a determination must be made; and

(v) Sending notice of the decision with Appeal rights to the Division member when the determination is made to deny the claim.

(B) PHPs shall pay or deny at least 90% of valid claims within 45 calendar days of receipt and at least 99% of valid claims within 60 calendar days of receipt. PHPs shall make an initial determination on 99% of all claims submitted within 60 calendar days of receipt;

(C) PHPs shall provide written notification of PHP determinations when such determinations result in a denial of payment for services, for which the Division member may be financially responsible. Such notice shall be provided to the Division member and the treating provider within 14 calendar days of the final determination. The notice to the Division member shall be a Division or AMH approved notice format and shall include information on the PHPs internal appeals process, and the Notice of Hearing Rights (DMAP 3030) shall be attached. The notice to the provider shall include the reason for the denial;

(D) PHPs shall not require providers to delay billing to the PHP;

ADMINISTRATIVE RULES

(E) PHPs shall not require Medicare be billed as the primary insurer for services or items not covered by Medicare, nor require non-Medicare approved providers to bill Medicare;

(F) PHPs shall not deny payment of valid claims when the potential TPR is based only on a diagnosis, and no potential TPR has been documented in the Division member's clinical record;

(G) PHPs shall not delay nor deny payments because a co-payment was not collected at the time of service.

(c) FCHPs, PCOs, and MHOs are responsible for payment of Medicare coinsurances and deductibles up to the Medicare or PHP's allowable for covered services the Division member receives within the PHP, for authorized referral care, and for urgent care services or emergency services the Division member receives from non-participating providers (see definition). FCHPs, PCOs, and MHOs are not responsible for Medicare coinsurances and deductibles for non-urgent or non-emergent care Division members receive from non-participating providers;

(d) FCHPs and PCOs shall pay transportation, meals and lodging costs for the Division member and any required attendant for out-of-state services (as defined in General Rules) that the FCHP and PCO has arranged and authorized when those services are available within the state, unless otherwise approved by the Division;

(e) PHPs shall be responsible for payment of covered services (see definition) provided by a non-participating provider that were not pre-authorized if the following conditions exist:

(A) It can be verified that the participating provider (see definition) ordered or directed the covered services to be delivered by a non-participating provider; and

(B) The covered service was delivered in good faith without the pre-authorization; and

(C) It was a covered service that would have been pre-authorized with a participating provider if the PHP's referral protocols had been followed;

(D) The PHP shall be responsible for payment to non-participating providers (providers enrolled with the Division that do not have a contract with the PHP) for covered services that are subject to reimbursement from the PHP, the amount specified in OAR 410-120-1295. This rule does not apply to providers that are Type A or Type B hospitals, as they are paid in accordance with ORS 414.727.

(7) Other services:

(a) Division members enrolled with PHPs may receive certain services on a Division FFS basis. Such services are referred to as non-capitated services (see definition);

(b) Certain services must be authorized by the PHP or the Community Mental Health Program (CMHP) for some mental health services, even though such services are then paid by the Division on a Division FFS basis. Before providing services, providers should contact the PHPs identified on the Division Member's medical care identification or, for some mental health services, the CMHP. Alternatively, the provider may call the Division Provider Services Unit to obtain information about coverage for a particular service and/or pre-authorization requirements;

(c) Services authorized by the PHP or CMHP are subject to the rules and limitations of the appropriate Division administrative rules and supplemental information, including rates and billing instructions;

(d) Providers shall bill the Division directly for non-capitated services in accordance with billing instructions contained in the Division administrative rules and supplemental information;

(e) The Division shall pay at the Medicaid FFS rate in effect on the date the service is provided subject to the rules and limitations described in the relevant rules, contracts, billing instructions and Division administrative rules and supplemental information;

(f) The Division will not pay a provider for provision of services for which a PHP has received a capitation payment unless otherwise provided for in OAR 410-141-0120;

(g) When an item or service is included in the rate paid to a medical institution, a residential facility or foster home, provision of that item or service is not the responsibility of the Division, AMH, nor a PHP except as provided for in Division administrative rules and supplemental information (e.g., capitated services that are not included in the nursing facility all-inclusive rate);

(h) FCHPs and PCOs that contract with FQHCs and RHCs shall negotiate a rate of reimbursement that is not less than the level and amount of payment which the FCHP or PCO would make for the same service(s) furnished by a provider, who is not an FQHC nor RHC, consistent with the requirements of BBA 4712(b)(2).

(8) Coverage of services through the Oregon Health Plan Benefit Package of covered services is limited by OAR 410-141-0500, excluded services and limitations for OHP clients.

(9) OHP clients who are enrolled with a PCM receive services on a FFS basis:

(a) PCMs are paid a per client/per month payment to provide Primary Care Management Services, in accordance with OAR 410-141-0410, Primary Care Manager Medical Management;

(b) PCMs provide Primary Care access, and management services for preventive services, primary care services, referrals for specialty services, limited inpatient hospital services and outpatient hospital services. The Division payment for these PCM managed services is contingent upon PCCM authorization;

(c) All PCM managed services are covered services that shall be billed directly to the Division in accordance with billing instructions contained in the Division administrative rules and supplemental information;

(d) The Division shall pay at the Division FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate Division administrative rules and supplemental information.

(10) All OHP clients who are enrolled with a PCO receive inpatient hospital services on a Division FFS basis:

(a) May receive services directly from any appropriately enrolled Division provider;

(b) All services shall be billed directly to the Division in accordance with FFS billing instructions contained in the Division administrative rules and supplemental information;

(c) The Division shall pay at the Division FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate Division administrative rules and supplemental information.

(11) OHP clients who are not enrolled with a PHP receive services on a Division FFS basis:

(a) Services may be received directly from any appropriate enrolled Division provider;

(b) All services shall be billed directly to the Division in accordance with billing instructions contained in the Division administrative rules and supplemental information;

(c) The Division shall pay at the Division FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate Division administrative rules and supplemental information.

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

Stat. Auth.: ORS 409.010, 409.110, 414.050, 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 15-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 52-2001, f. & cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 23-2004(Temp), f. & cert. ef. 3-23-04 thru 8-15-04; OMAP 33-2004, f. 5-26-04, cert. ef. 6-1-04; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 53-2006(Temp), f. 12-28-06, cert. ef. 1-1-07 thru 6-29-07; DMAP 9-2007, f. 6-14-07, cert. ef. 6-29-07; DMAP 45-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10

410-141-0740

Oregon Health Plan Primary Care Case Manager Quality Assurance System

(1) Primary Care Managers (PCM) shall provide services that are in accordance with accepted medical practices and with accepted professional standards:

(a) Primary Care Managers shall establish procedures and protocols for assessing quality of PCM member care:

(A) Primary Care Managers shall establish procedures for response to PCCM member complaints as outlined in OAR 410-141-0780, Primary Care Manager Complaint Procedures;

(B) Primary Care Managers shall establish or adopt criteria for adequate medical care for PCM members and shall review care received by the PCM member against these criteria. These criteria shall include those conditions and treatments identified by the Division and the Division of Additions and Mental Health (AMH) sponsored statewide quality assurance committee as in need of study, review, or improvement;

ADMINISTRATIVE RULES

(C) Primary Care Managers may use the services of a local medical society, other professional societies, quality assurance organizations, or professional review organizations approved by the Secretary of the U.S. the Department, to assist in reviewing criteria and protocols for the adequate medical care of PCM members.

(b) Primary Care Managers are expected to maintain and improve professional competencies, when needed, in order to provide quality care to PCM members.

(2) The Division/AMH conducts continuous and periodic reviews of enrollment and disenrollment, service utilization, quality of care, PCM member satisfaction, PCM member medical outcomes for specific tracer conditions, accessibility, complaints, PCM member rights and other indicators of quality of care:

(a) The Division/AMH contracts with an external medical review organization to monitor the treatment of specific conditions against national standards for treatment of those conditions. These tracer conditions may include, but are not limited to, asthma, anemia, diabetes, hypertension, pelvic inflammatory disease, teen pregnancy, toxemia, hypertension and diabetes in pregnancy;

(b) The Division/AMH evaluates the management of adult and child preventive services through external medical review and through its research and evaluation program. These services are evaluated using national and state criteria, including criteria for mental health and chemical dependency screenings.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10

Rule Caption: July 2010 – Semi-annual Preferred Drug List (PDL) update, new drug coverage, pharmacy billing and dispensing rule revisions.

Adm. Order No.: DMAP 17-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 410-121-0000, 410-121-0030, 410-121-0040, 410-121-0100, 410-121-0146, 410-121-0147, 410-121-0185

Rules Repealed: 410-121-0144

Subject: The Pharmaceutical Services program rules (Division 121) govern the Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP amended the administrative rules listed above to clarify current policies and procedures for pharmacy providers to ensure DMAP OARs are not open to interpretation by the provider or outside parties and to help eliminate confusion possibly resulting in non-compliance.

DMAP amended as follows:

410-121-0000: Added definition of "Usual and Customary Price."

410-121-0030: Semi-annual update to the Preferred Drug List (PDL).

410-121-0040: New drug coverage and associated Prior Authorization (PA) criteria to be explained in relation to whether the new product is in a drug class with existing PA criteria or not and whether or not the product is used to treat a condition below the funding line on the Prioritized List of Services and establishes when PA criteria for new products will be reviewed by the Drug Utilization Review (DUR) Board.

410-121-0100 Changes in provisions relating to limits on disclosure of Protected Health Information (PHI) to conduct annual medication reviews for all foster children receiving more than 2 psychotropic drugs or any child under 6 years old on any psychotropic drug pursuant to the implementation of HB 3114.

410-121-0144: This rule is repealed. Prescribers do not need to indicate a client's diagnosis on a prescription, nor do pharmacies need the information. The intent of this rule is captured in ORS 410-121-0147 that describes drugs not covered for payment because they may be used to treat diagnoses below the funded line on the Health Services Commission's Prioritized List and serves as the basis for denial of PAs for below the line diagnosis.

410-121-0146: Clarification of quantity limits for many drugs as being a 34 day supply with exceptions for many drugs dispensed

through DMAP's contracted mail order, Indian Health mail order pharmacy providers, and 340B pharmacies, as well as preferred PDL generics and generics in non-PDL classes that cost less than \$10 a month and are maintenance medications. All drugs classes indicated in this rule that are prohibited from exceeding a 34 day supply remain as such.

410-121-0147: Pursuant to the repeal of 410-121-0144, added language that prohibits payments for drugs that treat excluded services under OHP coverage; adds provision for coverage of select oral nutritional, supplements, and vaccinations.

410-121-0185: Expansion of Current Procedural Terminology (CPT) Codes for vaccination administration reimbursement.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0000

Foreword and Definition of Terms

(1) The Pharmaceutical Services Oregon Administrative Rules (OARs) are designed to assist providers in preparing claims for services provided to Division of Medical Assistance Programs' (Division) fee-for-service clients. Providers must use Pharmaceutical OARs in conjunction with the General Rules OARs (chapter 410, division 120) for Oregon Medical Assistance Programs.

(2) Pharmaceutical services delivered through managed care plans contracted with the Division, under the Oregon Health Plan (OHP), are subject to the policies and procedures established in the OHP administrative rules (chapter 410, division 141) and by the specific managed health care plans.

(3) Definition of Terms:

(a) Actual Acquisition Cost: The net amount paid per invoice line item to a supplier. This net amount does not include separately identified discounts for early payment;

(b) Average Net Price: The average of Net Price (definition below) of all drugs in an identified Preferred Drug List (PDL) (definition below) class or group.

(c) Average Manufacturer's Price (AMP): The average price at which manufacturers sell medication to wholesalers and retail pharmacies, as further clarified in 42 CFR 447;

(d) Bulk Dispensing: Multiple doses of medication packaged in one container labeled as required by pertinent Federal and State laws and rules.

(e) Centers for Medicare and Medicaid Services (CMS) Basic Rebate: The quarterly payment by the manufacturer of a drug pursuant to the Manufacturer's CMS Medicaid Drug Rebate Agreement made in accordance with Section 1927 (c) (3) of the Social Security act (42 U.S.C. 1396r-8(c) (1) and 42 U.S.C. 1396r-8 (c) (3). See 410-121-0157;

(f) CMS CPI Rebate: The quarterly payment by the manufacturer pursuant to the Manufacturer's CMS Medicaid Drug Rebate Agreement made in accordance with Section 1927 (c) (2) of the Social Security act (42 U.S.C. 1396r-8(c) (2)

(g) Community Based Care Living Facility: For the purposes of the Division Pharmacy Program, a home, facility, or supervised living environment licensed or certified by the state of Oregon which provides 24 hour care, supervision, and assistance with medication administration. These include, but are not limited to:

(A) Supportive Living Facilities;

(B) 24-Hour Residential Services;

(C) Adult Foster Care;

(D) Semi-independent Living Programs;

(E) Assisted Living and Residential Care Facilities;

(F) Group Homes and other residential services for people with developmental disabilities or needing mental health treatment; and

(G) Inpatient hospice;

(h) Compounded Prescriptions:

(A) A prescription that is prepared at the time of dispensing and involves the weighting of at least one solid ingredient that must be a reimbursable item or a legend drug in a therapeutic amount;

(B) Compounded prescription is further defined to include the Oregon Board of Pharmacy definition of compounding (see OAR 855-006-0005);

(i) Dispensing: Issuance of a prescribed quantity of an individual drug entity by a licensed pharmacist;

(j) Drug Order/Prescription:

(A) A medical practitioner's written or verbal instructions for a patient's medications; or

(B) A medical practitioner's written order on a medical chart for a client in a nursing facility;

ADMINISTRATIVE RULES

(k) Durable Medical Equipment and supplies (DME): Equipment and supplies as defined in OAR 410-122-0010, Durable Medical Equipment, Prosthetics, Orthotics, and Supplies;

(l) Estimated Acquisition Cost (EAC): The estimated cost at which the pharmacy can obtain the product listed in OAR 410-121-0155;

(m) Intermediate Care Facility: A facility providing regular health-related care and services to individuals at a level above room and board, but less than hospital or skilled nursing levels as defined in ORS 442.015;

(n) Legend Drug: means a drug limited by § 503(b)(1) of the federal Food, Drug, and Cosmetic Act to being dispensed by or upon a medical practitioner's prescription because the drug is:

(A) Habit-forming;

(B) Toxic or having potential for harm; or

(C) Limited in its use to use under a practitioner's supervision by the new drug application for the drug.

(i) The product label of a legend drug is required to contain the statement: "CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT A PRESCRIPTION."

(ii) A legend drug includes prescription drugs subject to the requirement of § 503(b)(1) of the federal Food, Drug, and Cosmetic Act which shall be exempt from § 502(F)(1) if certain specified conditions are met;

(o) Long Term Care Facility: Includes skilled nursing facilities and intermediate care facilities with the exclusions found in ORS 443.400 to 443.455;

(p) Maintenance medication: Drugs that have a common indication for treatment of a chronic disease and the therapeutic duration is expected to exceed one year. This is determined by a First DataBank drug code maintenance indicator of "Y" or "I";

(q) Mental health drug: A type of legend drug defined by the Department by rule that includes, but is not limited to those drugs classified by First DataBank in the following Standard Therapeutic Classes:

(A) Therapeutic class 7 ataractics-tranquilizers; and Therapeutic class 11 psychostimulants-antidepressants,

(B) Depakote, Lamictal and their generic equivalents and other drugs that the Division of Medical Assistance Programs (DMAP) specifically carved out from capitation from Fully Capitated Health Plans (FCHPs) in accordance with sections (8) through (11) of OAR 410-141-0070

(r) Narrow Therapeutic Index (NTI) Drug: A drug that has a narrow range in blood concentrations between efficacy and toxicity and requires therapeutic drug concentration or pharmacodynamic monitoring;

(s) Net Price: The amount a drug costs the Department of Human Services (Department) and calculated using the following formula. "Estimated Acquisition Cost — CMS Basic Rebate — CMS CPI Rebate — State Supplemental Rebate";

(t) Non-Preferred Products: Any medication in a class that has been evaluated and that is not listed on the PMPDP PDL in OAR 410-121-0030 and may be subject to co-pays;

(u) Prior Authorization Program: The Prior Authorization Program is a system of determining, through a series of therapeutic and clinical protocols, which drugs require authorizations prior to dispensing;

(A) OAR 410-121-0040 lists the drugs or categories of drugs requiring prior authorization (PA);

(B) The practitioner, or practitioner's licensed medical personnel listed in OAR 410-121-0060, may request a PA;

(v) Nursing Facility: An establishment that is licensed and certified by the Department Seniors and People with Disabilities Division (SPD) as a Nursing Facility;

(w) Physical health drug: All other drugs not included in section (q) of this rule.

(x) Preferred Drug List: A PDL consists of prescription drugs in selected classes that DHS, in consultation with the Health Resources Commission (HRC), has determined represent the most effective drug(s) available at the best possible price. (See details for the Division PMPDP PDL in OAR 410-121-0030);

(A) Enforceable Physical Health Preferred Drug List: The list of drug products used to treat physical health diagnosis which the Division has identified which shall be exempt from client co-pays and may be subject to Prior Authorization. Drugs prescribed which do not appear on the PDL (non-preferred products) will be subject to both co-pays and Prior Authorization as determined to be appropriate by the Division.

(B) Voluntary Mental Health Preferred Drug List: The list of drug products used to treat mental health diagnosis. Products which shall be exempt from client co-pay. Any drug prescribed for the treatment of mental health diagnosis shall be exempt from Prior Authorization requirements by the Division.

(y) Point-of-Sale (POS): A computerized, claims submission process for retail pharmacies that provides on-line, real-time claims adjudication;

(z) Preferred Products: Products in classes that have been evaluated and placed on the PMPDP PDL in OAR 410-121-0030 and are not subject to co-pays;

(aa) Prescription Splitting: Any one or a combination of the following actions:

(A) Reducing the quantity of a drug prescribed by a licensed practitioner for prescriptions not greater than 34 days (see OAR 410-121-0146);

(B) Billing the agency for more than one dispensing fee when the prescription calls for one dispensing fee for the quantity billed;

(C) Separating the ingredients of a prescribed drug and billing the agency for separate individual ingredients, with the exception of compounded medications (see OAR 410-121-0146); or

(D) Using multiple 30-day cards to dispense a prescription when a lesser number of cards will suffice;

(bb) State Supplemental Rebates: DMAP and CMS approved discounts paid by manufacturers per unit of drug. These rebates are authorized by the Social Security Act section 42 USC 1396r-8(a)(1) and are in addition to federal rebates mandated by the Omnibus Budget Rehabilitation Act (OBRA 90) and the federal rebate program;

(cc) Unit Dose: A sealed, single unit container of medication, so designed that the contents are administered to the patient as a single dose, direct from the container, and dispensed following the rules for unit dose dispensing system established by the Oregon Board of Pharmacy.

(dd) Urgent Medical Condition: means a medical condition that arises suddenly, is not life-threatening, and requires prompt treatment to avoid the development of more serious medical problems.

(ee) Usual and Customary Price: The amount an individual without prescription drug coverage would pay at a retail pharmacy. The usual and customary price may also be referred to as the retail price.

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

Stat. Auth.: ORS 409.010, 409.025, 409.040, 409.050, 409.110, 414.065 & 414.325

Stats. Implemented: ORS 414.065

Hist.: HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10

410-121-0030

Practitioner-Managed Prescription Drug Plan (PMPDP)

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that fee for service clients of the Oregon Health Plan will have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners (informed by the latest peer reviewed research), make decisions concerning the clinical effectiveness of the prescription drugs;

(b) The licensed health care practitioners also consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool that the Department of Human Services (DHS) has developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL consists of prescription drugs in selected classes that DHS, in consultation with the Health Resources Commission (HRC), has determined represent the most effective drug(s) available at the best possible price;

(c) For each selected drug class, the PDL will identify the drug(s) in the class that DHS determines to be the most effective drug(s) and determine the Net Price for each drug and Average Net Price of the class;

(d) The PDL will include drugs in the class that are Medicaid reimbursable and which the Food and Drug Administration (FDA) has determined to be safe and effective if the relative cost is less than the Average Net Price. If pharmaceutical manufacturers enter into supplemental rebate agreements with DHS that reduce the cost of their drug below that of the Average Net Price for the class, DHS, in consultation with the HRC recommendations, may include their drug on the PDL;

(e) A copy of the current PDL is available on the web at www.dhs.state.or.us/policy/healthplan/guides/pharmacy/main.html

(3) PMPDP PDL Selection Process:

(a) DHS will utilize the recommendations made by the HRC, which result from an evidence-based evaluation process, as the basis for identifying the most effective drug(s) within a selected drug class;

ADMINISTRATIVE RULES

(b) DHS will determine the drug(s) identified in (3) (a) that is (are) available for the best possible price and will consider any input from the HRC about other FDA-approved drug(s) in the same class that are available for a lesser relative price. DHS will determine relative price using the methodology described in subsection (4);

(c) DHS will evaluate drug classes and selected drug(s) for the drug classes periodically:

(A) Evaluation will occur more frequently at the discretion of DHS if new safety information or the release of new drugs in a class or other information makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL will be non-preferred until the new drug has been reviewed by the HRC;

(C) DHS will make all changes or revisions to the PDL, using the rulemaking process and will publish the changes on the DHS Pharmaceutical Services provider rules Web page.

(4) Relative cost and best possible price determination:

(a) DHS will determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) DHS may also consider dosing issues, patterns of use and compliance issues. DHS will weigh these factors with any advice provided by the HRC in reaching a final decision;

(c) DHS will determine the Average Net Price for each PDL drug class. ;

(d) DHS will include drugs on the PDL based on all of the above and with a Net Price under the Average Net Price.

(5) Regardless of the PDL, pharmacy providers shall dispense prescriptions in the generic form, unless the practitioner requests otherwise, subject to the regulations outlined in OAR 410-121-0155.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL drugs shall be as follows;

(a) If the prescribing practitioner, in his/her professional judgment, wishes to prescribe a physical health drug not on the PDL, he/she may request an exception, subject to the requirements of OAR 410-121-0040.

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060

(c) Exceptions will be granted in instances:

(i) Where the prescriber in his/her professional judgment determines the non-preferred drug is medically appropriate after consulting with DMAP or the Oregon Pharmacy Help Desk; or

(ii) Where the prescriber requests an exception subject to the requirement of (6) (b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060, Table 121-0030-1, PMPDP PDL

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

Stat. Auth.: ORS 409.010, 409.025, 409.040, 409.050, 409.110, 414.065, 414.325

Stats. Implemented: ORS 414.065

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining Prior Authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures required in OAR 410-121-0060.

(2) All drugs and categories of drugs, including but not limited to those drugs and categories of drugs that require PA as described in this rule, are subject to the following requirements for coverage:

(a) Each drug must be prescribed for conditions funded by Oregon Health Plan (OHP) in a manner consistent with the Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication will not be covered unless there is a co-morbid condition for which coverage would be extended. The use of the medication must meet corresponding treatment guidelines, be included within the client's benefit package of covered services, and not otherwise excluded or limited;

(b) Each drug must also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA require-

ments imposed in this rule.(3) The Department of Human Services (Department) may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs for which the Department requires PA for this purpose are listed in Table 410-121-0040-1, with their approval criteria.

(4) The Department may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Drug Use Review (DUR) Board and adopted by the Department in this rule (see OAR 410-121-0100 for a description of the DUR program). The drugs and categories of drugs for which the Department requires PA for this purpose are included in Table 410-121-0040-2, with their approval criteria.

(5) New drugs will be evaluated when added to the weekly upload of the First DataBank drug file:

(a) If the new drug is in a class where current PA criteria applies, all associated PA criteria will be required at time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA will be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs will be reviewed at the next quarterly DUR Board meeting.

(6) PA is required for brand name drugs that have two or more generically equivalent products available and that are NOT determined Narrow Therapeutic Index drugs by the Oregon DUR Board:

(a) Immunosuppressant drugs used in connection with an organ transplant must be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant must notify the department of patent expiration within 30 days of patent expiration for (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in subsection (3) or (4) of this rule applies, follow that criteria;

(B) If (6)(A) does not apply, the prescribing practitioner must document that the use of the generically equivalent drug is medically contraindicated, and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA is required for non-preferred Plan Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Department;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP or;

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

(8) Table 121-0040-1

(9) Table 121-0040-2

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

Stat. Auth.: ORS 409.050, 409.110, 414.065, 414.334

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10

ADMINISTRATIVE RULES

410-121-0100

Drug Use Review

(1) Drug Use Review (DUR) in Division of Medical Assistance Programs (Division) is a program designed to measure and assess the proper utilization, quality, therapy, medical appropriateness, appropriate selection and cost of prescribed medication through evaluation of claims data. This is done on both a retrospective and prospective basis. This program shall include, but is not limited to, education in relation to over-utilization, under-utilization, therapeutic duplication, drug-to-disease and drug-to-drug interactions, incorrect drug dosage, duration of treatment and clinical abuse or misuse:

(a) Information collected in a DUR program that identifies an individual is confidential;

(b) Staff of the DUR Board and contractors may have access to identifying information to carry out intervention activities approved by the Division. The Division, DUR Board or contractors shall adhere to all requirements of the Health Insurance Portability and Accountability Act (HIPAA) and all Division policies relating to confidential client information.

(2) Prospective DUR is the screening for potential drug therapy problems before each prescription is dispensed. It is performed at the point of sale by the dispensing pharmacist:

(a) Dispensing pharmacists must offer to counsel each Division client receiving benefits who presents a new prescription, unless the client refuses such counsel. Pharmacists must document these refusals;

(A) Dispensing pharmacists may offer to counsel the client's caregiver rather than the client presenting the new prescription if the dispensing pharmacist determines that it is appropriate in the particular instance;

(B) Counseling must be done in person whenever practicable;

(C) If it is not practicable to counsel in person, providers whose primary patient population does not have access to a local measured telephone service must provide access to toll-free services (for example, some mail order pharmacy services) and must provide access to toll-free service for long-distance client calls in relation to prescription counseling;

(b) Prospective DUR is not required for drugs dispensed by Fully Capitated Health Plans (FCHPs);

(c) Oregon Board of Pharmacy rules defining specific requirements relating to patient counseling, record keeping and screening must be followed.

(3) Retrospective DUR is the screening for potential drug therapy problems based on paid claims data. The Division provides a professional drug therapy review for Medicaid clients through this program: The criteria used in retrospective DUR are compatible with those used in prospective DUR. Retrospective DUR criteria may include Pharmacy Management (Lock-In), Polypharmacy, and Psychotropic Use in Children. Drug therapy review is carried out by pharmacists with the Oregon State University College of Pharmacy, Drug Use Research and Management Program. (b) If therapy problems are identified, an educational letter is sent to the prescribing provider, the dispensing provider, or both. Other forms of education are carried out under this program with Division approval.

(4) The DUR Board is a group of individuals who comprise an advisory committee to the Division:

(a) The DUR Board is comprised of health care professionals with recognized knowledge and expertise in one or more of the following areas:

(A) Clinically appropriate prescribing of outpatient drugs covered by Medicaid;

(B) Clinically appropriate dispensing and monitoring of outpatient drugs covered by Medicaid;

(C) Drug use review, evaluation and intervention; or

(D) Medical quality assurance;

(b) The DUR Board's membership is made up of at least one-third, but not more than 51 percent, licensed and actively practicing physicians and at least one-third licensed and actively practicing pharmacists. The DUR Board is composed of the following:

(A) Four practicing pharmacists;

(B) Five practicing physicians;

(C) Two persons who represent people on Medical Assistance; and

(D) One person actively practicing dentistry;

(c) The Retrospective DUR Reviewer will attend board meetings in an ex officio capacity;

(d) Appointments to the DUR Board are made by the Division Director;

(A) Nominations for DUR Board membership may be sought from various professional associations and each member may serve a two-year term;

(B) When a vacancy occurs, a new member is appointed to serve the remainder of the unexpired term;

(C) An individual appointed to the DUR Board may be reappointed upon the completion of the member's current term of service;

(e) Members of the DUR Board receive no compensation for their services, but subject to any applicable state law, shall be allowed actual and necessary travel expenses incurred in the performance of their duties;

(f) Members of the DUR Board attend quarterly meetings, two of which must be attended in person.

(5) The DUR Board is designed to develop policy recommendations in the following areas in relation to Drug Use Review:

(a) Appropriateness of criteria and standards for prospective DUR and needs for modification of these areas. DUR criteria are predetermined elements of health care based upon professional expertise, prior experience, and the professional literature with which the quality, medical appropriateness, and appropriateness of health care service may be compared. Criteria and standards will be consistent with the following compendia:

(A) American Hospital Formulary Services Drug Information (AAFS-DI);

(B) US Pharmacopeia-Drug Information for the Health Care Professional (USP-DI);

(C) Drug DEX Information System;

(D) Peer-reviewed medical literature; or

(b) Recommendations for continued maintenance of patient confidentiality will be sought;

(c) The use of different types of education and interventions to be carried out or delegated by the DUR Board and the evaluation of the results of this portion of the program; and

(d) The preparation of an annual report on Oregon Medicaid DUR Program which describes:

(A) DUR Board Activities;

(i) A description of how pharmacies comply with prospective DUR;

(ii) Detailed information on new criteria and standards in use; and

(iii) Changes in state policy in relation to DUR requirements for residents in nursing homes;

(B) A summary of the education/intervention strategies developed; and

(C) An estimate of the cost savings in the pharmacy budget and indirect savings due to changes in levels of physician visits and hospitalizations.

Stat. Auth.: ORS 414.355, 414.360, 414.365, 414.370 & 414.380

Stats. Implemented: ORS 414.065

Hist.: HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 38-1992, f. 12-31-92, cert. ef. 1-1-93; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10

410-121-0146

Dispensing Limitations

(1) The Division of Medical Assistance Programs (Division) will reimburse the pharmacy for dispensed medication the lesser of:

(a) The quantity indicated by the prescriber on the prescription; or

(b) The quantity indicated by Division dispensing limitations as outlined in this rule.

(2) The pharmacy may only dispense less than the prescribed quantity when the prescribed quantity exceeds Division dispensing limitations.

(3) Most drugs dispensed cannot exceed a 34-day supply except for those circumstances where the Division allows drug dispensing of up to a 100-day supply, such as:

(a) The Division mail order pharmacy contractors;

(b) Indian Health mail order pharmacy providers;

(c) 340b pharmacy providers;

(d) Preferred Plan Drug List (PDL) generics; and

(e) Generics in non-PDL classes that cost less than \$10 per month and are maintenance medications.

(4) The following Standard Therapeutic Classes of drugs (according to First Databank) cannot exceed a 34-day supply under any circumstances, including those listed in (3) above:

(a) Ataractics, Tranquilizers — 07;

(b) Muscle Relaxants — 08;

(c) CNS Stimulants — 10;

(d) Psychostimulants, Antidepressants — 11;

(e) Amphetamine Preps — 12;

(f) Narcotic Analgesics — 40;

(g) Sedative Barbiturate — 46;

(h) Sedative Non-Barbiturate — 47.

ADMINISTRATIVE RULES

(5) After stabilization of a diabetic, the pharmacy should provide a minimum of a one-month supply of insulin per dispensing.

(6) For vaccines available in multiple dose packaging, the Division will allow a dispensing fee for each multiple dose. When vaccines are administered at the pharmacy, refer to Oregon administrative rule (OAR) 410-121-0185.

(7) Splitting prescriptions:

(a) For compounded prescriptions, bill components of the prescription separately. Third party payments for compounded prescriptions must be split and applied equally to each component;

(b) The Division will consider any other form of prescription splitting as a billing offense and take appropriate action as described in the General Rules (chapter 410 division 120).

Stat. Auth.: ORS 409.050 & 414.065

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 70-1981, f. 9-30-81, ef. 10-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 99-1982, f. 10-25-82, ef. 11-1-82; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 26-1984, f. & ef. 6-19-84; AFS 53-1985, f. 9-20-85, ef. 10-1-85; AFS 52-1986, f. & ef. 7-2-86; AFS 15-1987, f. 3-31-87, ef. 4-1-87; AFS 4-1989, f. 1-31-89, cert. ef. 2-1-89; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89, Renumbered from 461-016-0090; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0210; HR 16-1992, f. & cert. ef. 7-1-92; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1996(Temp), f. & cert. ef. 8-1-96; HR 27-1996, f. 12-11-96, cert. ef. 12-15-96; HR 20-1997, f. & cert. ef. 9-12-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 61-2001(Temp), f. 12-13-01, cert. ef. 12-15-01 thru 3-15-02; OMAP 1-2002, cert. ef. 2-15-02; OMAP 74-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 7-2004, f. 2-13-04 cert. ef. 3-15-04; OMAP 19-2004(Temp), f. & cert. ef. 3-15-04 thru 4-14-04; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 6-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10

410-121-0147

Exclusions and Limitations

The following items are not covered for payment by the Division of Medical Assistance Programs (Division):

(1) Drug products for diagnoses below the funded line on the Health Services Commission Prioritized List or an excluded service under Oregon Health Plan (OHP) coverage.

(2) Home pregnancy kits.

(3) Fluoride for individuals over 18 years of age.

(4) Expired drug products.

(5) Drug products from Non-rebatable manufacturers.

(6) Drug products that are not assigned a National Drug Code (NDC) number.

(7) Drug products that are not approved by the Food and Drug Administration (FDA).

(8) Except for selected oral nutritional supplements, vitamins, and vaccines.

(9) Drug products dispensed for Citizen/Alien-Waived Emergency Medical client benefit type.

(10) DESI drugs (see OAR 410-121-0420).

(11) Medicare Part D covered drugs or classes of drugs for fully dual eligible clients.

(12) Effective on or after April 1, 2008, Section 1903(i) of the Social Security Act requires that written (nonelectronic) prescriptions for covered outpatient drugs for Medicaid clients be executed on a tamper-resistant pad in order to be eligible for federal matching funds. To meet this requirement, the Division will only reimburse for covered Medicaid outpatient drugs when the written (nonelectronic) prescription is executed on a tamper-resistant pad, or the prescription is electronically submitted to the pharmacy.

Stat. Auth.: ORS 409.010 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 34-1993(Temp), f. & cert. ef. 12-1-93; HR 11-1994, f. 2-25-94, cert. ef. 2-27-94; HR 25-1994, f. & cert. ef. 7-1-94; HR 2-1995, f. & cert. ef. 2-1-95; HR 22-1997, f. & cert. ef. 10-1-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10

410-121-0185

Pharmacy Based Immunization Delivery

(1) A pharmacist may administer vaccines to persons who are over the age of eighteen and may administer as provided pursuant to ORS 689.205 and The Board of Pharmacy administrative rule 855-019-0270.

(2) For Medicaid recipients age 0-18, vaccination serums are free under the federal Vaccinations for Children (VFC) Program and providers must be enrolled in the VFC program. The Division of Medical Assistance Programs (Division) will not reimburse the providers the cost of a privately purchased vaccination.

(3) Providers must use either the CMS-1500 or the Point-Of-Sale claims processing system to bill for the administration of immunization:

(a) When using the CMS-1500 billing form:

(A) Use the appropriate CPT-code (90471 and 90472) for the administration plus the appropriate immunization code(s) 90476-90749;

(B) An ICD-9 diagnosis must be shown in field 21 of the CMS-1500, and;

(C) The diagnosis code must be shown to the highest degree of specificity;

(b) Providers using the Point-of-Sale system, use the National Drug Code (NDC), as it appears on the package from which the prescribed medications are dispensed. The administration fee for this service will be equivalent to those under 90470-90474.

Stat. Auth.: ORS 409.010, 409.025, 409.040, 409.050, 409.110 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 7-2002, f. & cert. ef. 4-1-02; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; OMAP 9-2005, f. 3-9-05, cert. ef. 4-1-05; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10

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

Rule Caption: Homecare Workers Enrolled in the Client-Employed Provider Program.

Adm. Order No.: SPD 3-2010

Filed with Sec. of State: 5-26-2010

Certified to be Effective: 5-30-10

Notice Publication Date: 5-1-2010

Rules Amended: 411-031-0020, 411-031-0030, 411-031-0040, 411-031-0050

Rules Repealed: 411-031-0040(T)

Subject: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is permanently updating the homecare worker rules in OAR chapter 411, division 031 to:

- Add or amend definitions;
- Clarify provider enrollment standards and criteria;
- Clarify when SPD may deny, inactivate, or terminate provider enrollment;
- Comply with the 2009-2011 Collective Bargaining Agreement between the Home Care Commission and the Service Employees International Union (SEIU), Local 503, Oregon Public Employees Union (OPEU);
- Clarify the administrative review process for provider enrollment terminations; and
- Provide general housekeeping to reflect current practices, improve readability, and establish consistency with other SPD rules.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-031-0020

Definitions

(1) "Activities of Daily Living (ADL)" mean those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities include eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition/behavior as defined in OAR 411-015-0006.

(2) "Adult Protective Services" mean the services to be provided in response to the need for protection from harm or neglect to an aged, disabled, or blind person 18 years of age or older regardless of income, as described in OAR chapter 411, division 020.

(3) "Area Agency on Aging (AAA)" means the Department of Human Services designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors or individuals with disabilities in a planning and service area. For purposes of these rules, the term Area Agency on Aging is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in ORS 410.210 to 410.300.

(4) "Bargaining Agreement" means the 2009-2011 Collective Bargaining Agreement between the Home Care Commission and the Service Employee's International Union, Local 503, Oregon Public Employees' Union.

(5) "Burden of Proof" means that the existence or nonexistence of a fact must be established by a preponderance of the evidence.

ADMINISTRATIVE RULES

(6) “Career Homecare Worker” means a homecare worker with an unrestricted provider enrollment. A career homecare worker has a provider enrollment that allows him or her to provide services to any eligible in-home services client. At any given time, a career homecare worker may choose not to be referred for work.

(7) “Case Manager” means an employee of the Department of Human Services or Area Agency on Aging who assesses the service needs of an applicant, determines eligibility, and offers service choices to the eligible individual. The case manager authorizes and implements the service plan, and monitors the services delivered.

(8) “Client” or “Client-Employer” means the individual eligible for in-home services. “Individual” is synonymous with client.

(9) “Client-Employed Provider Program (CEP)” refers to the program wherein the provider is directly employed by the client and provides either hourly or live-in services. In some aspects of the employer and employee relationship, the Department of Human Services acts as an agent for the client-employer. These functions are clearly described in OAR 411-031-0040.

(10) “Companionship Services” mean those services designated by the Department of Labor as meeting the personal needs of a client. Companionship services are exempt from federal and state minimum wage laws.

(11) “DHS” means the Department of Human Services.

(12) “Evidence” means testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact.

(13) “Fiscal Improprieties” means the homecare worker committed financial misconduct involving the client’s money, property, or benefits. Fiscal improprieties include but are not limited to financial exploitation, borrowing money from the client, taking the client’s property or money, having the client purchase items for the homecare worker, forging the client’s signature, falsifying payment records, claiming payment for hours not worked, or similar acts intentionally committed for financial gain.

(14) “Homecare Worker (HCW)” means a provider, as described in OAR 411-031-0040, that is directly employed by the client and provides either hourly or live-in services to eligible clients. The term homecare worker includes client-employed providers in the Spousal Pay and Oregon Project Independence Programs. It also includes client-employed providers that provide state plan personal care services to seniors and people with physical disabilities. Homecare worker does not include Independent Choices Program providers or personal care attendants enrolled through Developmental Disability Services or the Addictions and Mental Health Division.

(15) “Hourly Services” mean the in-home services, including activities of daily living and self-management tasks, that are provided at regularly scheduled times.

(16) “Imminent Danger” means there is reasonable cause to believe a person’s life or physical, emotional, or financial well-being is in danger if no intervention is immediately initiated.

(17) “In-Home Services” mean those activities of daily living and self-management tasks that assist an individual to stay in his or her own home.

(18) “Lack of Ability or Willingness to Maintain Client-Employer Confidentiality” means the homecare worker is unable or unwilling to keep personal information about their client-employer private.

(19) “Lack of Skills, Knowledge, and Ability to Adequately or Safely Perform the Required Work” means the homecare worker does not possess the skills to perform services needed by clients of the Seniors and People with Disabilities Division. The homecare worker may not be physically, mentally, or emotionally capable of providing services to seniors and persons with disabilities. Their lack of skills may put clients at risk, because they fail to perform, or learn to perform, their duties adequately to meet the needs of the client.

(20) “Live-In Services” mean those Client-Employed Provider Program services provided when a client requires activities of daily living, self-management tasks, and twenty-four hour availability. Time spent by any live-in homecare worker doing self-management and twenty-four hour availability are exempt from federal and state minimum wage and overtime requirements.

(21) “Office of Administrative Hearings” means the panel established within the Employment Department described in ORS 183.605 to 183.690 that conducts contested case proceedings and other such duties on behalf of designated state agencies.

(22) “Oregon Project Independence (OPI)” means the program of in-home services described in OAR chapter 411, division 032.

(23) “Preponderance of the Evidence” means that one party’s evidence is more convincing than the other party’s.

(24) “Provider” means the person who actually renders the service.

(25) “Provider Enrollment” means a homecare worker’s authorization to work as a provider employed by the client for the purpose of receiving payment for authorized services provided to clients of the Seniors and People with Disabilities Division. Provider enrollment includes the issuance of a provider number.

(26) “Provider Number” means an identifying number issued to each homecare worker who is enrolled as a provider through the Seniors and People with Disabilities Division.

(27) “Restricted Homecare Worker” means the Seniors and People with Disabilities Division or Area Agency on Aging has placed restrictions on an individual homecare workers’ provider enrollment as described in OAR 411-031-0040.

(28) “Self-Management Tasks” or “Instrumental Activities of Daily Living (IADL)” mean those activities, other than activities of daily living, required by an individual to continue independent living. The definitions and parameters for assessing needs in self-management tasks are identified in OAR 411-015-0007.

(29) “Services are Not Provided as Required” means the homecare worker does not provide the services to the client as described in the service plan authorized by the Seniors and People with Disabilities Division.

(30) “SPD” means the Department of Human Services, Seniors and People with Disabilities Division.

(31) “These Rules” mean the rules in OAR chapter 411, division 031.

(32) “Twenty-Four Hour Availability” means the availability and responsibility of a homecare worker to meet activities of daily living and self-management needs of a client as required by that client over a twenty-four hour period. Twenty-four hour services are provided by a live-in homecare worker and are exempt from federal and state minimum wage and overtime requirements.

(33) “Unacceptable Conduct at Work” means the homecare worker has repeatedly engaged in one or more of the following behaviors:

(a) Delay in their arrival to work or absences from work not prior-scheduled with the client, that are either unsatisfactory to the client or that neglect the client’s service needs; or

(b) Inviting unwelcome guests or pets into the client’s home, resulting in the client’s dissatisfaction or inattention to the client’s required service needs.

(34) “Unacceptable Criminal Records Check” means that a criminal records check and fitness determination have been conducted resulting in a “denied” status as defined in OAR 407-007-0210. A “denied” criminal records check results in the denial or termination of the homecare workers’ provider enrollment.

(35) “Violation of a Drug-Free Workplace” means there was a substantiated complaint against the homecare worker for:

(a) Being intoxicated by alcohol, inhalants, prescription drugs, or other drugs, including over-the-counter medications, while responsible for the care of the client, while in the client’s home, or while transporting the client; or

(b) Manufacturing, possessing, selling, offering to sell, trading or using illegal drugs while providing authorized services to the client or while in the client’s home.

(36) “Violations of Protective Service and Abuse Rules” means the homecare worker violated the protective service and abuse rules in OAR chapter 411, division 020.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SPD 17-2004, f. 5-28-04, cert. ef. 6-1-04; SPD 40-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; SPD 10-2005, f. & cert. ef. 7-1-05; SPD 15-2005(Temp), f. & cert. ef. 11-16-05 thru 5-15-06; SPD 15-2006, f. 4-26-06, cert. ef. 5-1-06; SPD 28-2006(Temp), f. 10-18-06, cert. ef. 10-23-06 thru 4-20-07; SPD 4-2007, f. 4-12-07, cert. ef. 4-17-07; SPD 3-2010, f. 5-26-10, cert. ef. 5-30-10

411-031-0030

Purpose

The rules in OAR chapter 411, division 031 establish the standards and procedures governing homecare workers and the fiscal services provided on behalf of SPD/AAA clients to homecare workers enrolled in the Client-Employed Provider Program. Homecare workers provide home and community-based waiver, state plan, and Oregon Project Independence in-home services to SPD/AAA clients. In-home services supplement the ability of SPD/AAA clients to continue to live in their own homes.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SPD 17-2004, f. 5-28-04, cert. ef. 6-1-04; SPD 3-2010, f. 5-26-10, cert. ef. 5-30-10

ADMINISTRATIVE RULES

411-031-0040

Client-Employed Provider Program

The Client-Employed Provider Program contains systems and payment structures to employ both hourly and live-in providers. The live-in structure assumes the provider shall be required for activities of daily living and self-management tasks and twenty-four hour availability. To ensure continuity of service for the client, live-in service plans must include at least one homecare worker providing twenty-four hour availability for a minimum of five days in a calendar week. The hourly structure assumes the provider shall be required for activities of daily living and self-management tasks during specific substantial periods. Except as indicated, all of the following criteria apply to both hourly and live-in providers.

(1) **EMPLOYMENT RELATIONSHIP.** The relationship between the provider and the client is that of employee and employer.

(2) **CLIENT-EMPLOYER JOB DESCRIPTIONS.** Each client-employer is responsible for creating and maintaining a job description for the potential employee in coordination with the services authorized by the client's case manager.

(3) **HOMECARE WORKER LIABILITIES.** The only benefits available to homecare workers are those negotiated in the bargaining agreement and as provided in Oregon Revised Statute. This agreement does not include participation in the Public Employees Retirement System or the Oregon Public Service Retirement Plan. Homecare workers are not state employees.

(4) **CLIENT-EMPLOYER ABSENCES.** When a client-employer is absent from the home due to an illness or medical treatment and is expected to return to the home within a 30 day period, a live-in provider, that is the only live-in provider for that client, may be retained to ensure the live-in provider's presence upon the client-employer's return or to maintain the client's home for up to 30 days at the rate of pay immediately preceding the client's absence. Spousal pay providers are not eligible for payment during the absence of the client-employer.

(5) **SELECTION OF HOMECARE WORKER.** The client-employer carries primary responsibility for locating, interviewing, screening, and hiring his or her own employees. The client-employer has the right to employ any person who successfully meets the provider enrollment standards described in section (8) of this rule. The SPD/AAA office shall determine whether the employee meets minimum qualifications to provide the authorized services paid by SPD.

(6) **EMPLOYMENT AGREEMENT.** The client-employer retains the full right to establish the employer-employee relationship at any time after Bureau of Citizenship and Immigration Services papers have been completed and identification photocopied. SPD may not guarantee payment for those services until all acceptable enrollment standards have been verified and both the employer and homecare worker have been formally notified in writing that payment by SPD is authorized.

(7) **TERMS OF EMPLOYMENT.** The terms of the employment relationship are the responsibility of the client-employer to establish at the time of hire. These terms of employment may include dismissal or resignation notice, work scheduling and absence reporting, as well as any sleeping arrangements or meals provided for live-in or hourly employees.

(8) PROVIDER ENROLLMENT.

(a) **ENROLLMENT STANDARDS.** A homecare worker must meet all of the following standards to be enrolled with SPD's Client-Employed Provider Program:

(A) The homecare worker must maintain a drug-free work place.

(B) The homecare worker must complete the criminal records check process described in OAR 407-007-0200 to 407-007-0370 with an outcome of approved or approved with restrictions. SPD/AAA may allow a homecare worker to work on a preliminary basis in accordance with OAR 407-007-0315 if the homecare worker meets the other provider enrollment standards described in section (8) of this rule.

(C) The homecare worker must have the skills, knowledge, and ability to perform, or to learn to perform, the required work.

(D) The homecare worker's U.S. employment authorization must be verified.

(E) The homecare worker must be 18 years of age or older. SPD Central Office may approve a restricted enrollment, as described in section (8)(d) of this rule, for a homecare worker who is at least sixteen years of age.

(F) The homecare worker must complete an orientation as described in section (8)(e) of this rule.

(b) SPD/AAA may deny an application for provider enrollment in the Client-Employed Provider Program when:

(A) The applicant has a history of violating protective service and abuse rules;

(B) The applicant has committed fiscal improprieties;

(C) The applicant does not have the skills, knowledge, or ability to adequately or safely provide services;

(D) The applicant has an unacceptable criminal records check;

(E) The applicant is not 18 years of age;

(F) The applicant has been excluded by the Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare, and all other Federal Health Care Programs; or

(G) SPD/AAA has information that enrolling the applicant as a homecare worker may put vulnerable clients at risk.

(c) **CRIMINAL RECORDS RECHECKS.** Criminal records rechecks shall be conducted at least every other year from the date the homecare worker is enrolled. SPD/AAA may conduct a recheck more frequently based on additional information discovered about the homecare worker, such as possible criminal activity or other allegations.

(A) When a homecare worker is approved without restrictions following a criminal records check fitness determination, the approval must meet the homecare worker provider enrollment requirement statewide whether the qualified entity is a state-operated SPD office or an AAA operated by a county, council of governments, or a non-profit organization.

(B) Criminal records check approval is effective for two years unless:

(i) Based on possible criminal activity or other allegations against the homecare worker, a new fitness determination is conducted resulting in a change in approval status; or

(ii) The approval has ended because DHS has inactivated or terminated the homecare worker's provider enrollment for one or more reasons described in this rule or OAR 411-031-0050.

(C) Prior criminal records check approval for another DHS provider type is inadequate to meet criminal records check requirements for homecare worker enrollment.

(d) **RESTRICTED PROVIDER ENROLLMENT.**

(A) SPD/AAA may approve enrollment for a provider as a restricted homecare worker to provide services to specific individuals. To remove restricted homecare worker status and be designated as a career homecare worker, the applicant must complete a new application and criminal records check and be approved by SPD/AAA.

(i) After conducting a weighing test as described in OAR 407-007-0200 to 407-007-0370, SPD/AAA may approve a homecare worker with prior criminal records under a restricted enrollment to provide services to only specific individuals who are family members, neighbors, or friends.

(ii) Based on the applicant's lack of skills, knowledge, or abilities, SPD/AAA may approve an applicant as a restricted homecare worker to provide services only to specific individuals who are family members, neighbors, or friends.

(iii) Based on an exception to the age requirements for provider enrollment approved by SPD Central Office as described in section (8)(a)(E) of this rule, a homecare worker who is at least 16 years of age may be approved as a restricted homecare worker.

(B) Applicants who choose to provide services only to family, friends, or neighbors, shall only be approved for enrollment as a restricted homecare worker when:

(i) The applicant has a potentially disqualifying criminal records check that following a weighing test he or she would be denied as a career homecare worker;

(ii) The applicant lacks the skills, knowledge, or abilities to be approved as a career homecare worker; or

(iii) The applicant is at least 16 years of age and has been approved by SPD Central Office for an exception to the age requirements for provider enrollment as described in section (8)(a)(E) of this rule.

(e) **HOMECARE WORKER ORIENTATION.** Homecare workers must participate in an orientation arranged through a SPD/AAA office. The orientation shall occur within the first 30 days after becoming enrolled in the Client-Employed Provider Program and prior to beginning work for any specific SPD/AAA clients. When completion of an orientation is not possible within those timelines, orientation must be completed within 90 days of being enrolled. If a homecare worker fails to complete an orientation within 90 days of provider enrollment, their provider number shall be inactivated and any authorization for payment of services shall be discontinued.

(f) A homecare worker's provider enrollment may be inactivated when:

(A) The homecare worker has not provided any paid services to any client in the last 12 months;

ADMINISTRATIVE RULES

(B) The homecare worker's criminal records check results in a closed case pursuant to OAR 407-007-0325;

(C) The homecare worker informs SPD/AAA they will no longer be providing homecare worker services in Oregon;

(D) The provider fails to participate in a homecare worker orientation arranged through an SPD/AAA office within 90 days of provider enrollment; or

(E) The homecare worker, who at the time is not providing any paid services to clients, is being investigated by Adult Protective Services for suspected abuse that poses imminent danger to current or future clients.

(9) PAID LEAVE.

(a) **LIVE-IN HOMECARE WORKERS.** Irrespective of the number of clients served, SPD shall authorize one 24-hour period of leave each month when a live-in homecare worker or spousal pay provider is the only live-in provider during the course of a month. For any part of a month worked, the live-in homecare worker shall receive a proportional share of that 24-hour period of leave authorization. A prorated share of the 24-hours shall be allocated proportionately to each live-in when there is more than one live-in provider per client.

(A) **ACCUMULATION AND USAGE FOR LIVE-IN PROVIDERS.** A provider may not accumulate more than 144 hours of accrued leave. The employer, homecare worker, and case manager shall coordinate the timely use of these hours. Live-in homecare workers must take vacation leave in 24-hour increments or in hourly increments of at least 4 but not more than 12 hours. Accrued leave must be taken while employed as a live-in.

(B) **THE RIGHT TO RETAIN LIVE-IN PAID LEAVE.** The homecare worker retains the right to access earned paid leave when terminating employment with one employer, so long as the homecare worker is employed with another employer as a live-in within one year of separation.

(C) **TRANSFERABILITY OF LIVE-IN PAID LEAVE.** Live-in homecare workers who convert to hourly or separate from live-in service and return as an hourly homecare worker within one year from the last day of live-in services shall be credited with their unused hours of leave up to a maximum of 32 hours.

(D) CASH OUT OF PAID LEAVE.

(i) DHS shall pay live-in homecare workers 50 percent of all unused paid leave accrued as of January 31 of each year. The balance of paid leave is reduced 50 percent with the cash out.

(ii) Vouchers requesting payment of paid leave received after January 31 may only be paid up to the amount of remaining unused paid leave.

(iii) Effective November 6, 2009, a live-in homecare worker providing live-in services seven days per week for one client-employer may submit a request for payment of 100 percent of unused paid leave if:

(I) The live-in homecare worker's client-employer is no longer eligible for in-home services described in OAR chapter 411, division 030; and

(II) The live-in homecare worker does not have alternative residential housing.

(iv) If a request for payment of 100 percent of unused paid leave based on sections (9)(a)(D)(iii)(I) and (II) of this rule is granted, the homecare's paid leave balance is reduced to zero.

(b) **HOURLY HOMECARE WORKERS.** On July 1st of each year, active homecare workers who worked 80 authorized and paid hours in any one of the three months that immediately precede July (April, May, June) shall be credited with one 16 hour block of paid leave to use during the current fiscal biennium (July 1 through June 30) in which it was accrued. On February 1st of each year, active employees who worked 80 authorized and paid hours in any one of the three months that immediately precede February (November, December, January) shall be credited with 16 hours of paid time off. One 16 hour block of paid leave shall be credited to each eligible homecare worker, irrespective of the number of clients they serve. Such leave may not be cumulative from biennium to biennium.

(A) UTILIZATION OF HOURLY PAID LEAVE.

(i) Time off must be utilized in one eight hour block subject to authorization. If the homecare worker's normal workday is less than eight hours, such time off may be utilized in blocks equivalent to the normal workday. Any remaining hours that are less than the normally scheduled workday may be taken as a single block.

(ii) Hourly homecare workers may take unused paid leave when their employer is temporarily unavailable for the homecare worker to provide services.

(B) **LIMITATIONS OF HOURLY PAID LEAVE.** Homecare workers may not be compensated for paid leave unless the time off work is actually taken except as noted in section (9)(b)(D) of this rule.

(C) **TRANSFERABILITY OF HOURLY PAID LEAVE.** An hourly homecare worker who transfers to work as a live-in homecare worker (with-

in the biennium that their hourly leave is earned) shall maintain their balance of hourly paid leave and begin accruing live-in paid leave.

(D) CASH OUT OF PAID LEAVE.

(i) DHS shall pay hourly providers for all unused paid leave accrued as of January 31 of each year. The balance of paid leave is reduced to zero with the cash out.

(ii) Vouchers requesting payment of paid leave received after January 31 may not be paid if paid leave has already been cashed out.

(10) SPD FISCAL AND ACCOUNTABILITY RESPONSIBILITY.

(a) **DIRECT SERVICE PAYMENTS.** SPD shall make payment to the provider on behalf of the client for all in-home services. This payment shall be considered full payment for the services rendered under Title XIX. Under no circumstances is the homecare worker to demand or receive additional payment for these Title XIX-covered services from the client or any other source. Additional payment to homecare workers for the same services covered by Oregon's Title XIX Home and Community Based Services Waiver is prohibited.

(b) **TIMELY SUBMISSION OF CLAIMS.** In accordance with OAR 410-120-1300, all claims for services must be submitted within 12 months of the date of service.

(c) ANCILLARY CONTRIBUTIONS.

(A) **FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA).** Acting on behalf of the client-employer, SPD shall apply any applicable FICA regulations and shall:

(i) Withhold the homecare worker-employee contribution from payments; and

(ii) Submit the client-employer contribution and the amounts withheld from the homecare worker-employee to the Social Security Administration.

(B) **BENEFIT FUND ASSESSMENT.** The Workers' Benefit Fund pays for programs that provide direct benefits to injured workers and their beneficiaries and that assist employers in helping injured workers return to work. The Department of Consumer and Business Services sets the Workers' Benefit Fund assessment rate for each calendar year. SPD calculates the hours rounded up to the nearest whole hour and deducts an amount rounded up to the nearest cent. Acting on behalf of the client-employer, SPD shall:

(i) Deduct the homecare worker-employees' share of the Benefit Fund assessment rate for each hour or partial hour worked by each paid homecare worker;

(ii) Collect the client-employer's share of the Benefit Fund assessment for each hour or partial hour of paid services received; and

(iii) Submit the client and homecare worker's contributions to the Workers' Benefit Fund.

(C) SPD shall pay the employer's share of the unemployment tax.

(d) **ANCILLARY WITHHOLDINGS.** For the purposes of section 10(d) of this rule, "labor organization" means any organization that has, as one of its purposes, representing employees in their employment relations.

(A) SPD shall deduct from the homecare worker's monthly salary or wages the specified amount for payment to a labor organization.

(B) In order to receive this payment, the labor organization must enter into a written agreement with SPD to pay the actual administrative costs of the deductions.

(C) SPD shall pay the deducted amount monthly to the designated labor organization.

(e) STATE AND FEDERAL INCOME TAX WITHHOLDING.

(A) SPD shall withhold state and federal income taxes on all payments to homecare workers, as indicated in the bargaining agreement.

(B) Homecare workers must complete and return a current Internal Revenue Service W-4 form to the local office. SPD shall apply standard income tax withholding practices in accordance with the Code of Federal Regulations, Title 26, Part 31 (26 CFR 31).

(11) HOMECARE WORKER EXPENSES SECONDARY TO PERFORMANCE OF DUTIES.

(a) Providers may be reimbursed at \$0.485 cents per mile effective October 1, 2007 when they use their own car for service plan related transportation, if prior authorized by the case manager. If unscheduled transportation needs arise during non-office hours, an explanation as to the need for the transportation must be provided and approved prior to reimbursement.

(b) Medical transportation through the DHS, Division of Medical Assistance Programs (DMAP), volunteer transportation, and other transportation services included in the service plan shall be considered a prior resource.

ADMINISTRATIVE RULES

(c) DHS is not responsible for vehicle damage or personal injury sustained while using a personal motor vehicle for DMAP or service plan-related transportation, except as may be covered by workers' compensation.

(12) **BENEFITS.** Workers' compensation as defined in Oregon Revised Statute and health insurance are available to eligible homecare workers as defined in the bargaining agreement. In order to receive homecare worker services, the client-employer must provide written authorization and consent to SPD for the provision of workers' compensation insurance for their employee.

(13) **OVERPAYMENTS.** An overpayment is any payment made to a homecare worker by SPD that is more than the person is authorized to receive.

(a) Overpayments are categorized as follows:

(A) **Administrative error overpayment.** Occurs when SPD failed to authorize, compute, or process the correct amount of in-home service hours or wage rate.

(B) **Provider error overpayment.** Occurs when SPD overpays the homecare worker due to a misunderstanding or unintentional error.

(C) **Fraud overpayment.** "Fraud" means taking actions that may result in receiving a benefit in excess of the correct amount, whether by intentional deception, misrepresentation, or failure to account for payments or money received. "Fraud" also means spending payments or money the provider was not entitled to and any act that constitutes fraud under applicable federal or state law (including 42 CFR 455.2). SPD shall determine, based on a preponderance of the evidence, when fraud has resulted in an overpayment. The Department of Justice, Medicaid Fraud Unit shall determine when a Medicaid fraud allegation shall be pursued for prosecution.

(b) Overpayments are recovered as follows:

(A) Overpayments shall be collected prior to garnishments, such as child support, Internal Revenue Service back taxes, and educational loans.

(B) Administrative or provider error overpayments shall be collected at no more than 5 percent of the homecare worker's gross wages.

(C) SPD shall determine when a fraud overpayment has occurred and the manner and amount to be recovered.

(D) Providers no longer employed as homecare workers shall have any remaining overpayment deducted from their final check. The provider is responsible for repaying the amount in full when the final check is insufficient to cover the remaining overpayment.

Stat. Auth.: ORS 409.050 & 410.090

Stats. Implemented: ORS 410.010, 410.020, 410.070, 410.612 & 410.614

Hist.: SPD 17-2004, f. 5-28-04, cert. ef. 6-1-04; SPD 40-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; SPD 10-2005, f. & cert. ef. 7-1-05; SPD 15-2006, f. 4-26-06, cert. ef. 5-1-06; SPD 28-2006(Temp), f. 10-18-06, cert. ef. 10-23-06 thru 4-20-07; SPD 4-2007, f. 4-12-07, cert. ef. 4-17-07; SPD 18-2007(Temp), f. 10-30-07, cert. ef. 11-1-07 thru 4-29-08; SPD 6-2008, f. 4-28-08, cert. ef. 4-29-08; SPD 16-2009(Temp), f. & cert. ef. 12-1-09 thru 5-30-10; SPD 3-2010, f. 5-26-10, cert. ef. 5-30-10

411-031-0050

Termination, Administrative Review, and Hearing Rights

(1) **EXCLUSIONS TO APPEAL AND HEARING RIGHTS.** The following are excluded from this administrative review and hearing rights process:

(a) Terminations based on a criminal records check. The homecare worker has the right to a hearing in accordance with OAR 407-007-0200 to 407-007-0370.

(b) Homecare workers that have not worked in the last 12 months. The provider enrollment may become inactivated but may not be terminated. To activate the provider enrollment number, the homecare worker must complete an application and criminal records check.

(c) Homecare workers that fail to complete a criminal records recheck.

(d) Homecare workers that are denied a provider enrollment number at the time of initial application.

(e) Homecare workers not currently providing services to any clients whose provider enrollment is inactivated while an Adult Protective Services investigation is being completed.

(f) Homecare workers who have been excluded by Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare, and all other federal programs.

(2) **VIOLATIONS RESULTING IN TERMINATION OF PROVIDER ENROLLMENT.** SPD may terminate the homecare worker's provider enrollment when a homecare worker:

(a) Violates the requirement to maintain a drug-free work place;

(b) Has an unacceptable criminal record;

(c) Lacks the skills, knowledge, and ability to adequately or safely perform the required work;

(d) Violates the protective service and abuse rules in OAR chapter 411, division 020;

(e) Commits fiscal improprieties;

(f) Fails to provide services as required;

(g) Lacks the ability or willingness to maintain client-employer confidentiality. Unless given specific permission by the client-employer or the client-employer's legal representative, the homecare worker may not share any personal information about the eligible individual including medical, social service, financial, public assistance, legal, or interpersonal details;

(h) Engages in unacceptable conduct at work; or

(i) Has been excluded by the Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare and all other federal health care programs.

(3) **IMMEDIATE TERMINATION.** SPD may immediately terminate a provider enrollment on the date the violation is discovered, prior to the outcome of the administrative review, when an alleged violation presents imminent danger to current or future clients. The homecare worker may file an appeal of this decision directly to SPD Central Office. The homecare worker must file any appeal within 10 business days from the date of the notice.

(4) **TERMINATION PENDING APPEAL.** When a violation does not present imminent danger to current or future clients, the provider enrollment may not be terminated during the first 10 business days of the administrative review appeal period. The homecare worker must file any appeal within 10 business days from the date of the notice. If the homecare worker appeals in writing prior to the deadline for appeal, the enrollment may not be terminated until the conclusion of the administrative review.

(5) **TERMINATION IF NO APPEAL FILED.** The decision of the reviewer shall become final if the homecare worker does not appeal within 10 business days from the date of the notice of the decision. Once the time period for appeal has expired, the reviewer or designee shall terminate the provider enrollment.

(6) **BURDEN OF PROOF.** SPD has the burden of proving the allegations of the complaint by a preponderance of the evidence. Evidence submitted for the administrative hearing is governed by OAR 137-003-0050.

(7) **ADMINISTRATIVE REVIEW PROCESS.** The administrative review process allows an opportunity for the SPD/AAA program manager or SPD Central Office to review and reconsider the decision to terminate the homecare worker's provider enrollment. The appeal may include the provision of new information or other actions that may result in SPD changing its decision.

(a) When SPD decides to terminate the homecare worker's provider enrollment, SPD shall issue a written notice that shall include:

(A) An explanation of the reason for termination of the provider enrollment;

(B) The alleged violation as listed in section (2) of this rule; and

(C) The homecare worker's appeal rights, including the right to union representation, and where to file the appeal.

(D) For terminations based on substantiated protective services complaint, the notice may only contain the limited information allowed by law. In accordance with ORS 124.075, 124.085, 124.090, and OAR 411-020-0030, complainants, witnesses, the name of the alleged victim, and protected health information may not be disclosed.

(b) **INFORMAL CONFERENCE.** At the first level of appeal, an informal conference (described in OAR 461-025-0325) if requested by the homecare worker, shall be scheduled with the homecare worker and any union representative. The SPD/AAA program manager, or designee, shall meet with the homecare worker, review the facts, and explain why the agency decision was made. The informal conference may be held by telephone.

(c) The homecare worker must specify in the request for review the issues or decisions being appealed and the reason for the appeal. The appropriate party, as stated in the notice, must receive the request for review within 10 business days of the date of the decision affecting the homecare worker. If the homecare worker decides to file an appeal, they must file their appeal in the following order:

(A) **ADMINISTRATIVE REVIEW.**

(i) Program manager (or designee) at the local SPD/AAA office. This is the first level of review for terminations pending appeal described in section (4) of this rule.

(ii) SPD Central Office. This is the second level of appeal for terminations pending appeal described in section (4) of this rule. This is the only level of review for immediate terminations described in section (3) of this rule.

(B) **OFFICE OF ADMINISTRATIVE HEARINGS.**

ADMINISTRATIVE RULES

(i) A homecare worker may file a request for a hearing with the Office of Administrative Hearings if all levels of administrative review have been exhausted and the homecare worker continues to dispute SPD's decision. The request may be filed through the local office with the Office of Administrative Hearings as described in OAR chapter 137, division 003. The request for the hearing must be filed within 30 calendar days of the date of the written notice from SPD Central Office.

(ii) An Administrative Law Judge (ALJ) with the Office of Administrative Hearings shall determine whether SPD's decision to terminate the provider enrollment number is affirmed or reversed. The ALJ shall issue a Final Order with the decision to all appropriate parties.

(iii) No additional hearing rights have been granted to homecare workers by this rule other than the right to a hearing on SPD's decision to terminate the homecare worker's provider enrollment.

(d) A written response of the outcome of the administrative review shall be sent to the homecare worker within 10 business days of the review date.

(e) If the administrative review determines that the decision to immediately terminate the provider enrollment was unjustified, the reviewer or designee shall have the provider enrollment restored to active status and any earned benefits such as paid leave reinstated. The written response shall notify the homecare worker that the provider enrollment shall be restored.

(8) REQUEST FOR EXTENSION TO DEADLINE. SPD or the homecare worker may request an extension of the 10-day deadline described in subsection (7)(e) above for circumstances beyond their control, if further information needs to be gathered to make a decision, or there is difficulty in scheduling a meeting between the parties.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.070

Hist.: SPD 17-2004, f. 5-28-04, cert. ef. 6-1-04; SPD 40-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; Administrative correction 7-20-05; SPD 15-2005(Temp), f. & cert. ef. 11-16-05 thru 5-15-06; SPD 15-2006, f. 4-26-06, cert. ef. 5-1-06; SPD 3-2010, f. 5-26-10, cert. ef. 5-30-10

Department of Oregon State Police
Chapter 257

Rule Caption: Revises the authority of law enforcement to access Firearm Instant Check System information for criminal investigations.

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

Filed with Sec. of State: 5-17-2010

Certified to be Effective: 5-28-10 thru 11-23-10

Notice Publication Date:

Rules Amended: 257-010-0055

Subject: This temporary rule amends Oregon Administrative Rule (OAR) 257-010-0055 by deleting that portion of subsection (2) that authorizes law enforcement agencies to access the Department's Firearm Instant Background Check System (FICS) when they are conducting general criminal investigations. ORS 166.412(8) provides that "[a] law enforcement agency may inspect the records of a gun dealer relating to transfers of handguns with the consent of a gun dealer in the course of a reasonable inquiry during a criminal investigation or under the authority of a properly authorized subpoena or search warrant." Effective December 7, 2000, the provisions of ORS 166.412 apply to the transfer of firearms other than handguns to the same extent that they apply to the transfer of handguns. See ORS 166.434(1). The Department has recently revised its policy to discontinue the practice of law enforcement accessing FICS for criminal investigatory purposes and this temporary rule amendment implements that policy.

Rules Coordinator: Cort Dokken—(503) 934-0228

257-010-0055

Firearm Instant Check System

(1) The Oregon Firearm Instant Check System is a computerization of firearm and firearm purchaser information, and is maintained by the OSP under provisions of Oregon Law. The purpose of the Firearm Instant Check System is to receive information from Oregon Gun Dealers and private citizens at gun shows or voluntarily from the public and determine if the person purchasing the firearm is disqualified under Oregon (ORS 166.470) and Federal Law from completing the purchase of a firearm and if the firearm being transferred is stolen.

(2) The OSP may retain a record of the information obtained during a request for a criminal records check for no more than five years.

(3) The record of the information obtained by the OSP during a request for a criminal records check by a gun dealer is exempt from disclosure under public records law.

(4) Identification required of the purchaser shall include one piece of current identification bearing a photograph and date of birth of the purchaser that is issued under the authority of the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

(5) If the identification presented by the purchaser under (4) of this rule does not include the current address of the purchaser, the purchaser shall present a second piece of current identification that contains the current address of the purchaser and corroborates the name on the first piece of identification. Examples of a second piece of identification that will be accepted are: current vehicle registration, current rent receipt and current utility bill.

(6) The OSP may require that the gun dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the OSP, Identification Services Section. The OSP shall publish the firearms transaction thumbprint form and shall furnish the form to gun dealers on application at cost.

(7) The OSP may adopt a fee schedule for criminal history record checks and collect a fee for each criminal history record check requested. The fee schedule shall be calculated to recover the cost of performing criminal history record checks, but may not exceed \$10 per record check.

(8) The OSP may respond to a telephone request from any person requesting that the OSP determine if the firearm is stolen.

(9) The Department of State Police shall develop a state form to be completed by a person seeking to obtain a firearm at a gun show from a transferor other than a gun dealer. The department shall consider including in the form all of the requirements for disclosure of information that are required by federal law for over-the-counter firearms transactions.

(10) The department shall make the form available to the public at no cost.

Stat. Auth.: ORS 166.291, 166.412, 192.440 & 194.164

Stats. Implemented: ORS 166.291, 166.412 & 181.880

Hist.: OSP 3-1996, f. 5-24-96, cert. ef. 7-1-96; OSP 1-2002, f. & cert. ef. 3-8-02; OSP 1-2010(Temp), f. 5-17-10 cert. ef. 5-28-10 thru 11-23-10

Rule Caption: Creates hearing process for vehicle tows conducted by OSP pursuant to ORS 819.110 and 819.120.

Adm. Order No.: OSP 2-2010

Filed with Sec. of State: 6-1-2010

Certified to be Effective: 6-30-10

Notice Publication Date: 5-1-2010

Rules Adopted: 257-045-0010, 257-045-0020, 257-045-0030, 257-045-0040, 257-045-0050

Rules Amended: 257-001-0005

Rules Repealed: 257-045-0010(T), 257-045-0020(T), 257-045-0030(T), 257-045-0040(T), 257-045-0050(T), 257-001-0005(T)

Subject: Effective January 1, 2010, the Oregon legislature amended ORS chapter 819 to require that if the department is the agency that proposes to remove, or has taken into custody, either an abandoned vehicle or a vehicle that constitutes a hazard that is located upon the right of way of a state highway, an interstate highway that is part of the National System of Interstate and Defense Highways, or state property, the department will now be responsible for exercising authority over the vehicle, as well as conducting hearings to determine the validity of the vehicle being taken into custody and towed, as well as the reasonableness of the tow fees and storage costs. See Oregon Laws (2009), chapter 371 (House Bill 2739). Currently, the department does not have an administrative hearing process in place to conduct the hearings required by the amendment to ORS chapter 819. The amendment of 257-001-0005 authorizes the department to use the new informal hearing process created under 257 division 045, rather than the Model Rules of Procedure promulgated by the Attorney General of the State of Oregon, for vehicles taken into custody or towed under ORS 819.110 or 819.120. The new temporary rules under OAR 257 division 045 generally create an informal hearing process within the department. The temporary rules define the scope of the hearing and who may request a hearing, and under what

ADMINISTRATIVE RULES

circumstances a hearing will be rescheduled when a petitioner fails to appear at a scheduled hearing. Moreover, the temporary rules govern when a hearing request must be received by the department, and who within the department will act as the hearing officers. Finally, the temporary rules dictate what must be contained within a written order of the hearing officer, depending on whether the hearing officer determines the taking into custody and tow of the vehicle to be valid or invalid, and whether the hearing officer's written order can be appealed.

Rules Coordinator: Cort Dokken—(503) 934-0228

257-001-0005

Model Rules of Practice and Procedures

Except as provided in OAR 257-001-0020, 257-001-025 and 257-045-0010 to 257-045-0050 with respect to the rules for impoundment hearings under ORS 806.016 and hearings for vehicles taken into custody and towed under ORS 819.110 or 819.120, the Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedure Act effective January 1, 2010, are adopted as the Rules of Procedure of the Department of State Police and shall be controlling except as otherwise required by statute or rule.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Oregon State Police.]

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

Stat. Auth.: ORS 181, 181.040, 181.280, 183, 806, 806.014, 806.016 & 814, OL 2009, ch. 371 (HB 2739)

Stats. Implemented: ORS 183.34(4), OL 2009, ch. 371 (HB 2739)

Hist.: DSP 1, f. 4-19-74, ef. 5-11-74; DSP 4, f. 4-22-76, ef. 4-30-76; DSP 4-1979, f. & ef. 12-13-79; DSP 5-1981, f. 12-14-81, ef. 12-15-81; OSP 1-1986, f. & ef. 7-28-86; OSP 2-1994(Temp), f. 6-30-94, cert. ef. 7-1-94; OSP 5-1994, f. 11-21-94, cert. ef. 11-22-94; OSP 1-1998(Temp), f. & cert. ef. 7-24-98 thru 1-1-99; administrative correction 8-5-99; OSP 4-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-29-10; OSP 2-2010, f. 6-1-10, cert. ef. 6-30-10

257-045-0010

Purpose and Authority

(1) These administrative rules govern the hearing process regarding vehicles that will be, or have been taken, into custody by the department pursuant to ORS 819.110 or 819.120.

(2) These administrative rules are promulgated pursuant to Oregon Laws 2009, chapter 371 (HB 2739), which require that if the department is the authority that takes a vehicle into custody pursuant to ORS 819.110 or 819.120 that is located upon the right of way of a state highway, an interstate highway that is part of the National System of Interstate and Defense Highways, or state property, the department is responsible for notices and hearings related to the vehicle taken into custody.

Stat. Auth.: OL 2009, ch. 371 (HB 2739)

Stats. Implemented: OL 2009, ch. 371 (HB 2739)

Hist.: OSP 4-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-29-10; OSP 2-2010, f. 6-1-10, cert. ef. 6-30-10

257-045-0020

Scope of Hearing

(1) The owner of the vehicle, a person entitled to possession of the vehicle, or a person with a recorded interest on the title of the vehicle, may request a hearing to contest the validity of the towing and custody of the vehicle.

(2) The owner of the vehicle, a person entitled to possession of the vehicle, or a person with a recorded interest on the title of the vehicle, may request a hearing to contest the reasonableness of the charges for towing and storage only if the department used its own personnel, equipment and facilities in conducting the tow or in storing the vehicle.

Stat. Auth.: OL 2009, ch. 371 (HB 2739)

Stats. Implemented: OL 2009, ch. 371 (HB 2739)

Hist.: OSP 4-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-29-10; OSP 2-2010, f. 6-1-10, cert. ef. 6-30-10

257-045-0030

Notice and Request for Hearing

(1) If the department proposes to take or has taken custody of a vehicle in accordance with ORS 819.110 or 819.120, the department shall provide notice as described in ORS 819.170 or 819.180.

(2) A request for hearing shall be made in writing to the department at the address contained in the notice.

(3) Requests for hearing must be received by the department by 5:00 p.m. of the fifth business day (Saturdays, Sundays, and Holidays excluded) following the date of the posting or mailing of the notice. For purposes of this rule, "received by the department" means:

(a) Personally delivered to the Station Commander of the local patrol office in the area in which the vehicle will be, or has been, taken into custody and towed;

(b) Delivered by mail to OSP Headquarters, Patrol Services Division, 255 Capitol Street NE, 4th Floor, Salem, Oregon 97310; or

(c) Received by facsimile machine at telephone number (503) 391-5910.

(4) Requests for hearing shall contain at least the following information:

(a) Petitioner's full name;

(b) Petitioner's complete mailing address;

(c) Telephone number where petitioner can be called between 8 a.m. and 5 p.m.;

(d) A statement of the grounds upon which the person believes the custody and towing of the vehicle is not justified; and

(e) Dates and times within the immediate future that the petitioner cannot appear at a hearing.

(5) Untimely requests for hearing shall not be granted by the department.

(6) A person who requests a hearing but who fails to appear for a scheduled hearing shall not be entitled to another hearing unless the person provides written good cause to the department for the person's failure to appear. For purposes of these administrative rules, "good cause" shall be limited to serious impediments that affect a person's ability to attend a scheduled hearing, such as court conflicts, the death of an immediate family member of the person (verified to the satisfaction of the department), the person's physical incapacity (verified by a physician to the satisfaction of the department), or the person's service in the US Armed Forces, military reserves, National Guard or the organized militia.

Stat. Auth.: OL 2009, ch. 371 (HB 2739)

Stats. Implemented: OL 2009, ch. 371 (HB 2739)

Hist.: OSP 4-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-29-10; OSP 2-2010, f. 6-1-10, cert. ef. 6-30-10

257-045-0040

Hearing Process

(1) Within 72 hours of its receipt of a timely request for hearing, the department shall schedule a hearing. The 72 hour period shall not include Saturdays, Sundays, or Holidays.

(2) The department shall provide notice of the hearing to the following persons:

(a) The person requesting the hearing;

(b) The owner(s) of the vehicle; and

(c) Any lessors or security interest holders of the vehicle, as shown in the records of the Oregon Department of Transportation.

(3) Except as otherwise provided in these administrative rules, actions taken by the department or the hearing officer in conducting the hearing or issuing a written order are not subject to the Oregon Administrative Procedures Act, ORS Chapter 183.

(4) The Superintendent of the Oregon State Police shall designate officers, officials, or employees of the department to act as hearing officers under these administrative rules, except that a hearing officer shall not be an officer, official, or employee of the department who participated in any determination or investigation related to the actual or proposed taking into custody and removal of the vehicle that is the subject of the hearing. In such case, the Superintendent shall designate another officer, official, or employee of the department to act as the hearing officer.

(5) Hearings shall be conducted by telephonic means, unless the person requesting the hearing provides written justification to the department why the hearing should be conducted in person. In the event a hearing is conducted in person, the hearing shall be conducted at the Oregon State Police Headquarters located in Salem, Oregon, or at any other location designated by the hearing officer.

(6) Hearings shall be informal in nature. Hearings shall be recorded and the presentation of evidence shall be consistent with the requirements of ORS 183.450.

(7) If, after the hearing and by substantial evidence on the record, the hearing officer determines that the towing of the vehicle was invalid, the hearing officer shall issue a written order stating the facts of the vehicle tow and the hearing officer's reasoning why the vehicle tow is invalid. The hearing officer's written order shall further order that:

(a) The department shall pay the costs of towing and storage fees as soon as reasonably possible;

(b) The department shall immediately notify the tow company responsible for towing and storing the vehicle that the department is the party

ADMINISTRATIVE RULES

responsible for the charges and fees incurred in towing and storing the vehicle;

(c) The vehicle shall be immediately released to the person having a right of possession to the vehicle upon the department notifying the towing company of the department's liability for the towing charges and storage fees;

(d) The person to whom the vehicle is released is not liable for any towing or storage costs or fees; and

(e) If the person to whom the vehicle is to be released has already paid the towing and storage charges for the vehicle, the department shall reimburse the person for those towing and storage charges upon presentation, to the department's satisfaction, of proof of payment of those charges.

(8) If, after the hearing and by substantial evidence on the record, the hearing officer determines that the towing of the vehicle was valid, the hearing officer shall issue a written order stating the facts of the vehicle tow and the hearing officer's reasoning why the vehicle tow is valid. The hearing officer's written order shall further order that the vehicle shall remain in custody until the party claiming the vehicle pays the costs of the department's hearing, if any, as well as all towing and storage costs for the vehicle. In the event that the department has not yet taken the vehicle into custody, the hearing officer shall further order the removal of the vehicle.

(9) In the event that the department has used its own personnel, equipment and facilities for the towing and storage of a vehicle and the owner of the vehicle, a person entitled to possession of the vehicle, or a person with a recorded interest on the title of the vehicle requests a hearing to contest the reasonableness of the charges for towing and storage, the hearing officer shall make written findings and conclusion as to the reasonableness of the tow charges and storage fees in his or her written order.

(10) The hearing officer shall provide a copy of a written order to the person requesting a hearing.

(11) The department shall conduct only one hearing for each vehicle taken into custody or towed under ORS 819.110 or 819.120, even if an otherwise interested party fails to appear at a scheduled hearing, unless the party failing to appear provides written good cause to the department for the interested party's failure to appear.

Stat. Auth.: OL 2009, ch. 371 (HB 2739)

Stats. Implemented: OL 2009, ch. 371 (HB 2739)

Hist.: OSP 4-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-29-10; OSP 2-2010, f. 6-1-10, cert. ef. 6-30-10

257-045-0050

Appeals

The determination of the hearing officer is final and not subject to appeal.

Stat. Auth.: OL 2009, ch. 371 (HB 2739)

Stats. Implemented: OL 2009, ch. 371 (HB 2739)

Hist.: OSP 4-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-29-10; OSP 2-2010, f. 6-1-10, cert. ef. 6-30-10

.....

Rule Caption: Clarifies which tow businesses and individuals are subject to the rules; method of recording hearings.

Adm. Order No.: OSP 3-2010

Filed with Sec. of State: 6-1-2010

Certified to be Effective: 6-30-10

Notice Publication Date: 5-1-2010

Rules Amended: 257-050-0020, 257-050-0040, 257-050-0050, 257-050-0060, 257-050-0070, 257-050-0090, 257-050-0095, 257-050-0100, 257-050-0110, 257-050-0115, 257-050-0125, 257-050-0130, 257-050-0140, 257-050-0145, 257-050-0150, 257-050-0155, 257-050-0157, 257-050-0170, 257-050-0180, 257-050-0200

Rules Repealed: 257-050-0020(T), 257-050-0040(T), 257-050-0050(T), 257-050-0060(T), 257-050-0070(T), 257-050-0090(T), 257-050-0095(T), 257-050-0100(T), 257-050-0110(T), 257-050-0115(T), 257-050-0125(T), 257-050-0130(T), 257-050-0140(T), 257-050-0145(T), 257-050-0150(T), 257-050-0155(T), 257-050-0157(T), 257-050-0170(T), 257-050-0180(T), 257-050-0200(T)

Subject: These amendments will make permanent the amendments contained in the temporary rules which became effective August 6, 2009. The administrative rules in existence prior to the temporary rule amendments referred to the undefined terms of "approved tow business," "authorized tow business," and "registered tow business," as well as the defined terms of "tow business" and "qualified tow business." Additionally, the rules required that "tow businesses" (when applying for a letter of appointment), or "qualified tow busi-

nesses" (after having received a letter of appointment) must be licensed as a "separate legal entity." Moreover, under ORS chapter 648, an "entity" for purposes of licensing includes domestic corporations but not assumed business names. The Department currently has several "qualified tow businesses" on the non-preference tow rotation list that operate under assumed business names. These rules clearly identify which tow businesses may conduct non-preference tows on behalf of the Department and create a clearer distinction between "tow businesses" generally and "qualified tow businesses" in particular, and clarify that "qualified tow businesses" include tow businesses that operate under assumed business names. These rules further clarify that tow businesses acting through their authorized agents or representatives must complete applications for letters of appointment and certify compliance with all applicable laws and the Department's administrative rules. These rules also clarify when the Department shall deny, suspend, or revoke either the application of a tow business, or the letter of appointment of a qualified tow business, when the tow business, qualified tow business, or owner or employee of a tow business or qualified tow business, is convicted of a felony conviction. Finally, these rules delete the requirement that Departmental hearings must be recorded on tape, and allows the Department to record hearings by any means, including digital recording.

Rules Coordinator: Cort Dokken—(503) 934-0228

257-050-0020

Policy and Purpose

It is the policy and purpose of the Oregon State Police that:

(1) To further the Oregon State Police's interest in the prompt and orderly removal of disabled or abandoned vehicles from the highways of the State of Oregon, and to meet the towing needs of the Department, the Department has established a non-preference tow program as defined in Oregon Administrative Rules (OAR) 257-050-0020 to 257-050-0200. The program, in part, consists of a non-preference tow rotational list comprised of qualified tow businesses. The non-preference tow rotational list is computer generated and does not favor any one qualified tow business. The non-preference tow rotational list is not a guarantee of business to the towing industry by the Department. Qualified tow businesses participating in the non-preference tow rotational list understand that they may be called upon to conduct vehicle tows at the operational need of the Oregon State Police, as may be determined by the requesting State Police Officer or Department member.

(2) Because the non-preference tow rotational list is designed to meet the towing needs of the Department, tow businesses do not need to be on the list to conduct business with the general public in the State of Oregon.

(3) The Oregon State Police do not charge any fees to the owner or driver of a vehicle towed under its non-preference tow program. Therefore, the Department does not require any qualified tow business participating in the non-preference tow rotational list to charge any fees to the owner or driver of a vehicle towed under the Department's non-preference tow program. Accordingly, the Department shall not establish, recommend, or in any way dictate the cost of a non-preference tow conducted by a qualified tow business under the Department's non-preference tow program. It is also the policy of the Department that qualified tow businesses that participate in the Department's non-preference tow rotational program shall not represent to any person or business that a particular fee has been or will be charged by the Oregon State Police.

(4) Qualified tow businesses called upon by the Oregon State Police to conduct non-preference tows must reflect the highest standards of professionalism. Qualified tow businesses that, through their conduct or actions, abuse the non-preference tow system or the integrity, trust or security of the Oregon State Police shall be removed from the non-preference tow rotational list through the suspension and/ or revocation processes.

Stat. Auth.: ORS 181.440

Stats. Implemented: 181.440

Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0040

Authority

(1) These Administrative Rules are promulgated pursuant to ORS 181.440, which permits the Superintendent of the Oregon State Police to make rules governing the eligibility of tow businesses to be placed and

ADMINISTRATIVE RULES

remain on any list of qualified tow businesses used by the Department when it requests towing services on behalf of any person.

(2) All qualified tow businesses providing service to the public and the Department through calls received from the Oregon State Police shall conduct their operation in accordance with all applicable federal, state, and local laws, rules, or their equivalent.

(3) In the event the Oregon State Police enters into an agreement with any other state agency, allowing that state agency the use of the non-preference tow rotational list, then these rules shall apply to tow requests made by that state agency.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0050

Definitions

(1) "Abandoned Auto" or "Abandoned Vehicle" – A vehicle, as defined in ORS 819.110, that has been parked or left standing upon any public way for a period in excess of 24 hours without authorization by statute or local ordinance.

(2) "Area Commander" or "Station Commander" – The local commanding officer of an area established by the Oregon State Police.

(3) "Tow business" – Any person, enterprise, corporation or partnership that engages in the impounding, transporting, recovery or storage of towed or abandoned vehicles or in the disposal of abandoned vehicles.

(4) "Business Records" – Those records maintained by a qualified tow business that relate to the non-preference tows and which include, but are not limited to, tow bills, letters of appointment, and inspection sheets.

(5) "Certified" or "Certification" – The successful completion by an employee of a tow business of a written test administered by a nationally recognized towing affiliated body/organization relating to the level of towing the employee operates.

(6) "Convicted" – An adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.

(7) "Denial" – Action taken by the Department in refusing to issue a letter of appointment to a tow business.

(8) "Department" – The Department of State Police, also referred to as "Oregon State Police," and its employees.

(9) "Employee" – Any person in the service of a tow business under contract of hire, express or implied, oral or written, where the business has the power or right to control and direct the employee in the material details of how the work for the business is to be performed.

(10) "Fencing" – Permanent fencing meeting zoning requirements, with a minimum height of six (6) feet.

(11) "Hazardous Vehicle" – A vehicle, as defined in ORS 819.120, that is disabled, abandoned, parked, or left standing unattended on a road or highway right of way and that is in such a location as to constitute a hazard or obstruction to motor vehicle traffic using the road or highway given that term in OAR 734-020-0147.

(12) "Hearings Officer" – A person appointed by an agency or entity contracted by the Department of State Police to conduct contested case hearings.

(13) "Highway" – Every public way, road, street, thoroughfare and place including bridges, viaducts and other structures within the boundaries of the state open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right (ORS 801.305).

(14) "Inspector" – A commissioned officer or other appointed representative of the Oregon State Police who has been designated by the Department to examine tow trucks and qualified tow businesses.

(15) "Letter of Appointment" – A letter issued by the Department that authorizes a tow business to tow abandoned or disabled vehicles on a non-preference rotational basis for the Oregon State Police.

(16) "Non-Preference tow rotational List" or "Non-Preference List" – The list of qualified tow businesses maintained at Oregon State Police Headquarters that is used to dispatch the tow trucks on an equitable basis when no choice or preference to a tow business is stated by the vehicle owner, driver, or other person responsible for the vehicle.

(17) "On Road Time" – The time it takes a qualified tow business to have a tow truck started and on the road from the time the dispatcher was called by the Department.

(18) "Patrol Services Division" – The administrative body of the Oregon State Police that is located at General Headquarters in Salem, Oregon.

(19) "Place of Business" – A separate building or physical structure that a qualified tow business occupies, either continuously or at regular times, where the qualified tow business' business books and records are kept and the business of towing vehicles is transacted in each assigned tow zone. Multiple or different qualified tow businesses may operate on a single piece of real property, provided that each qualified tow business maintains individual and separate records, storage facilities, and letters of appointment in order to be placed on the Department's non-preference tow rotational list.

(20) "Qualified Tow Business" is a tow business with a current letter of appointment issued by the Department.

(21) "Region Commander" or "District Commander" – The commanding officer of the region as established by the Oregon State Police.

(22) "Recovery Vehicle" – A motor vehicle that is:

(a) A commercially available truck chassis equipped with a commercially manufactured tow body or bed, that is rated and issued a serial number by the manufacturer;

(b) Designed and equipped for, and used in, the towing and/or recovery of vehicles;

(c) Capable of towing a vehicle by means of a tow bar, sling or wheel lift; and

(d) Capable of recovering a vehicle by means of a hoist, winch and towline.

(23) "Response Time" – The reasonable driving time it takes a tow truck to respond to the dispatched location once the tow truck is on the road.

(24) "Revocation" and "revoked" – The withdrawal of a letter of appointment and the removal from the Oregon State Police's non-preference towing program for a period of not less than 10 years, which becomes effective from the date of the Notice of Revocation from the Oregon State Police.

(25) "Suspension" and "suspend" – The removal from the Oregon State Police non-preference towing program for a period of not more than 10 years.

(26) "Tow Vehicle" – A motor vehicle that is:

(a) Altered or designed and equipped for, and used in, the business of towing vehicles; and

(b) Used to tow vehicles by means of a crane hoist, tow bar, towline or dolly, or otherwise used to render assistance to other vehicles (ORS 801.530).

(27) "Tow Zone" – The geographical area designated by the area commander for the removal of vehicles.

(28) "Vehicle Storage Area" – The approved yard or enclosed building where a qualified tow business keeps or stores towed vehicles.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 1-1999(Temp), f. & cert. ef. 9-10-99 thru 3-7-00; OSP 1-2000, f. & cert. ef. 3-15-00; OSP 2-2000(Temp), f. & cert. ef. 7-14-00 thru 1-9-01; Administrative correction 6-12-01; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0060

Application for Appointment

(1) An application for letter of appointment to provide towing services for the Department shall be filed by the authorized agent or representative of a tow business with the Patrol Services Division on a form prescribed by the Department. In case of a tow business that is a partnership, each partner will apply on the form prescribed by the Department. In the case of a tow business that is a corporation, the Department may require that each of the present, and any subsequent officers, managers, and stockholders holding 10% or more of the total issued and outstanding stock of the applicant corporation complete an application form.

(2) The application form will be assigned a document number by the Patrol Services Division which shall be its yearly identification number for all matters relating to appointments, granted or denied, and any other correspondence thereafter.

(3) The filing of an application for a letter of appointment to provide towing to the Department from a non-preference list does not in itself authorize a tow business to provide towing services pursuant to these regulations until a letter of appointment has been granted by the Department. The Department shall not call a towing business for non-preference towing unless a current/valid yearly appointment letter has been issued in connection with such tow business by the Department. Nothing herein shall prohibit the Department from calling a towing business upon a specific request of the person responsible for the vehicle or his agent. An appointment let-

ADMINISTRATIVE RULES

ter will not be granted until all application sections of the application form have been completed by the authorized agent or representative of a tow business.

(4) During implementation of the Administrative Rules, the present non-preference tow list system will be in effect until such time that the Administrative Rules are in place at the Patrol Services Division of the Department.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0070

Application Requirements

(1) Application for placement on the non-preference tow rotational list shall be made on the forms furnished by the Department and shall be accompanied by an inspection report. The inspection report shall be furnished by the Department, and shall be completed by the authorized agent or representative of a tow business. The application form shall establish or provide all of the following:

(a) The tow business has an established place of business at the address shown.

(b) The tow business' place of business has an office area that is accessible to the public without entering the storage area and that the storage area complies with these Administrative Rules and all local zoning rules and regulations.

(c) Each tow business is separately registered with the Secretary of State Corporate Division, with a separate place of business and a separate storage area. Only one tow business may be operated at any one place of business.

(d) The authorized agent or representative of the tow business has inspected and certifies, under penalty of perjury, suspension, revocation and/or criminal prosecution that all of the information supplied in the application form and inspection form is true and accurate and that the tow business' place of business and all tow truck equipment meet the minimum requirements established by these Administrative Rules.

(e) The tow business has proof of the following current, minimum insurance coverage (Proof of required current insurance coverage shall be submitted with applications and inspection forms.).

(A) \$750,000, or the minimum required by the Federal Motor Carrier Regulations, or the Oregon Department of Transportation (ODOT), which ever is greater when towing under authority of Federal Motor Carrier Regulations or ODOT, for liability, for bodily injury or property damage per occurrence;

(B) Garage keeper's legal liability (for care, custody and control) per occurrence in the amount of:

- (i) Class A – \$50,000;
- (ii) Class B – \$150,000;
- (iii) Class C – \$200,000;

(iv) Class D (Note: Class "D" equipment is not considered to be recovery tow vehicles):

- (I) Class D-A or Other Equipment under this classification – \$50,000;
- (II) Class D-B or Other Equipment under this classification – \$75,000;
- (III) Class D-C or Other Equipment under this classification – \$200,000.

(C) Insurance to protect against vehicle damage including, but not limited to fire and theft, from the time a vehicle comes into custody and control of the tow business and is hooked onto, throughout the recovery, and until that vehicle is reclaimed or sold.

(D) Insurance for cargo transported in the amount of:

- (i) Class A – \$50,000;
- (ii) Class B – \$100,000;
- (iii) Class C – \$200,000;

(iv) Class D-A – or Other Equipment under this classification – \$50,000;

(v) Class D-B – or Other Equipment under this classification – \$100,000;

(vi) Class D-C – or Other Equipment under this classification – \$200,000.

(f) Nothing in this section will relieve a tow business or qualified tow business from maintaining insurance in the amounts and providing coverage of the type for motor carriers in ORS Chapter 825 if the amounts exceed, or coverage is different from, that required by this section.

(g) A certificate of insurance from the insurance carrier to the Department that includes the type and amounts of coverage and provides for notification of cancellation of the tow business's insurance is mandatory.

(h) The information for the letter of appointment may be included in the inspection form that is completed by the authorized agent or representative of the tow business.

(i) The tow business or tow business owner has a minimum of three (3) years of documented experience in the towing industry, either as a tow business or a tow business owner or tow vehicle driver for a tow business.

(j) The tow business has a dedicated recovery vehicle assigned to the tow zone applied for and capable of handling the classifications of tows requested in the application. A tow business may list a class B recovery vehicle to cover both class A and class B tows and a tow business may list a class C recovery vehicle to cover both class B and/or class A tows. If a larger recovery vehicle is listed by a tow business, that vehicle may only be listed for one tow zone for the smaller recovery tow classes it is used for, even if the larger tow vehicle tow zone overlaps with the other tow classification zones. Recovery Tow vehicles may only be listed for one tow zone. All tow vehicles approved must comply with these Administrative Rules for the classification of tow applied for. Only equipment approved through the letter of appointment to be used for the non-preference tow program for a specific tow zone can be used in that tow zone.

NOTE: A written waiver may be granted by the Oregon State Police based on local non-preference towing operational needs.

(k) The names of all drivers authorized by a tow business to drive in the tow zone for which the tow business applied, and all employees of a tow business who will have contact with the towed/assisted vehicle(s) and/or the driver/owner of the towed/assisted vehicle(s) or other representative(s) of the towed/assisted vehicle(s) owner(s). The use of non-listed and/or unreported drivers by a qualified tow business shall not be permitted.

(2) Within 30 days of the receipt of a request for an application for a letter of appointment, the Patrol Services Division of the Oregon State Police shall send an application packet, and include a current copy of these Administrative Rules and all forms related to the self certification, inspection and certification of equipment, and other related information required by these Administrative Rules.

(3) The address the tow business lists on its application shall be the place of business where the tow business keeps its business records. The application also shall list all locations of vehicle storage areas and places for redemption of vehicles. If there is a change in address of the tow business, the authorized agent or representative of the tow business shall immediately notify the Patrol Services Division, and in no event will notification take longer than ten (10) days.

(4) All tow trucks shall display the tow business's name, city, and telephone number. This information shall be painted or permanently affixed to both sides of the vehicle and the lettering shall be at least 2 inches in height with 1/2 inch stroke and in a color that is in contrast with the tow truck's color.

(5) Any tow business in violation of this Administrative Rule may be denied a letter of appointment and shall be notified of the denial in writing. The Department may also deny a renewal application for any qualified tow business with an existing letter of appointment that is in violation of this Administrative Rule and may have its existing letter of appointment immediately suspended, prior to any hearing and shall be notified of the suspension in writing. A suspension under this rule will be in effect until the violation is corrected and inspected. Other sanctions, up to revocation and/or criminal prosecution, may be applied to a qualified tow business upon finding by the Department that the qualified tow business is in violation of this Administrative Rule.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0090

Inspections

The authorized agent or representative of the tow business shall self-certify on its application under penalty of False Swearing related to Regulation of Vehicles related to Businesses (ORS 822.605), penalty of Perjury (ORS 162.065), suspension or revocation from the non-preference tow rotational list that its tow business, employees and vehicles meet the minimum requirements as set forth in these Administrative Rules. This self-certification shall verify that the tow business' request for a letter of appointment complies with all applicable local laws and regulations as pre-

ADMINISTRATIVE RULES

scribed for the geographical area where the tow business will be established. If local zoning regulations are applicable, the authorized agent or representative of the tow business must include with the application a copy of the certification of approval from the local planning department, zoning commission or other authorized unit of local government, to the Department. A zoning certification will become part of the permanent record maintained for each qualified tow business by the Department.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0095

Letter of Appointment

The letter of appointment shall be completed by the Department establishing that the tow business has met the requirements for a letter of appointment. The designated tow zone(s), class of tow vehicle(s), specific vehicles authorized to operate in each zone, and any waivers will be listed in the letter.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0100

Issuance of Letter of Appointment

(1) No tow business shall be called upon to perform a non-preference towing service at the request of the Department unless such tow business has a valid letter of appointment from the Department, as described herein. A letter of appointment will not be issued by the Department unless the Department is satisfied that all qualifications set out in these Administrative Rules either have been met by the tow business or that a waiver of one or more qualifications has been granted by the Department.

(2) A letter of appointment will be valid only in the zone or zones assigned by the area commander and will identify specific vehicles of a qualified tow business authorized to operate in each zone. Applications for additional letters of appointment in other zones must be based on a complete and separate place of business capable of independent operation within the additional zone.

(3) A tow business may petition the Department for a waiver of a non-safety related requirement. The waiver shall be sent to the area commander who may make a recommendation regarding the waiver as an operational need. The Department may grant a waiver if, it finds that the towing services available to the Department are inadequate in the area to meet the needs of the public.

(4) In the event a qualified tow business that meets all requirements and qualifications receives a letter of appointment in the same zone as a qualified tow business that has been granted a waiver, the qualified tow business currently operating under a waiver, upon notification, will be advised that it has up to 30 days to come into compliance with these rules before removal from the affected non-preference tow zone. If the qualified tow business operating under a waiver fails to come into compliance within the time specified by the Department, it may have its letter of appointment suspended or revoked by the Department and will not be called for Department initiated tows.

(5) Every letter of appointment shall be issued in the name of a tow business and the holder thereof shall not allow any other person or qualified tow business to use the letter of appointment.

(6) The letter of appointment will be valid only for the place of business named on the application and will not apply to any other place of business.

(7) A letter of appointment shall be valid for one (1) year unless suspended or revoked by the Department.

(8) Each separate place of business will have a letter of appointment.

(9) Before a letter of appointment can be issued by the Department the tow business must have a tow vehicle meeting the minimum standards set forth in these Administrative Rules OAR 257-050-0020 to 257-050-0200.

(10) The letter of appointment shall state the zone the qualified tow business is authorized to operate in. The zones will be determined by the area commander.

(11) All qualified tow businesses shall agree to tow abandoned vehicles in accordance with Chapter 819 of the Oregon Revised Statutes.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0110

Suspension, Revocation and Voluntary Relinquishment of Letter of Appointment

(1) Upon receiving evidence that a qualified tow business has failed to comply, or no longer complies, with any requirement or provision of these Administrative Rules or that the authorized agent or representative of a tow business has falsified any documentation or certification related to compliance of these Administrative Rules in an application for a letter of appointment, the Department shall suspend or revoke the qualified tow business's letter of appointment at any time once the qualified tow business has been given notice in accordance with these Administrative Rules. A qualified tow business whose letter of appointment has been suspended or revoked may request an administrative hearing as outlined in these Administrative Rules.

(2) Upon receiving evidence that a qualified tow business has failed to comply, or no longer complies, with the requirements of these Administrative Rules, the qualified tow business's letter of appointment shall be suspended or revoked by the Department.

(3) The qualified tow business may voluntarily relinquish his/her appointment. The Department will be advised in writing of this voluntary relinquishment. After receiving written notice the Department will cause an inspector to obtain the original letter of appointment and forward the same to the Department.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0115

Suspension and Revocation

(1) For purpose of 257-050-0115, the following suspension periods apply:

(a) "First suspension" – any first violation of OAR 257-050-0115 shall be for a period of not less than 60 days.

(b) "Second Suspension" – any second violation of OAR 257-050-0115 that is committed within a one (1) year period from the date of any final order under this rule shall be for a period of not less than one (1) year.

(c) "Third Suspension" – any third violation of OAR 257-050-0115 that is committed within a three (3) year period of the date of any final order under this rule shall be a revocation.

(2) The following constitutes grounds for suspension of a qualified tow business:

(a) A qualified tow business that commits a violation, traffic crime or traffic infraction of Oregon Law during the course and operation of the qualified tow business's business shall be suspended.

(b) An employee of a qualified tow business that commits any violation or traffic infraction of Oregon Law while in the performance of his or her duties of employment shall be suspended.

(3) The following constitutes grounds for revocation of a qualified tow business:

(a) A qualified tow business that commits a crime, other than a traffic crime and that is chargeable as a misdemeanor or felony during the course and operation of the qualified tow business's business shall be revoked.

(b) An employee of a qualified tow business that commits a crime chargeable as a misdemeanor or felony while in the performance of his or her duties of employment shall be revoked.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1999(Temp), f. & cert. ef. 9-10-99 thru 3-7-00; OSP 1-2000, f. & cert. ef. 3-15-00; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0125

Reinspection/Certification

(1) Self Certification/re-inspections will be conducted at least once a year by all qualified tow businesses. Unscheduled inspections of the qualified tow business may be conducted without notice by any Oregon State Police inspector to determine the fitness of tow trucks, facilities, and business records. These inspections shall be done during business hours.

ADMINISTRATIVE RULES

(2)(a) In the event of missing or defective tow truck equipment that is not safety related, but that was required for initial approval, the Oregon State Police shall advise the qualified tow business of the defect. If the qualified tow business fails or refuses to repair the defect within 15 days of the notice, the defective truck will be removed from the list of tow vehicles in the qualified tow business's letter of appointment that are authorized for use in the Department's non-preference tow rotation list for the duration of the letter of appointment without renewal, until after the last day of authorization of the letter of appointment and the defect is repaired.

(b) In the event of a violation of these Administrative Rules by a qualified tow business relating to the qualified tow business's facilities, records or other conditions, the Oregon State Police shall advise the qualified tow business of the violation. If the qualified tow business fails or refuses to fix the violation within 15 days of the notice, the qualified tow business's letter of appointment will be suspended for its duration without renewal until after the last day of authorization of the letter of appointment and the violation is fixed.

(c) A qualified tow business may avoid suspension under this section by voluntarily removing the involved tow or recovery vehicle from the list of tow vehicles in the qualified tow business's letter of appointment that are authorized for use in the Oregon State Police's non-preference tow list until such repairs or corrections are made or by correcting the violation relating to the qualified tow business's facilities or records. Voluntary removal under this section shall be done by sending a letter to the Oregon State Police General Headquarters, Patrol Services Division, 4th Floor, 255 Capitol Street NE, Salem, Oregon 97310, advising the Oregon State Police of the qualified tow business's voluntary removal of the vehicle from service on non-preference calls for the Oregon State Police. This voluntary removal of defective equipment letter shall be received by the Oregon State Police, Patrol Services Division no later than 15 days after the initial notification of the defect.

(3)(a) In the event of a safety related violation which renders the tow truck a safety hazard upon a public highway, the tow truck shall be immediately removed from the list of tow vehicles in the qualified tow business's letter of appointment that are authorized for use in the Department's non-preference tow rotation list. If the defect is corrected and reinspected within 30 days of the immediate suspension, the tow truck shall be reinstated on the tow business's letter of appointment. If the defect is not corrected and reinspected within 30 days, the suspension will continue without reinstatement until after the last day of the authorization of the letter of appointment and the defect is repaired and reinspected.

(b) In the event of a safety related violation which renders a qualified tow business's facilities unsafe, the qualified tow business shall immediately be suspended for the duration of the letter of appointment from the Department's non-preference tow rotational list, without renewal until after the last day of the authorization of the letter of appointment and the defect is repaired. If the defect is corrected and reinspected within 30 days of the immediate suspension, the qualified tow business's letter of appointment shall be reinstated.

(c) A qualified tow business may avoid immediate suspension under this section by voluntarily removing the tow or recovery vehicle from the list of tow vehicles in the qualified tow business's letter of appointment that are authorized for use in the Oregon State Police's non-preference tow list until such repairs or corrections are made or by correcting the violation relating to the qualified tow business's facilities or records. Voluntary removal under this section shall be done by sending a letter to the Oregon State Police General Headquarters, Patrol Services Division, 4th Floor, 255 Capitol Street NE, Salem, Oregon, 97310, advising of the qualified tow business's voluntary removal of the vehicle from service or the business on non-preference calls for the Oregon State Police. This voluntary removal safety hazard letter shall be received by the Oregon State Police, Patrol Services Division no later than 30 days after the initial notification of the defect.

(4) Upon repair or correction of a defect of a voluntarily removed tow truck or a defect related to a qualified tow business, an Oregon State Police inspector, upon written request from the affected qualified tow business, shall reinspect the equipment/facility which was found to be defective or missing. If the defects have been satisfactorily corrected, the inspector shall reinstate the tow truck to the list of tow vehicles in the qualified tow business's letter of appointment that are authorized for use in the Department's non-preference list and/or shall reinstate a qualified tow business's letter of appointment. In the event an Oregon State Police inspector is not readily available to reinspect, another officer appointed by the inspector's supervisor may reinspect and re-instate the tow truck or qualified tow business. The reinspection shall be completed as soon as possible after a written request

from the qualified tow business has been received by the Patrol Services Division, advising that the defect has been repaired. In no event shall a reinspection take longer than ten (10) business days after the written request for inspection has been received by the Patrol Services Division.

(5) Upon revocation, suspension, expiration or voluntary relinquishment of a letter of appointment, a qualified tow business's right to conduct towing services at the request of the Department is terminated, unless the call for service is a preference tow made by the owner and/or driver of a vehicle.

(6) Upon sale or transfer by the qualified tow business of a truck listed in the qualified tow business's letter of appointment that is authorized for use in the Department's non-preference tow rotation list, the qualified tow business shall advise the department so that the truck may be removed from the non-preference list. This notification must be made immediately and in no event may exceed ten (10) days after the sale or transfer.

(7) Upon the purchase or acquisition of any additional tow truck(s) to be used pursuant to this rule, a qualified tow business shall immediately notify the Department. The qualified tow business shall make a self-certified inspection of the new unit and submit this inspection to the Department, prior to the tow truck being used for non-preference towing.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0130

Appeal

A tow business or qualified tow business aggrieved by the decision of the Hearings Program officer denying, suspending, or revoking a letter of appointment must make any further appeal of such decision to the Oregon Court of Appeals.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0140

Place of Business Requirement and Business Hours

A qualified tow business's hours for the purpose of inspection of business records and towing equipment shall be 8AM-5PM, excluding weekends and holidays:

(1) When a qualified tow business is not open and does not have personnel present at the place of business, the qualified tow business shall post a clearly visible telephone number at its place of business for the purpose of public contact for the release of vehicles or personal property.

(2) The qualified tow business shall maintain personnel who can be contacted 24 hours a day to release impounded vehicles within a 30-minute period of time.

(3) The qualified tow business must post and maintain its letter of appointment at its place of business.

(4)(a) Dispatch service. The qualified tow business shall provide dispatch services 24 hours a day, 365 days a year. Each tow vehicle used by a qualified tow business shall be equipped with a two-way radio (not a citizen's band radio) or cellular phone capable of direct communications with the qualified tow business's dispatch service. Equipment provided shall be subject to approval of the Oregon State Police. Equipment shall be maintained in proper working condition at all times.

(b) Failure to respond to a call:

(A) Refusal or failure of a qualified tow business to respond to calls from the Department for towing services may result in the suspension or revocation of the qualified tow business's letter of appointment;

(B) The qualified tow business shall advise the appropriate Oregon State Police Dispatch Center when the qualified tow business is temporarily unavailable to respond to non-preference tow calls. Unavailability may occur due to conditions which include, but are not limited to, a disabled tow truck or a tow truck under repair, or unforeseen driver shortage due to illness or vacation. The qualified tow business shall advise the Oregon State Police Dispatch Center once the qualified tow business is available to resume its normal operation;

(C) Regardless of the unavailability of any qualified tow business, the non-preference list rotation shall continue as if the qualified tow business was available.

(5) Service call response time. Response times are mandatory. Class A and D-A tow trucks shall be on the road within fifteen minutes. Class B,

ADMINISTRATIVE RULES

C, D-B and D-C tow trucks shall be on the road within thirty minutes. At the time of the dispatch, all classes of tow trucks shall provide an estimated time of arrival at the scene. The station commander may waive this requirement due to inclement weather or unusual circumstances that might exist.

(6) For abandoned vehicles not deemed to be a hazard, tow requests will be made during business hours, defined as 8 A.M. to 5 P.M., seven (7) days a week, including holidays. Qualified tow businesses may tow abandoned vehicles at the qualified tow business's convenience during business hours on the date of the tow request. Once a vehicle is removed from the roadway and in possession of the qualified tow business, the qualified tow business shall notify the requesting Oregon State Police Office Dispatch Center as soon as possible on the date of the tow request of its possession of the abandoned vehicle. Notification of possession of the abandoned vehicle should be made immediately by the qualified tow business. In no case will notification to the Oregon State Police be made more than two hours after the abandoned vehicle comes into the possession of the qualified tow business.

(7) At the time a response is requested, the Department will provide the location, make, model, year of car license plate and estimated gross vehicle weight (if necessary) to the qualified tow business. Also, the Department will inform the qualified tow business about any condition or circumstances that may require special handling or assistance. The qualified tow business shall transmit the information to the person driving the tow truck.

(8) Qualified Tow business's record requirements: At its place of business of each tow zone, qualified tow businesses shall maintain the following records on each vehicle towed for a period of three years:

- (a) Vehicle description;
- (b) License number;
- (c) Issuing state;
- (d) Make;
- (e) Model;
- (f) Year;
- (g) Vehicle identification number;
- (h) Towing location;
- (i) Location vehicle was towed from;
- (j) Location to where the vehicle was towed;
- (k) Qualified Tow Business, Name, Address and Phone Number;
- (l) Name of tow truck driver;
- (m) Reasons for towing and/or service;
- (n) Time and date of service include storage dates as applicable;
- (o) Class of tow truck or truck number;
- (p) OSP Impound Forms;
- (q) All invoices for abandoned vehicles towed;
- (r) All invoices for all OSP non-preference tows.

(9) All fees for service shall be itemized. A copy of voided invoices shall be filed by invoice number at the qualified tow business's place of business and shall be retained in a file for a period of three years.

(10) All vehicles shall be handled and returned in substantially the same condition that they were in before being towed.

(11) All employees who operate tow truck(s) for a qualified tow business shall have an operator's license with the proper class or type for vehicle combinations. As prescribed by the state issuing the license, Oregon licensees shall comply with all applicable Oregon laws.

(12) Any person who shows proof of ownership or written authorization from the owner of the impounded vehicle may inspect and view the vehicle without charge during normal business hours. This does not apply to a vehicle seized and stored as evidence.

(13) All towing receipts on impounded vehicles, or confiscated vehicles, shall be made available by the qualified tow business to the nearest Department office after the tow has been completed.

(14) The qualified tow business shall notify the Oregon State Police Dispatch Center immediately when any person seeks to redeem any vehicle towed as abandoned or where a police hold has been placed on the vehicle. Release of vehicle under temporary or formal hold shall require written release from the Department. When a person entitled to take possession of the vehicle subject to a hold presents the qualified tow business with an official Oregon State Police release form, the qualified tow business shall release the vehicle to the person named.

(15) When inspection or reinspection of a tow truck is necessary, the area commander shall designate a location and time for the inspection to be conducted. When practical the inspection or reinspection shall be made within ten (10) days following the request by the qualified tow business.

(16) The qualified tow business shall provide either locked outside storage or locked, secure indoor storage, or both, which meets the following requirements:

(a) The qualified tow business's storage facility shall be in conformance with all zoning requirements of all applicable governments. Storage shall be provided, and of sufficient size, for each class of vehicle towed for the Oregon State Police, including semi trucks and motor homes, except as provided in ORS 819.110. Storage shall be located within the contractual geographical service area described as tow zones. The vehicle storage area may be located up to five (5) miles from the qualified tow business's place of business, provided that both facilities are located within the appointed tow zone. Contact phone numbers and addresses are to be posted at both locations for the place of business and the storage area. When the towed vehicle storage area is not located at the qualified tow business's place of business, employees shall be able to respond from one location to the other within 30 minutes or less.

(b) The storage area will be under the exclusive access and control of the individual qualified tow business. The storage area cannot be shared with other businesses, including non-tow businesses not owned by the owner of a qualified tow business.

(17) The qualified tow business shall provide fencing around the outside storage area. The fencing must meet the following requirements:

(a) Fencing must comply with the requirements established in these Administrative Rules and all local zoning rules and regulations.

(b) Fencing shall be either made of a woven wire composition normally referred to as "cyclone fencing-chain link fencing," or made of a solid material, such as wood or concrete block, inclusive of a permanent natural barrier which would prevent access and unauthorized entry to the storage area. Fencing shall be topped by a minimum of three (3) strands of barbed wire. Fencing not meeting the requirements of these regulations as determined by the Oregon State Police will not be accepted. Qualified tow businesses that are unable to comply with these fencing requirements due to local zoning requirements will be addressed on a case by case basis by the Department.

(c) Gates and entryways shall be of a solid frame, and the same minimum height as the other fencing material. All gates and entryways shall be designed to afford locking the gate or entryway securely to prevent unauthorized entry.

NOTE: Qualified tow businesses holding a valid appointment letter for a specific tow zone as of the adoption date of this Administrative Rule, will have one (1) year from their renewal date in the year 2003 to comply with this rule for the tow zone listed in the appointment letter. New tow businesses applying for a letter of appointment for the non-preference tow program shall immediately comply with this Administrative Rule after the adoption date of this rule.

(18) The qualified tow business shall allow the owner of a towed vehicle or anyone authorized in writing by the Oregon State Police, and/or an Oregon State Police Officer or other Department Member, to go to the vehicle and remove items of personal emergency nature, e/g/ eyeglasses, medication, clothing, identification, wallets-purses (and their contents), credit cards, check books, any known money-currency, child safety car and booster seats, except as provided in ORS 819.110 and 819.160.

(19) The qualified tow business shall be responsible for the contents, storage and disposal of all personal items, except items taken by authorized personnel in OAR 257-050-0140(18).

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0145

Felony Convictions

The Oregon State Police in the interest of public safety shall deny, suspend, or revoke a tow business' application or a qualified tow business' letter of appointment for the Department's non-preference towing program for any of the following reasons:

(1) A tow business, or any owner or employee of a tow business, convicted of any felony charge, or any charge in any state, which in Oregon is considered to be a felony, within the last fifteen (15) years from the date the tow business' application is received by the Oregon State Police. This subsection is subject to the provisions set forth under ORS 166.270.

(2) Any tow business, qualified tow business, or owner or employee of a tow business or qualified tow business convicted of two felony charges, regardless of when those felonies were committed.

(3) Any owner or employee of a tow business or qualified tow business convicted of a felony charge, or any charge from another state which

ADMINISTRATIVE RULES

in Oregon is considered to be a felony, where a weapon was used or threatened to be used in the commission of the crime, regardless of the date of the felony charge.

(4) Any owner or employee of a tow business or qualified tow business convicted of any of the sex crimes listed in ORS 181.594(4) or the equivalent conviction of a sex crime from another jurisdiction regardless of the degree of the charge.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0150

Towing

(1) The Department shall not establish, recommend or in any way dictate the cost of a non-preference tow conducted by a qualified tow business.

(2) A qualified tow business that conducts a non-preference tow under these administrative rules shall not represent to any person or business that a particular fee has been or will be charged by the Oregon State Police.

(3) Qualified tow businesses shall furnish the Patrol Services Division with an itemized list of charges that can be incurred during a non-preference tow including, but not limited to:

- (a) Hookup charge;
- (b) Mileage fee;
- (c) Response fee.

(4) Qualified tow businesses shall not charge for items not declared on the list relating to the towing of a vehicle. This does not include mechanical work, bodywork or other repair work conducted subsequent to the tow.

(5) Complaints of unfair charges against a qualified tow business shall be referred to the Oregon Attorney General's Office.

(6) Qualified Tow businesses shall not transport passengers in any towed or carried vehicle(s).

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0155

Suspension and Revocation (for Violation of a Law Chargeable as a Violation or Crime)

(1) The following suspension or revocation periods apply when a qualified tow business, or any owner or employee of a qualified tow business, has been convicted of a violation of law charged as a Violation or Crime:

(a) "First Suspension" – any first violation shall be for a period of not less than 60 days.

(b) "Second Suspension" – any second violation that is committed within a one (1) year period from the date of any final order under this rule shall be for a period of not less than one (1) year.

(c) "Third Suspension" – any third violation that is committed within a three (3) year period of the date of any final order under this rule shall be a revocation.

(2) The following constitute grounds for suspension of a qualified tow business' letter of appointment:

(a) A qualified tow business that commits a violation or traffic crime of Oregon Law during the course and operation of the qualified tow business' tow business.

(b) An owner or employee of a qualified tow business that commits any violation of Oregon Law while in the performance of his or her duties of employment.

(3) The following constitutes grounds for revocation of a qualified tow business' letter of appointment:

(a) A qualified tow business that commits a crime, other than a traffic crime and that is chargeable as a misdemeanor or felony during the course and operation of the qualified tow business' tow business.

(b) An owner or employee of a qualified tow business that commits a crime chargeable as a misdemeanor or felony while in the performance of his or her duties of employment.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0157

Suspension or Revocation for Violation (other than a Law Chargeable as a Violation or Crime)

(1) Suspensions or revocations of a letter of appointment, unless otherwise outlined or defined in these rules, shall fall under one of the following four levels:

(a) Immediate suspension – A suspension that takes place immediately, upon written notice from the Oregon State Police, as evidenced by the date of the postmark, removing a tow vehicle, tow equipment or a qualified tow business from the non-preference rotational tow list.

(b) Level one suspension – any first violation of these Administrative Rules unless otherwise defined in the rule and shall be for a period of not less than sixty (60) days, and not more than one (1) year in length.

(c) Level two suspension – any second violation of these Administrative Rules that is committed within a one (1) year period from the date of any final order and shall be for a period of not less than one (1) year and not more than two (2) years in length.

(d) Revocation – any third violation of these Administrative Rules that is committed within a three (3) year period of the date of any final order and shall result in a revocation of a qualified tow business' letter of appointment.

(2) A suspension shall be in effect until the violation is corrected, or the Department orders reinstatement of a qualified tow business' letter of appointment.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0170

Hearings

(1) The Oregon Administrative Procedures Act shall govern the conduct of any hearing held pursuant to these regulations. The burden of proof in any hearing before the Hearing Officer shall be on the tow business seeking a letter of appointment, or on the qualified tow business that has had its letter of appointment suspended or revoked by the Oregon State Police.

(2) A request for an administrative hearing must be in writing and be received by the Department no later than fifteen (15) days from the date of notice of denial, suspension and/or revocation as evidenced by the postmark. The Department may also initiate or request an administrative hearing, regarding a denial, suspension and/or revocation of a letter of appointment.

(3) An administrative hearing must be conducted within ninety (90) days from the date the written request is received by the Department or on the first business day thereafter if the 90th day is a weekend or holiday, unless the parties agree to an extension of time.

(4) Any request by a qualified tow business for a continuance or reset of the hearing after the original scheduled date will result in the temporary suspension and/or extension of any temporary suspension of the qualified tow business' letter of appointment until a ruling is issued from the hearing with no liability to the Department. If the Department requests a continuance or reset of a hearing, the qualified tow business shall be left on the tow rotational list until a ruling is issued from the hearing unless a temporary suspension has been levied against the qualified tow business.

(5) Oral proceedings shall be recorded and shall become part of the hearing record.

(6) The Department shall appoint a Hearing Officer to conduct the hearing. The Hearings Officer shall issue a proposed order that shall include written findings of facts based on the evidence and written conclusions of law based on the findings.

(7) Exceptions to proposed orders must be submitted to the Department in writing within ten (10) days of the date the proposed order is issued, or on the first business day thereafter if the 10th day is a weekend or holiday. Written argument submitted with the exceptions will be considered; no opportunity for oral argument will be allowed. The Department shall issue a final order.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

ADMINISTRATIVE RULES

257-050-0180

Judicial Review

A tow business or qualified tow business aggrieved by a final order of the Department denying, suspending, or revoking a letter of appointment may seek judicial review of such decision in the Oregon Court of Appeals. The denial, suspension or revocation shall remain in effect during the appeal.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

257-050-0200

Mandatory Equipment Standards for Tow Trucks/Safety Related Requirements

(1) All tow vehicles operated by a qualified tow business under a letter of appointment under these rules shall have the following minimum equipment:

(a) Minimum of two (2) lights mounted behind the cab of the tow truck controlled by a dedicated on/off switch. This lighting must be capable of illuminating the area of the tow under darkened, foggy or dangerous conditions;

(b) An FCC licensed two-way radio, in conformance with Part 93 FCC Regulations, or cellular phone (citizen band radios so not meet this requirement);

(c) Cables or wire ropes as called for in each class. Cable/wire rope lengths shall be measured from the point of attachment on each drum. Cables/wire ropes shall meet the following requirements.

(A) Each cable shall be capable of being fully extended from and fully wound onto its drum;

(B) Cables or wire ropes shall be free from the following defects or conditions:

(i) There shall be no more than six randomly distributed broken wires in one rope lay, or more than three broken wires in one strand in one rope lay;

(ii) There shall be no evidence of any heat damage from any cause;

(iii) There shall be no end attachments that are cracked, deformed, worn or loosened;

(iv) Where a wire rope is attached to a hook with clamps instead of being swaged, a minimum of three clamps shall be used on end attachments. Clamps shall be spaced at least six rope diameters apart and attached with the base or saddle of the clamp against the longer or "live" end of the rope. The "U" bolt will be placed over the short or "dead" end of the rope and will be of the proper size.

(d) Two revolving or intermittent red or amber lamps with 360 degree visibility. The truck may also be equipped with flashing amber lights, which may be used in conjunction with the red lamp(s). Such lighting will not be used when responding to a call, but only at the scene when necessary to warn approaching traffic of impending danger.

(e) A broom and a shovel. The broom shall be at least twelve inches wide and have a handle at least four feet long. The shovel shall be flat scoop type with a minimum width of seven inches and overall length of a least three feet. Tow truck driver shall clean accident/incident scenes of all vehicle glass and debris required by ORS 822.225.

(f) A tow sling, wheel lift, car carrier or other comparable device made of a material designed to protect vehicles.

(g) Motorcycle Tows – A tow sling, wheel lift, car carrier or other comparable device that has the ability to tow motorcycles.

(h) One fire extinguisher, 25 BC rating or equivalent.

(i) One snatch block, or equivalent block, in good working condition for each working line.

(j) Commercially manufactured dollies on all class A recovery vehicles and class B recovery vehicles up to 26,000 GVW. Commercially manufactured dollies are required for all tow class categories when dollies are used and/or defined for use up to 26,000 GVW.

(k) All class A and B tow vehicles that are inclusive of class DA and DB tow vehicles shall carry at least one pinch bar, or an equivalent device. The bar or equivalent device must be 4 feet in length and 3/4 inch in diameter, and the ends may either be tapered or flattened.

(l) Portable lights for unit being towed including, but not limited to, tail lights, stop lights and directional signals.

NOTE: Class D tow trucks roll backs are exempt from this section if not towing a second vehicle.

(m) All tow vehicles must have a minimum of two "wreck ahead" signs to be placed by tow truck drivers as required by ORS 822.220. The signs shall confirm to all specifications as set forth in the Oregon

Department of Transportation's publication "Traffic Control on State Highways for Short Term Work Zones" (Form 734-2272) and the "Manual Uniform of Traffic Control Devices."

(n) All tow trucks and equipment used to perform services under these rules shall be maintained in good working order. Failure to maintain equipment shall be cause for suspension and removal of the defective equipment from the non-preference list. If equipment does not meet the Department's criteria for non-preference tows under these Administrative Rules, the Department may suspend and remove the equipment from the non-preference list.

(2) Class A Tow Trucks (Small): Tow trucks shall be provided that are capable of towing and recovery operations for passenger cars, pickup trucks, small trailers or equivalent vehicles. All equipment used in conjunction with the tow truck must be compatible with the manufacturer's basic boom rating and must comply with current state laws and Oregon Administrative Rule 735-154-0040. In addition to the equipment required for all trucks used to provide service under this rule, all trucks in this class shall have:

(a) Ten thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent;

(b) Dual tires on the rear axle or duplex type tires, referred to as super single with a load rating that is comparable to dual tire rating;

(c) Six ton minimum boom rating dual or single boom with dual or single winches to control a minimum of one service cable;

(d) A minimum of one hundred (100) feet of 3/8-inch continuous length cable; and

(e) A wheel lift for this class of tow truck.

(3) Class B Tow Trucks (Medium): Class B tow trucks shall be capable of towing and recovery operations for medium size trucks, trailers, motor homes or equivalent vehicles. In addition to standard equipment required for all trucks used to provide service under this rule, all trucks in this class shall have:

(a) Seventeen thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent;

(b) Ten ton minimum boom rating dual or single boom with dual or single winches to control a minimum of one service cable;

(c) Class B tow trucks in excess of 26,000 pounds GVW will not be required to carry dollies when used for heavy towing;

(d) A wheel lift for this class of tow truck; and

(e) A minimum of 150 feet of seven-sixteenths inch cable.

(4) Class C Tow Trucks (Large): Tow trucks that are capable of towing and recovery operations for large trucks, trailers, motor homes or equivalent vehicles. In addition to the standard equipment required for all trucks used to provide service under this rule, all trucks in this class shall have:

(a) Twenty-seven thousand five hundred pounds minimum manufacturer's gross vehicle weight rating or equivalent;

(b) Twenty-five ton minimum boom rating dual or single boom with dual or single winches to control a minimum of one service cable;

(c) Minimum of 150 feet of cable, five-eighths inch diameter;

(d) Air brakes and an air system capable of supplying air to the towed unit;

(e) Portable dollies are not required;

(f) Tandem rear axle truck chassis (three axle truck);

(g) May include an under-lift for this class of tow truck.

(h) Exception to commercially manufactured tow vehicles (for Class C recovery tow trucks/equipment only). Class C Recovery Tow Equipment that has been approved by the Oregon State Police to be used on the Department's non-preference towing list prior to the adoption of these Administrative Rules, but does not meet the criteria outlined under these Administrative Rules, may continue to be used for the Department's non-preference tows if the following conditions are met:

(A) The equipment must first be inspected and approved by the Oregon State Police;

(B) If a qualified tow business has the only "Class C" tow truck in a zone, then the qualified tow business must replace the equipment after 5 years from the adoption date of these rules. The Oregon State Police reserve the option to extend the time period for the use of Class C Towing Equipment under this exception based on operational need by the Department; and

(C) If it is determined at any time that the equipment does not meet Oregon State Police criteria for towing under these Administrative Rules, then the Oregon State Police can remove the equipment from the non-preference list.

(5) Class D Tow Trucks (Trucks and equipment in this class are not considered recovery vehicles):

ADMINISTRATIVE RULES

(a) Tow trucks and other vehicles in this class are to be used for towing and/or hauling purposes only. No recovery can be performed by equipment in this class;

(b) Equipment in this class capable of towing/hauling passenger cars, pickup trucks, trailers, trucks or equivalent vehicles, and debris is based on the size and ratings of the Class D tow unit used. All equipment used in conjunction with the tow truck must comply with current state laws and Oregon Administrative Rule 735-154-0040. In addition to the equipment required for all trucks used to provide service under this rule, all trucks in this class shall have:

(A) Class D-A:

(i) Eleven thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent;

(ii) Dual tires on the rear axle;

(iii) A minimum of fifty feet three-eighths inch continuous length cable;

(iv) May include wheel lift, if chassis GVW is over 14,500 pounds; and

(v) If a Metro unit, dollies and a wheel lift.

(B) Class D-B:

(i) Seventeen thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent;

(ii) Dual tires on the rear axle;

(iii) A minimum of 50 feet of three-eighths inch cable;

(iv) May include wheel lift; and

(v) If a Metro unit, dollies and a wheel lift.

(C) Class D-C:

(i) Twenty-seven thousand five hundred pounds minimum manufacturer's gross vehicle weight rating or equivalent.

(ii) Minimum of 50 feet of cable, five-eighths inch diameter.

(iii) Tandem rear axle truck chassis (three axle truck).

(iv) May include wheel lift; and

(v) Air brakes and an air system capable of supplying air to the towed unit.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10; OSP 2-2009, f. 10-8-09 cert. ef. 1-1-10; OSP 3-2009(Temp), f. 12-18-09, cert. ef. 1-1-10 thru 6-29-10; OSP 3-2010, f. 6-1-10, cert. ef. 6-30-10

.....

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Housekeeping changes; changes to reflect current ORS.

Adm. Order No.: DPSST 4-2010

Filed with Sec. of State: 6-2-2010

Certified to be Effective: 6-2-10

Notice Publication Date: 4-1-2010

Rules Amended: 259-006-0000, 259-007-0000, 259-008-0060, 259-030-0000

Subject: Amend policy committee representation, per HB 2790 (2009), and 2003 ORS changes.

Housekeeping change to ensure consistency in process of determining waiver eligibility.

Amend reference to process of selecting DPSST director, consistent with current ORS.

Rules Coordinator: Marilyn Lorange—(503) 378-2427

259-006-0000

Policy Committees

(1) The Board on Public Safety Standards and Training shall establish the following policy committees:

(a) Corrections Policy Committee;

(b) Fire Policy Committee;

(c) Police Policy Committee; and

(d) Telecommunications Policy Committee; and

(e) Private Security Policy Committee.

(2) The members of each policy committee shall select a chairperson and vice chairperson for the policy committee. Only members of the policy committee who are also members of the board are eligible to serve as a chairperson or vice-chairperson. The vice-chairperson may act as chairperson in the absence of the chairperson.

(3) The Corrections Policy Committee consists of:

(a) All of the board members who represent the corrections discipline;

(b) The chief administrative officer of the training division of the Department of Corrections;

(c) A security manager from the Department of Corrections recommended by the Director of the Department of Corrections; and

(d) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing the Oregon State Sheriffs' Association;

(B) Two persons recommended by and representing the Oregon Sheriff's Jail Command Council;

(C) One person recommended by and representing a statewide association of community corrections directors; and

(D) One non-management corrections officer employed by the Department of Corrections; and

(E) One corrections officer who is a female, who is employed by the Department of Corrections at a women's correctional facility and who is a member of a bargaining unit; and

(F) Two non-management corrections officers.

(4) The Fire Policy Committee consists of:

(a) All of the board members who represent the fire service discipline;

and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing a statewide association of fire instructors;

(B) One person recommended by and representing a statewide association of fire marshals;

(C) One person recommended by and representing community college fire programs; and

(D) One non-management firefighter recommended by a statewide organization of firefighters; and

(E) One person representing the forest protection agencies and recommended by the State Forestry Department.

(5) The Police Policy Committee consists of:

(a) All of the board members who represent the law enforcement discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing the Oregon Association of Chiefs of Police;

(B) Two persons recommended by and representing the Oregon State Sheriffs' Association;

(C) One command officer recommended by and representing the Oregon State Police; and

(D) Three non-management law enforcement officers.

(6) The Telecommunications Policy Committee consists of:

(a) All of the board members who represent the telecommunications discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) Two persons recommended by and representing a statewide association of public safety communications officers;

(B) One person recommended by and representing the Oregon Association of Chiefs of Police;

(C) One person recommended by and representing the Oregon State Police;

(D) Two persons representing telecommunicators;

(E) One person recommended by and representing the Oregon State Sheriffs' Association;

(F) One person recommended by and representing the Oregon Fire Chiefs' Association;

(G) One person recommended by and representing the Emergency Medical Services and Trauma Systems Program of the Health Division; and

(H) One person representing paramedics and recommended by a statewide association dealing with fire medical issues.

(7) The Private Security Policy Committee consists of:

(a) All of the board members who represent the private security industry; and

(b) The following who may not be current board members, appointed by the chairperson of the board:

(A) One person representing unarmed private security professionals;

(B) One person representing armed private security professionals;

(C) One person representing the health care industry;

(D) One person representing the manufacturing industry;

(E) One person representing the retail industry;

ADMINISTRATIVE RULES

(F) One person representing the hospitality industry;

(G) One person representing private business or a governmental entity that utilizes private security services;

(H) One person representing persons who monitor alarm systems;

(I) Two persons who are investigators licensed under ORS 703.430, one of whom is recommended by the Oregon State Bar and one of whom is in private practice; and

(J) One person who represents the public at large and who is not related within the second degree by affinity or consanguinity to a person who is employed or doing business as a private security professional or executive manager, as defined in ORS 181.870, or as an investigator, as defined in ORS 703.401.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 10-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 6-2002, f. & cert. ef. 4-3-02; DPSST 5-2003, f. & cert. ef. 4-11-03; DPSST 4-2010, f. & cert. ef. 6-2-10

259-007-0000

Policy and Procedures

(1) An executive committee of the Board on Public Safety Standards and Training is created consisting of the chairperson of the board, and the chairpersons of the policy committees created by ORS 181.610 to ORS 182.712.

(2) If necessary, the executive committee shall reconcile inconsistencies in policies among the policy committees and the advisory committee. The executive committee shall recommend agenda items for meetings of the board and indicate if a board vote is requested on particular agenda items. The executive committee shall meet as necessary to consider legislative concepts, budgets, grants and other matters that arise between regular board meetings.

(3) Except as otherwise provided in this subsection, only those members of the executive committee who are chairpersons of a policy or advisory committee may vote. A majority of the executive committee constitutes a quorum to transact business. If the chairperson of the executive committee is not a chairperson of a policy committee, the chairperson may vote only in the case of a tie vote of the other members.

Stat. Auth.: ORS 181.610 - 181.712

Stats. Implemented: ORS 181.610 - 181.712

Hist.: BPSST 11-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 7-2002, f. & cert. ef. 4-3-02; DPSST 4-2010, f. & cert. ef. 6-2-10

259-008-0060

Public Safety Officer Certification

(1) Basic, Intermediate, Advanced, Supervisory, Management, Executive and Instructor Certificates are awarded by the Department to law enforcement officers and telecommunicators meeting prescribed standards of training, education, experience; and the levels established by the employing law enforcement units, or public or private safety agencies. Emergency medical dispatchers may be awarded basic certification only.

(2) Basic certification is mandatory and shall be acquired by all police officers, telecommunicators, and emergency medical dispatchers within 18 months of employment, and by all corrections officers within one year of employment unless an extension is granted by the Department.

(3) To be eligible for the award of a certificate, law enforcement officers shall be full-time employees as defined by ORS 181.610 and OAR 259-008-0005 or part-time parole and probation officers, as described in ORS 181.610 and OAR 259-008-0066.

(4) To be eligible for the award of a certificate, law enforcement officers shall meet the Board's prescribed minimum employment standards as established by OAR 259-008-0010.

(5) To be eligible for the award of a certificate, telecommunicators must meet the Board's prescribed minimum employment standards as established by OAR 259-008-0011.

(6) To be eligible for the award of a certificate, law enforcement officers shall subscribe to and swear or affirm to abide by the Criminal Justice Code of Ethics (Form F11). Telecommunicators and emergency medical dispatchers shall subscribe to and swear or affirm to abide by the Telecommunicator Code of Ethics. (Form F-11T). [Form not included. See ED. NOTE.]

(7) Application for certification must be submitted on Form F7, with all applicable sections of the form completed. The form shall be signed by the applicant. In order to insure that the applicant does or does not meet the minimum standards of employment, training, education, and experience, and is competent to hold the level of certification for which the applicant has applied, the department head or authorized representative shall sign the form recommending that the certificate be issued or withheld. If the department head chooses not to recommend the applicant's request for certifica-

tion, the reason for this decision shall be specified in writing and shall accompany the Application for Certification (Form F7). [Form not included. See ED. NOTE.]

(8) When a department head is the applicant, the above recommendation shall be made by the department head's appointing authority such as the city manager or mayor, or in the case of a specialized agency, the applicant's superior. Elected department heads are authorized to sign as both applicant and department head.

(9) In addition to the requirements set forth above, each applicant, for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate, shall have completed the designated education and training, combined with the prescribed corrections, parole and probation, police or telecommunications experience.

(a) Each quarter credit unit granted by an accredited college or university which operates on a quarterly schedule shall equal one (1) education credit.

(b) Each semester credit unit granted by an accredited college or university operating on a semester schedule shall equal one and one half (1-1/2) education credits.

(c) The Department must receive sealed official transcripts from a college prior to entering college credit on an individual's official record.

(10) Training Points. Twenty (20) classroom hours of job-related training approved by the Department shall equal one (1) training point. (Example: 200 training hours equal 10 training points.)

(a) Basic, Intermediate, Advanced, Supervisory, Middle Management, Executive, or Specialized courses certified, sponsored, or presented by the Department shall be approved.

(b) The Department may award training points for departmental or other in-service training which is recorded and documented in the personnel files of the trainee's department. These records shall include the subject, instructor, classroom hours, date, sponsor, and location.

(c) Training completed in other states, military training, and other specialized training, if properly documented may be accepted, subject to staff evaluation and approval. These records shall include the subject, date, and classroom hours, and shall be certified true copies of the original.

(d) Upon receipt of documentation which shall include the source, syllabus, number of hours, dates and successful completion of the course, the Department or its designated staff may award training points for correspondence courses.

(e) College credits earned may be counted for either training points or education credits, whichever is to the advantage of the applicant.

(f) College credit awarded based on training completed may be applied toward either training points or education credits, whichever is to the advantage of the applicant.

(A) Prior to applying an applicant's college credit toward any upper level of certification, the Department must receive documentation of the number of college credits awarded based on training attended.

(B) The training hours identified under paragraph (A) and submitted as college credit toward an upper level of certification will not be included in any calculation of whether the applicant has earned sufficient training hours to qualify for the requested certification level(s).

(i) Any college credit received for practical or skills-based training attended will be calculated at a ratio of 1:20 hours for each quarter credit, for purposes of training hour deductions.

(ii) Any college credit received for academic training attended will be calculated at a ratio of 1:10 hours for each quarter credit, for purposes of training hour deductions.

(g) Notwithstanding subsection (e) and (f) above, no credit can be applied toward both an education credit and training point when originating from the same training event.

(11) Experience/Employment:

(a) Experience acquired as a corrections, parole and probation, or police officer employed full time with municipal, county, state, or federal agencies, may be accepted if the experience is in the field in which certification is requested and is approved by the Department. For the purpose of this rule, creditable service time for experience will cease to accrue under the following circumstances:

(A) When an individual is employed in a casual, seasonal, or temporary capacity;

(B) When an individual is on "leave." This includes, but is not limited to, medical leave, a leave of absence or military leave;

(C) Notwithstanding section (B) of this rule, a public safety professional may submit a written request for credit for military time served upon return from a military leave. The Department may approve credit for military time served if the public safety professional's military duties are

ADMINISTRATIVE RULES

determined to be equivalent to the duties the public safety professional was performing prior to the public safety professional's military leave. Any credit received for time served will be at the discretion of the Department.

(D) From the date a public safety professional's certification is recalled until it is reinstated by the Department;

(E) When a public safety professional fails to obtain Basic certification within a mandated timeframe and is prohibited from being employed as a public safety professional;

(b) Experience acquired as a telecommunicator or emergency medical dispatcher employed with a public or private safety agency may be accepted if the experience is in the field in which certification is requested and is approved by the Department.

(c) Experience acquired as a certified part-time telecommunicator, emergency medical dispatcher as defined in OAR 259-008-0005(12) and (32) respectively, or part time parole and probation officer, as defined under 259-008-0005(20) and (21) and 259-008-0066, shall count on a pro-rated basis.

(d) Police, corrections, parole and probation, telecommunicator, or emergency medical dispatch experience in fields other than that in which certification is requested may receive partial credit when supported by job descriptions or other documentary evidence. In all cases, experience claimed is subject to evaluation and approval by the Department.

(12) The Basic Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Basic Certificate:

(a) Applicants shall have completed a period of service of not less than nine (9) months with one or more law enforcement units, or public or private safety agencies in a certifiable position, in the field in which certification is being requested.

(b) Applicants shall have satisfactorily completed the required Basic Course in the field in which certification is requested or have completed equivalent training as determined by the Department.

(c) Applicants shall have valid first aid and cardiopulmonary resuscitation (CPR) card(s).

(13) The Intermediate Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants shall possess a Basic Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of police, corrections, parole and probation or telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(14) The Advanced Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants shall possess or be eligible to possess the Intermediate Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of corrections, parole and probation, police, telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(15) The Supervisory Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Supervisory Certificate:

(a) Applicants shall possess or be eligible to possess the Advanced Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 45 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Supervision Course or an equivalent number of hours of Department approved supervisory level training within five (5) years prior to application for the Supervisory Certificate.

(d) Applicants shall be presently employed in, or have satisfactorily performed the duties associated with the position of a first level supervisor, as defined in ORS 181.610 and OAR 259-008-0005(16), as attested to by the applicant's department head during the time such duties were performed, for a period of one (1) year. The required experience shall have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (c) or (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, supervisory duties.

(16) The Management Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Management Certificate:

(a) Applicants shall possess or be eligible to possess the Supervisory Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Middle Management Course or an equivalent number of hours of Department approved management level training within five (5) years prior to application for the Management Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in ORS 181.610 and OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (c) or (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, management duties.

(17) The Executive Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Executive Certificate:

(a) Applicants shall possess or be eligible to possess the Management Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed 100 hours of Department approved executive level training within five (5) years prior to application for the Executive Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (c) or (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, the duties associated with that of a department head or assistant department head. (18) Multi-discipline Certification. Upon receiving written request from the department head stating a justified and demonstrated need exists for the efficient operation of the employing agency, the Department may approve multi-discipline certification for law enforcement officers who meet all minimum employment, training and education standards established in OAR 259-008-0010, 259-008-0025, and this rule, in the disciplines which they are requesting certification. The officer must meet the following requirements for the award of multi-discipline certification:

(a) Basic certification: A law enforcement officer who is certified in one discipline may apply for multi-discipline certification, if employed in or transferred to another discipline within the same law enforcement unit. The applicant must demonstrate completion of all training requirements in the discipline in which certification is being requested.

(b) Higher levels of certification: Law enforcement officers who possess higher levels of certification in one discipline may, upon employment in or transfer to another discipline within the same law enforcement unit, apply for the same level of certification after completion of nine (9) months experience in the discipline in which they are requesting certification, and meeting the requirements for those higher levels of certification as outlined in this rule. This section does not apply to the EMD discipline since it only exists at the basic certification level.

(c) Retention of Multi-discipline certification. In order to maintain multi-discipline certification, each discipline in which certification is held requires successful completion and documentation of training hours by the holders of the certificates every twelve (12) months. The training must be reported to the Department, as follows:

(A) For a law enforcement officer who also holds EMD certification; a minimum of four (4) hours of training, specific to the EMD discipline, must be reported annually as required under OAR 259-008-0064.

(B) For a law enforcement officer who also holds Telecommunicator certification, a minimum of twelve (12) hours of training, specific to the Telecommunicator discipline, must be reported annually as required under OAR 259-008-0064.

ADMINISTRATIVE RULES

(C) A minimum of twenty (20) hours of training, specific to each law enforcement discipline in which certification is held, must be reported annually as required under subsections (h) through (l) of this rule.

(d) The same training may be used for more than one discipline if the content is specific to each discipline. It is the responsibility of the agency head to determine if the training is appropriate for more than one discipline.

(e) The maintenance training cycle for law enforcement officers who are certified in more than one discipline begins on July 1st of each year and ends on June 30th the following year.

(f) The employing agency must maintain documentation of all required maintenance training completed.

(g) If reported on an F-6 Course Roster, required maintenance training must be submitted to the Department by June 30th of each year. Training reported on an F-6 will result in credit for training hours. No training hours will be added to a law enforcement officer's record, unless accompanied by an F-6 Course Roster.

(h) On or after July 1 of each year, the Department will identify all law enforcement officers who are deficient in maintenance training according to Department records and provide notification to the individual and his/her employing agency.

(i) Within 30 days of receipt of the notification in (h) above, the agency or individual must:

(A) Notify the Department of the training status of any law enforcement officer identified as deficient in submitting a Form F-15M or F-15T to the Department; and

(B) Submit an F-15M, or F-15T if multi-discipline includes certification as a telecommunicator or emergency medical dispatcher, identifying the maintenance training completed during the previous one (1) year reporting period.

(C) Maintenance training hours reported to the Department on an F-15M or F-15T will be used solely to verify completion of maintenance training requirements and will not be added to an officer's DPSST training record.

(j) Failure to notify the Department of completion of any required training for individuals with identified training deficiencies will result in a notification of recall letter being sent to the agency head and the officer.

(k) The Department will recall a law enforcement officer's certification for:

(A) Failure to complete or report any required maintenance training identified in section (c) above on or before June 30th of each year; or

(B) Failure to submit a Form F-15M or F-15T within 30 days after a warning notification letter has been sent.

(l) A law enforcement officer with a recalled certification is prohibited from being employed in any position that has been recalled.

(m) Upon documentation of compliance with subsection (i) of this rule, a law enforcement officer may reapply for single or multi-discipline certification as outlined by this rule.

(19) Certificates Are Property of Department. Certificates and awards are the property of the Department, and the Department shall have the power to revoke or recall any certificate or award as provided in the Act.

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

Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654, 181.665
Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055, PS 1-1990, f. & cert. ef. 2-7-90; PS 1-1995, f. & cert. ef. 3-30-95, PS 2-1995, f. & cert. ef. 9-27-95; PS 7-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 6-1999, f. & cert. ef. 7-29-99; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 21-2002, f. & cert. ef. 11-21-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 2-2008, f. & cert. ef. 1-15-08; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 22-2008, f. & cert. ef. 12-29-08; DPSST 4-2009, f. & cert. ef. 4-8-09; DPSST 1-2010, f. & cert. ef. 1-11-10; DPSST 2-2010, f. & cert. ef. 3-15-10; DPSST 4-2010, f. & cert. ef. 6-2-10

259-030-0000

Director

(1)(a) The Director of the Department shall be appointed by and hold office at the pleasure of the Governor pursuant to the provisions of ORS 181.635.

(b) The person appointed as Director may be selected from candidates recommended to the Governor by the Board. The candidates shall be well qualified by training and experience to perform the functions of the office.

(c) An appointed Director of the Department shall receive such salary as is provided by law or, if not so provided, as is fixed by the Governor.

(d) The Board shall annually evaluate the Director's implementation of policies, standards and minimum requirements for public safety certifications and training, reporting to the Governor the results of the evaluation.

(2) Duties and Authority:

(a) The Director, with the approval of the Governor and after consulting the Board for advice, shall organize and reorganize the Department in the manner the Director considers necessary to conduct the work of the Department properly.

(b) The Director shall be responsible to the Governor for the administration and management of the agency's activities and operation of the Oregon Public Safety Academy.

(c) With the approval of the Governor, the Director may appoint a Deputy Director, who shall serve at the pleasure of the Director, not be subject to the State Personnel Relations Law and have full authority to act for the Director, subject to the control of the Director. The appointment of the Deputy Director shall be by written order, filed with the Secretary of State.

(d) The Director, or the Director's designee, shall serve as Executive Secretary to the Board, but shall not be a member of the Board.

(e) The Director, subject to applicable provisions of the State Personnel Relations Law, shall appoint all subordinate officers and employees of the Department, prescribe their functions and fix their compensation.

Stat. Auth.: ORS 181.635 & 181.640

Stats. Implemented: ORS 181.635 & 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1981, f. 9-26-81, ef. 11-2-81; Renumbered from 259-010-0090, PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 4-2010, f. & cert. ef. 6-2-10

Rule Caption: Update Oregon fire certification standards.

Adm. Order No.: DPSST 5-2010

Filed with Sec. of State: 6-11-2010

Certified to be Effective: 6-14-10

Notice Publication Date: 3-1-2010

Rules Amended: 259-009-0005, 259-009-0062

Subject: Includes definitions for Fire Apparatus and Driver to reflect changes as outlined in NFPA standards, and to adopt 2009 NFPA 1002 Fire Apparatus Driver/operator standard.

Rules Coordinator: Marilyn Lorange—(503) 378-2427

259-009-0005

Definitions

(1) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.

(2) "Agency Head" means the chief officer of a fire service agency directly responsible for the administration of that unit.

(3) "Board" means the Board on Public Safety Standards and Training.

(4) "Cargo Tank Specialty" means a person who provides technical support pertaining to cargo tank cars, provided oversight for product removal and movement of damaged cargo tanks, and acts as liaison between technicians and outside resources.

(5) "Chief Officer" means an individual of an emergency fire agency at a higher level of responsibility than a company officer. A chief officer supervises two or more fire companies in operations or manages and supervises a particular fire service agency program such as training, communications, logistics, prevention, emergency medical services provisions and other staff related duties.

(6) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including but not limited to vocational or technical education programs or lower division collegiate programs.

(7) "Company Officer" means a fire officer who supervises a company of fire fighters assigned to an emergency response apparatus.

(8) "Content Level Course" is a course that includes an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(9) "Department" means the Department of Public Safety Standards and Training.

(10) "Director" means the Director of the Department of Public Safety Standards and Training.

(11) "Entry Level Fire Fighter" means an individual at the beginning of his/her fire service involvement. During the probationary period an entry

ADMINISTRATIVE RULES

level fire fighter is in a training and indoctrination period under constant supervision by a more senior member of a fire service agency.

(12) "Field Training Officer" means an individual who is authorized by a fire service agency of by the Department to sign as verifying completion of tasks required by task books.

(13) "Fire Company" means a group of fire fighters, usually 3 or more, who staff and provide the essential emergency duties of a particular emergency response apparatus.

(14) "Fire Fighter" is a term used to describe an individual who renders a variety of emergency response duties primarily to save lives and protect property. This applies to career and volunteer personnel.

(15) "Fire Ground Leader" means a Fire Service Professional who is qualified to lead emergency scene operations."

(16) "Fire Inspector" means an individual whose primary function is the inspection of facilities in accordance with the specific jurisdictional fire codes and standards.

(17) "Fire Service Agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, fire protection services.

(18) "Fire Service Professional" means a paid (career) or volunteer fire fighter, an officer or a member of a public or private fire protection agency who is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not include forest fire protection agency personnel.

(19) "Fire Training Officer" means a fire service member assigned the responsibility for administering, providing, and managing and/or supervising a fire service agency training program.

(20) "First Responder" means an "Operations Level Responder"

(21) "Hazardous Materials Safety Officer means a person who works within an incident management system (IMS) (specifically, the hazardous materials branch/group) to ensure that recognized hazardous materials/WMD safe practices are followed at hazardous materials/weapons of mass destruction (WMD) incidents.

(22) "Hazardous Materials Technician" means a person who responds to hazardous materials/weapons of mass destruction (WMD) incidents using a risk-based response process by which they analyze a problem involving hazardous materials/weapons of mass destruction (WMD), select applicable decontamination procedures, and control a release using specialized protective and control equipment.

(23) "Incident Commander" (IC) means a person who is responsible for all incidents activities, including the development of strategies and tactics and the ordering and release of resources.

(24) "Intermodal Tank Specialty" means a person who provides technical support pertaining to intermodal tanks, provided oversight for product removal and movement of damaged intermodal tanks, and acts as a liaison between technicians and outside resources.

(25) "Marine Tank Vessel Specialty" means a person who provides technical support pertaining to marine tank vessels, provided oversight for product removal and movement of damaged marine tank vessels, and acts as a liaison between technicians and outside resources.

(26) "NFPA" stands for National Fire Protection Association which is a body of individuals representing a wide variety of professions, including fire protection, who develop consensus standards and codes for fire safety by design and fire protection agencies.

(27) "NFPA Aircraft Rescue and Fire-Fighting Apparatus" means a Fire Service Professional who has met the requirements of Fire Fighter II as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4, NFPA Airport Fire Fighter as specified in NFPA 1003 and the job performance requirements defined in NFPA 1002 Sections 9.1 and 9.2.

(28) "NFPA Airport Firefighter" means a member of a Fire Service Agency who has met job performance requirements of NFPA Standard 1003.

(29) "NFPA Apparatus Equipped with an Aerial Device" means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 6.1 and 6.2.

(30) "NFPA Apparatus Equipped with a Tiller" means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4, Apparatus Equipped with an Aerial Device as specified in NFPA

1002 Chapter 6 and the job performance requirements defined in NFPA 1002 Sections 7.2.

(31) "NFPA Apparatus Equipped with Fire Pump" means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 5.1 and 5.2.

(32) "NFPA Fire Apparatus Driver/Operator" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1002, Chapter 4 sections 4.2 and 4.3.

(33) "NFPA Fire Fighter I" means a member of a fire service agency who has met the Level I job performance requirements of NFPA standard 1001. Sometimes referred to as a journeyman fire fighter.

(34) "NFPA Fire Fighter II" means a member of a fire service agency who met the more stringent Level II job performance requirements of NFPA Standard 1001. Sometimes referred to as a senior fire fighter.

(35) "NFPA Fire Inspector I" means an individual who conducts basic fire code inspections and has met the Level I job performance requirements of NFPA Standard 1031.

(36) "NFPA Fire Inspector II" means an individual who conducts complicated fire code inspections, reviews plans for code requirements, and recommends modifications to codes and standards. This individual has met the Level II job performance requirements of NFPA standard 1031.

(37) "NFPA Fire Inspector III" means an individual at the third and most advanced level of progression who has met the job performance requirements specified in this standard for Level III. The Fire Inspector III performs all types of fire inspections, plans review duties, and resolves complex code-related issues.

(38) "NFPA Fire Investigator" means an individual who conducts post fire investigations to determine the cause and the point of origin of fire. This individual has met the job performance requirements of NFPA Standard 1033.

(39) "NFPA Fire Officer I" means the fire officer, at the supervisory level, who has met the job performance requirements specified in NFPA 1021 Standard Fire Officer Professional Qualifications. (Company officer rank)

(40) "NFPA Fire Officer II" means the fire officer, at the supervisory/managerial level, who has met the job performance requirements in NFPA Standard 1021. (Station officer, battalion chief rank)

(41) "NFPA Fire Officer III" means the fire officer, at the managerial/administrative level, who has met the job performance requirements in NFPA Standard 1021. (District chief, assistant chief, division chief, deputy chief rank)

(42) "NFPA Fire Officer IV" means the fire officer, at the administrative level, who has met the job performance requirements in NFPA Standard 1021. (Fire Chief)

(43) NFPA Instructor I means a fire service instructor who has demonstrated the knowledge and ability to deliver instruction effectively from a prepared lesson plan, including instructional aids and evaluation instruments; adapt lesson plans to the unique requirements of the students and authority having jurisdiction; organize the learning environment so that learning is maximized; and meet the record-keeping requirements of authority having jurisdiction.

(44) NFPA Instructor II means a fire service instructor who, in addition to meeting Instructor I qualifications, has demonstrated the knowledge and ability to develop individual lesson plans for a specific topic including learning objectives, instructional aids, and evaluation instruments; schedule training sessions based on overall training plan of authority having jurisdiction; and supervise and coordinate the activities of other instructors.

(45) NFPA Instructor III means a fire service instructor who, in addition to meeting Instructor II qualifications, has demonstrated the knowledge and ability to develop comprehensive training curricula and programs for use by single or multiple organizations; conduct organization needs analysis; and develop training goals and implementation strategies.

(46) "NFPA Marine Land-Based Fire Fighter" means a member of a fire service agency who meets the job performance requirements of NFPA 1005.

(47) NFPA Mobile Water Supply Apparatus" means a Fire Service Professional who has met the requirements of Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 10.1 and 10.2.

(48) "NFPA Wildland Fire Apparatus" means a Fire Service Professional who has met the requirements of Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 8.1 and 8.2.

ADMINISTRATIVE RULES

(49) "Operations Level Responder" means a person who responds to hazardous materials/weapons of mass destruction (WMD) incidents for the purpose of implementing or supporting actions to protect nearby persons, the environment, or property from the effects of the release.

(50) "Service Delivery" means to be able to adequately demonstrate, through job performance, the knowledge, skills, and ability of a certification level.

(51) "Staff" means those employees occupying full-time, part-time, and/or temporary positions with the Department.

(52) "Tank Car Specialty" means a person who provides technical support pertaining to tank cars, provided oversight for product removal and movement of damaged tank cars, and acts as a liaison between technicians and outside resources.

(53) "Task Performance" means to be able to demonstrate the ability to perform the tasks, of a certification level, in a controlled environment while being evaluated.

(54) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.705).

(55) "Topical Level Course" is a course that does not include an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(56) "Track" means a field of study required for certification.

(57) "Waiver" means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006, f. & cert. ef. 7-7-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 12-2009, f. & cert. ef. 10-15-09; DPSST 16-2009(Temp), f. & cert. ef. 12-15-09 thru 6-11-10; DPSST 5-2010, f. 6-11-10, cert. ef. 6-14-10

259-009-0062

Fire Service Personnel Certification

(1) A fire service professional affiliated with an Oregon fire service agency may be certified by satisfactorily completing the requirements specified in section (2) of this rule: through participation in a fire service agency training program accredited by the Department; or through a course certified by the Department; or by evaluation of experience as specified in OAR 259-009-0063. The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance Evaluations (TPE) if applicable.

(2) The following standards for fire service personnel are hereby adopted by reference:

(a) The provisions of the NFPA Standard 1001, 2008 Edition, entitled "Fire Fighter Professional Qualifications";

(A) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.

(B) Delete section 1.3.1.1.

NOTE: This references NFPA 1500.

(C) Delete section 2.2.

NOTE: This references NFPA 1500 and 1582.

(D) Entry Level Fire Fighter means an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard 1403, 1997 Edition, entitled "Live Fire Training Evolutions" and the applicable safety requirements adopted by OR-OSHA. An individual trained to this level and verified so by the agency head is qualified to perform live-fire training exercises and to perform on the emergency scene under constant supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.

(E) Before an applicant can qualify for certification, the applicant must complete either a Task Performance Evaluation or a Department approved Task Book for Fire Fighter I and Fire Fighter II, signed off by the Agency Head or Training Officer.

(b) The provisions of the NFPA Standard 1002, 2009 Edition, entitled "Standard for Fire Apparatus Driver/Operator Professional Qualifications," are adopted subject to the following definitions and modifications hereinafter stated:

(A) 5.1 General. The job performance requirements defined in Sections 5.1 and 5.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Pumper.

(B) 6.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 6.1 and 6.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aerial.

(C) 7.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department

and the job performance requirements defined in Sections 7.1 and 7.2 must be met prior to certification as a Fire Service Agency Driver/Operator-Tiller.

(D) 8.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 8.1 and 8.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Wildland Fire Apparatus.

(E) 9.1 General. The requirements of NFPA 1001 Fire Fighter II and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 9.1 and 9.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aircraft Rescue and Fire Fighting Apparatus (ARFF).

(F) 10.1 General. The requirements of NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 10.1 and 10.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Mobile Water Supply Apparatus.

(G) Delete "the requirements of NFPA 1500, Standard on Fire Department Occupational Safety and Health Program".

(H) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for: Driver, Pumper Operator, Aerial Operator, Tiller Operator, Wildland Fire Apparatus Operator, Aircraft Rescue and Fire-Fighting Apparatus Operator or Mobile Water Supply Apparatus Operator and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(c) The provisions of the NFPA Standards 1003, 2005 Edition, entitled "Standard for Airport Fire Fighter Professional Qualifications,"

(A) 6.1 General. Prior to certification as a Fire Service Agency NFPA 1003 Airport Fire Fighter, the requirements of NFPA 1001 Fire Fighter II and NFPA 1002 Aircraft Rescue and Fire Fighting Apparatus Operator (ARFF), as specified by the Department, and the job performance requirements defined in sections 6.1 through 6.4 must be met.

(B) All applicants for certification must complete either a Task Performance Evaluation or a Department-approved Task Book for: Airport Fire Fighter and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(d) The provisions of NFPA Standard 1005, 2007 Edition, entitled "Marine Fire Fighting for Land Based Fire Fighters Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.

(B) Delete section 2.2.

NOTE: This references NFPA 1500.

(C) Delete sections of 2.4.

NOTE: This references NFPA 1000, NFPA 1081, NFPA 1405, NFPA 1670 and NFPA 1710.

(D) 5.1 General. Prior to certification as a Fire Service Agency NFPA 1005 Marine Land-Based Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department.

(E) All applicants for certification must complete a Department approved Task Book for: Marine Fire Fighting for Land Based Fire Fighters and signed off by the Agency Head or Training Officer before an applicant can qualify for certification. (c) The provisions of the NFPA Standards 1003, 2005 Edition, entitled "Standard for Airport Fire Fighter Professional Qualifications,"

(A) 6.1 General. Prior to certification as a Fire Service Agency NFPA 1003 Airport Fire Fighter, the requirements of NFPA 1001 Fire Fighter II and NFPA 1002 Aircraft Rescue and Fire Fighting Apparatus Operator (ARFF), as specified by the Department, and the job performance requirements defined in sections 6.1 through 6.4 must be met.

(B) All applicants for certification must complete either a Task Performance Evaluation or a Department-approved Task Book for: Airport Fire Fighter and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(d) The provisions of NFPA Standard 1005, 2007 Edition, entitled "Marine Fire Fighting for Land Based Fire Fighters Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.

(B) Delete section 2.2.

NOTE: This references NFPA 1500.

(C) Delete sections of 2.4.

NOTE: This references NFPA 1000, NFPA 1081, NFPA 1405, NFPA 1670 and NFPA 1710.

ADMINISTRATIVE RULES

(D) 5.1 General. Prior to certification as a Fire Service Agency NFPA 1005 Marine Land-Based Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department.

(E) All applicants for certification must complete a Department approved Task Book for: Marine Fire Fighting for Land Based Fire Fighters and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(F) Transition Phase:

(i) An application for certification in Marine Fire Fighting for Land Based Fire Fighters must be submitted to the Department no later than June 30, 2009 to receive consideration for certification without having to complete a task book.

(ii) All applications received on or after July 1, 2009, will need to show completion of the approved task book.

(e) The provisions of the NFPA Standard No. 1031, Edition of (2009), entitled "Professional Qualifications for Fire Inspector and Plan Examiner" are adopted.

(A) All applicants for certification as an NFPA Fire Inspector I must:

(i) Successfully complete a Department approved Task Book; and

(ii) Furnish proof that they have passed an exam demonstrating proficiency in the model fire code adopted by the State of Oregon or an equivalent.

(B) All applicants for certification as an NFPA Fire Inspector II must:

(i) Hold a certification as a Fire Inspector I; and

(ii) Successfully complete a Department approved Task Book.

(C) All applicants for certification as an NFPA Fire Inspector III must:

(i) Hold a certification as a Fire Inspector II; and

(ii) Successfully complete a Department approved Task Book.

(D) Task books must be monitored by a Field Training Officer approved by the Department. The Field Training Officer must be certified at or above the level being monitored and have at least five (5) years inspection experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department staff.

(f) The provisions of the NFPA Standard No. 1033, Edition of (2009), entitled "Professional Qualifications for Fire Investigator" are adopted subject to the following definitions and requirements:

(A) An individual must successfully complete a Department approved Task Book before the Department will administer a written examination for the Fire Investigator certification level. Exception: Anyone holding a valid IAAI Fire Investigator Certification, National Association of Fire Investigators (NAFI) certification, or Certified Fire Explosion Investigators (CFEI) certification is exempt from taking the Department's Fire Investigator written exam.

(B) A Department approved Field Training Officer must monitor the completion of a Task Book. The Field Training Officer must be certified at or above the level being monitored and have at least five (5) years fire investigation experience. Exception: The Department may approve a Field Training Officers with equivalent training, education and experience.

(g) The provisions of the NFPA Standard No. 1035, Edition of 2000, entitled "Professional Qualifications for Public Fire and Life Safety Educator" are adopted subject to the following definitions and modifications:

(A) Chapter 6 (Six) "Juvenile Firesetter Intervention Specialist I" and Chapter 7 (Seven) "Juvenile Firesetter Intervention Specialist II," Oregon-amended, shall be adopted with the following changes:

(i) Change the following definitions:

(I) 1-4.4 Change the definition of "Assessment" to read: "A structured process by which relevant information is gathered for the purpose of determining specific child or family intervention needs conducted by a mental health professional."

(II) 1-4.11 Change the title of "Fire Screener" to "Fire Screening" and the definition to read "The process by which we conduct an interview with a firesetter and his or her family using state approved forms and guidelines. Based on recommended practice, the process may determine the need for referral for counseling and/or implementation of educational intervention strategies to mitigate effects of firesetting behavior."

(III) 1-4.14 Include "insurance" in list of agencies.

(IV) 1-4.15 Change the definition to read: "...that may include screening, education and referral for assessment for counseling, medical services."

(V) 1-4.16 Change "person" to "youth" and change age from 21 to 18.

(VI) 1-4.17 Add "using state-approved prepared forms and guidelines."

(VII) 1-4.22 Add "...or by authority having jurisdiction."

(VIII) 1-4.24 Add "...or as defined by the authority having jurisdiction."

(ii) Under 6-1 General Requirements, delete the statement, "In addition, the person shall meet the requirements for Public Fire and Life Safety Educator I prior to being certified as a Juvenile Firesetter Intervention Specialist I."

(B) A task book shall be completed prior to certification as a Public Fire and Life Safety Educator I, II or III.

(C) A task book shall be completed prior to certification as a Public Information Officer.

(D) A task book shall be completed prior to certification as a Juvenile Firesetter Intervention Specialist I and II.

(h) The provisions of the NFPA Standard No. 1041, Edition of 1996, entitled "Standard for Fire Service Instructor Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) "Fundamentals of Instruction" shall mean a 16-hour instructor training course for those instructors used for in-house training. This course includes a task book. This course does not lead to certification.

(B) Successfully complete an approved task book for Fire Service Instructor I and II. This requirement is effective for any application for certification after January 4, 2002.

(i) The provisions of the NFPA Standard 1021, 2003 Edition, entitled "Standards for Fire Officer Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) 4.1 General. For certification as Fire Officer I, the candidate must be certified at NFPA 1001 Fire Fighter II, and NFPA 1041 Fire Instructor I, as defined by the Department, and meet the job performance requirements defined in Sections 4.2 through 4.7 of this Standard.

(i) Amend section 4.1.2 General Prerequisite Skills to include college courses or Department approved equivalent courses in the following areas of study: Written Communication, Advanced Speech, Technical Writing/Business Writing, Math, and Physics or Chemistry.

(ii) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for; NFPA Fire Officer I and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) 5.1 General. For certification as NFPA Fire Officer II, the candidate must be certified as NFPA Fire Officer I, as defined by the Department, and meet the job performance requirements defined in Section 5.2 through 5.7 of the Standard.

(i) Amend section 5.1.2 General Prerequisite Skills to include college courses or Department approved equivalent courses in the following areas of study: Psychology or Sociology.

(ii) Amend section 5.3 Community and Government Relations to include State and Local Government or Department approved equivalent courses.

(iii) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for NFPA Fire Officer II, and signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(C) 6.1 General. For certification as NFPA Fire Officer III, the candidate must be certified as a NFPA Fire Officer II, NFPA, NFPA 1041 Fire Instructor II, as defined by the Department, and meet the job performance requirements defined in Sections 6.2 through 6.7 of the Standard. Amend section 6.1 to allow individuals certified as NFPA 1033 Fire Investigator, NFPA 1035 Public Fire and Life Safety Educator, or NFPA 1031 Fire Inspector III to apply for certification without attaining NFPA 1001 Fire Fighter II.

(D) 7.1 General. For certification as NFPA Fire Officer IV the candidate must be certified as NFPA Fire Officer III, as defined by the Department, and meet the job performance requirements in Sections 7.2 through 7.7 of the Standard.

(i) 5-1.2 General Requisite Skill: the ability to effectively apply prerequisite knowledge.

(ii) 5-1.3 Existing Curricula — Advanced Institute Classes which would meet Fire Protection Executive Course Requirements: Master Planning; Advanced Legal Aspects; Advanced Fiscal Management; Local Government and Community Politics; Organizational Psychology; Management Information Systems; Labor Management Relations.

(j) Hazardous Materials Responder (DPSST-P-12 1/96).

(k) Fire Ground Leader.

(A) This is a standard that is Oregon-specific.

(B) An applicant applying for Fire Ground Leader must first be certified as an NFPA Fire Fighter II.

ADMINISTRATIVE RULES

(C) An applicant applying for Fire Ground Leader must document training in seven areas:

- (i) Building Construction: Non-Combustible;
- (ii) Building Construction: Combustible;
- (iii) Incident Safety Officer or Fire Fighter Safety;
- (iv) Managing Water Supplies Operations;
- (v) MCTO — Preparation or PICO;
- (vi) MCTO — Decision Making;
- (vii) MCTO — Tactics or STICO;
- (viii) Incident Command System;
- (ix) Fire Investigation.

(D) A task book must be completed before certification is awarded.

(l) Wildland Interface Fire Fighter, Wildland Interface Engine Boss/Officer, Wildland Strike Team leader, Wildland Division/Group Supervisor (DPSST Wildland Interface Certification Guide, Revised September 2003).

(m) Maritime Fire Service Operator Standards Professional Qualifications (October, 1999) and completion of an approved task book. Historical Recognition:

(A) The application shall be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.

(B) The application must be submitted to the Department no later than October 1, 2004, to receive certification for Maritime Fire Service Operator without having to complete the task book.

(C) All applications received after October 1, 2004, will need to show completion of the approved task book.

(n) Certification guide for Wildland Fire Investigator (August, 2005).

(o) The provisions of the NFPA Standard No. 1006, Edition of 2000, entitled, "Professional Qualifications for Rescue Technician" are adopted subject to the following modifications:

(A) The Authority Having Jurisdiction shall mean the local or regional fire service agency.

(B) Historical Recognition:

(i) Application shall be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.

(ii) The application to use historical recognition shall be submitted to DPSST on or before March 31, 2003.

(C) Instructors:

(i) Curriculum must be certified by DPSST to meet NFPA 1006.

(ii) An instructor delivering training under a fire service agency's accreditation agreement must be a certified technician in that specialty rescue area.

(D) Task Books:

(i) A task book must be completed for each of the six specialty rescue areas applied for.

(ii) Only a certified technician in that specialty rescue area can sign off the task book.

(iii) The requirements in Chapters 2 and 3 need to be met only one time for all six specialty rescue areas.

(p) Urban Search and Rescue.

(A) This is a standard that is Oregon-specific.

(B) The following eleven (11) specialty Urban Search and Rescue (USAR) certifications are adopted:

- (i) Task Force Leader;
- (ii) Safety Officer;
- (iii) Logistics Manager;
- (iv) Rescue Team Manager;
- (v) Rescue Squad Officer;
- (vi) Rescue Technician;
- (vii) Medical Technician;
- (viii) Rigging Technician;
- (ix) Search Team Manager;
- (x) Search Squad Officer;
- (xi) Search Technician.

(C) An applicant applying for any USAR certification(s) must complete the appropriate application(s) attesting to completion of the required training.

(q) The provisions of the NFPA Standard 472, 2008 Edition, entitled "Standard for Hazardous Materials and Weapons of Mass Destruction" are adopted subject to the following definitions and modifications hereinafter stated:

(A) Hazardous Materials Technician: All applicants for certification must first certify as an Operations Level Responder and complete a Department approved Task Book, signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(B) Hazardous Materials Safety Officer: All applicants for certification must first certify as a Hazardous Materials Technician and complete a Department approved Task Book, signed off by the Agency Head or Training Officer, before an applicant can qualify for certification. This certification level includes, but is not limited to, the following course work:

- (i) Analyzing the Incident;
- (ii) Planning the Response;
- (iii) Implementing the Planned Response;
- (iv) Evaluating the Progress.

(C) Incident Commander: The level of certification formerly known as "On-Scene Incident Commander" is now known as "Incident Commander." The Incident Commander correlates directly with NFPA 472. All applicants for certification must first certify as an Operations Level Responder.

(D) Operations Level Responder: The level of certification formerly known as "First Responder" is now known as "Operations Level Responder." The Operations Level Responder correlates directly with NFPA 472. Successful completion of skills sheets or task performance evaluations (TPE) must be met prior to certification as an Operations Level Responder.

(r) Specialty Levels of Certification. All applicants for specialty levels of certification must first certify as a Hazardous Materials Technician.

(A) The following four (4) specialty certifications are adopted:

- (i) Cargo Tank Specialty;
- (ii) Intermodal Tank Specialty;
- (iii) Marine Tank Vessel Specialty;
- (iv) Tank Car Specialty;

(B) Successful completion of task performance evaluations (TPE) must be met prior to obtaining a specialty level of certification.

(3) Task performance evaluations, where prescribed, shall be required prior to certification. Such examinations shall be conducted in the following manner:

(a) Task performance competency shall be evaluated by three people nominated by the employing fire service agency's Chief Officer for approval by the Department or its designated representative.

(b) The employing fire service agency's equipment and operational procedures shall be used in accomplishing the task performance to be tested.

(c) Specific minimum testing procedures, as provided by the Department, shall be used for administration of the evaluation.

(d) The training officer for an accredited fire service agency training program must notify the Department or its designated representative prior to performing a Task Performance Evaluation.

(e) At the request of the fire chief, a representative of the Department will be designated to monitor the task performance evaluation for personnel from a fire service agency whose training program is not accredited.

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 11-2003 f. & cert. ef. 7-24-03; DPSST 13-2003(Temp), f. & cert. ef. 10-27-03 thru 3-31-04; DPSST 3-2004(Temp), f. & cert. ef. 4-9-04 thru 10-1-04; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006 f. & cert. ef. 7-7-06; DPSST 14-2006, f. & cert. ef. 10-13-06; DPSST 16-2006, f. & cert. ef. 11-20-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 12-2009, f. & cert. ef. 10-15-09; DPSST 16-2009(Temp), f. & cert. ef. 12-15-09 thru 6-11-10; DPSST 5-2010, f. 6-11-10, cert. ef. 6-14-10

Rule Caption: Fee increases for private security licensing/certification program.

Adm. Order No.: DPSST 6-2010(Temp)

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 7-1-10 thru 12-27-10

Notice Publication Date:

Rules Amended: 259-060-0500

Subject: Rule amendment provides for select increases in certification/license fees for private security providers, managers and instructors.

Rules Coordinator: Marilyn Lorange—(503) 378-2427

259-060-0500

License Fees

(1) Payments to the Department are non-refundable, and must be paid by business check, money order, cashier's check or credit card. No personal checks or cash will be accepted.

(2) The Department will charge the following fees:

ADMINISTRATIVE RULES

(a) The fee of \$80 for the issuance of each two-year certification as a private security professional.

(b) Appropriate fees must be submitted with each application for a fingerprint criminal history check. These fees are to recover the costs administering the fingerprint check through the Oregon State Police and Federal Bureau of Investigation. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by FBI. Current fee schedules for processing fingerprints may be obtained from the Department.

(c) The fee of \$100 for the issuance of a two-year license as a supervisory manager.

(d) The fee of \$250 for the issuance of a two-year license as an executive manager.

(e) The fee of \$100 for the issuance of a two-year certification as a private security instructor.

(f) The fee of \$20 for the issuance of each upgrade, duplicate or replacement card issued.

(g) The late submission penalty fee of \$25 may be added to the fees for recertification if the provider fails to complete certification by the expiration date of the license or certificate. If an applicant provides documented proof, such as payroll data, that he or she has not been employed to provide private security services since the prior certification or licensure expired, the late penalty may be waived by the Department's designated staff.

(h) In the event a non-sufficient check is received for payment, an additional \$25 administrative fee will be assessed.

Stat. Auth.: ORS 181.878
Stats. Implemented: ORS 181.878
Hist.: PS 1-1997(Temp), f. 2-21-97, cert. ef. 2-24-97; PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 3-2005(Temp), f. 4-25-05, cert. ef. 5-1-05 thru 10-28-05; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 6-2008, f. & cert. ef. 4-15-08; DPSST 6-02010(T), f. 6-14-10, cert. ef. 7-1-10 thru 12-27-10

Department of Revenue Chapter 150

Rule Caption: Definition of "moist snuff" for purposes of weight-based taxation.

Adm. Order No.: REV 7-2010(Temp)

Filed with Sec. of State: 5-27-2010

Certified to be Effective: 6-30-10 thru 12-27-10

Notice Publication Date:

Rules Amended: 150-323.500(9)

Subject: The temporary rule provides that for purposes of determining which tobacco products are subject to tax based on weight under ORS 323.500, the phrase "products containing tobacco" includes leaf tobacco to which other ingredients have been added. The rule modification is proposed in response to a determination from Legislative Counsel Office that the rule as originally adopted does not conform to legislative intent as expressed in HB 2627 (2009). The changes contained in the temporary rule apply to distributions of product that occur after June 30, 2010.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-323.500(9)

Definition of Moist Snuff

(1) The provisions of this temporary rule apply to distributions of tobacco products that occur after June 30, 2010.

(2) For purposes of ORS 323.500 through 323.645, "moist snuff" means:

(a) Any finely cut, ground, milled or powdered tobacco product that is not intended to be smoked or placed in the nasal cavity. It may or may not be contained within small, tea-bag like pouches. Words such as long cut, mid cut, fine cut and snus only describe minor differences of product that fit within this tobacco category.

(b) Any other products containing tobacco that are not intended to be consumed by combustion. Examples include, but are not limited to:

(A) Dissolvable tobacco, which consists of finely-processed tobacco developed in such a way as to allow the substance to dissolve on the tongue or in the mouth and includes strips, sticks, orbs, and compressed tobacco lozenges.

(B) Other chewing tobacco and other leaf tobacco products to which artificial or natural substances have been added during processing. Such substances may include but are not limited to: sweeteners, sugars, molasses, licorice, mint, eucalyptus, tobacco leaf extract, betel nut, catchu, lime, saf-ron, thickeners, humectants, emulsifiers, colorants, texturizers, preservatives, taste enhancers, firming agents, adhesives, and punk ash. Examples include, but are not limited to:

(i) Shredded tobacco leaves, such as those sweetened and packaged loosely in aluminum lined pouches;

(ii) Plug tobacco, such as enriched tobacco leaves flavored and sweetened with licorice and formed into bricks or flat blocks; and

(iii) Twist tobacco, such as tobacco that is spun and rolled into rope-like strands and to which tobacco leaf extract has been added.

Stat. Auth.: ORS 305.100 & 323.575

Stats. Implemented: ORS 323.500

Hist.: REV 7-2009(Temp), f. & cert. ef. 10-7-09 thru 3-31-10; REV 10-2009, f. 12-21-09, cert. ef. 1-1-10; REV 7-2010(Temp), f. 5-27-10, cert. ef. 6-30-10 thru 12-27-10

Department of Transportation Chapter 731

Rule Caption: Procurement Rules Addressing 2009 Legislative Changes for Public Contracting.

Adm. Order No.: DOT 1-2010

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-18-10

Notice Publication Date: 4-1-2010

Rules Amended: 731-005-0410, 731-005-0470, 731-005-0670, 731-007-0210, 731-007-0260, 731-007-0290, 731-146-0010, 731-147-0010, 731-148-0010, 731-149-0010

Rules Repealed: 731-005-0410(T), 731-005-0470(T), 731-005-0670(T), 731-007-0210(T), 731-007-0260(T), 731-007-0290(T), 731-146-0010(T), 731-147-0010(T), 731-148-0010(T), 731-149-0010(T)

Subject: The 2009 Oregon Legislature passed bills affecting public procurements of goods and services, including HB 2867 (Ch 880 OL 2009) and SB 479 (Ch 235 OL 2009). ODOT has permanently adopted the Attorney General's model public contracting rules as well as changes to OAR 731, divisions 005 and 007. The changes reflect the requirements related to contracting with disabled veterans, revisions to clarify several defined terms (see OAR Chapter 137, Division 46); revisions to implement HB 2867, including feasibility and cost analysis, good cause for not requiring contractors to meet highest performance standards, consequences of contractors failing to meet performance standards, provisions dealing with Competitive Sealed Bidding and Proposals, Procedures for Competitive Range and Discussions and Negotiations for Multi-tiered and Multistep Proposals, Small Procurements, Bids or Proposals as Offers, Late Offers, Late Withdrawals and Late Modifications, Prequalification of Prospective Offerors, Pre-negotiation of Contract Terms and Conditions, Offer Evaluation and Award, Availability of Award Decisions, Amendments to Contracts and Price Agreements, revisions to simplify and clarify other provisions (see OAR Chapter 137, Division 47); 2009 legislative changes affecting procurements of Architectural, Engineering and Land Surveying Services and Related Services, including, Applicable Selection Procedures, Pricing Information, Disclosure of proposals, increase in the small estimated fee amount to \$50,000, revisions to clarify the defined terms "Procurement" and "Consultant" and to simplify several provisions (see OAR Chapter 137, Division 48); providing clarity regarding when the first-tier subcontractor disclosure form is required, requirements for determining an Offeror's responsibility, form and manner of withholding retainage and other clarifications to existing rules (see OAR Chapter 137, Division 49.)

Rules Coordinator: Lauri Kunze—(503) 986-3171

731-005-0410

Effective Date

OAR 731-005-0400 through 731-005-0790 as amended become effective on January 1, 2010 and apply to Public Improvement Contracts first advertised, but if not advertised then entered into, on or after January 1, 2010.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065
Stats. Implemented: ORS 279A.005 & Sec. 335 & 337, Ch. 794, OL 2003
Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 5-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DOT 1-2010, f. & cert. ef. 5-18-10

731-005-0470

Solicitation Methods

(1) Policy. It is the policy of the State of Oregon to encourage open and impartial competition in public contracting. ODOT may establish Competition by comparing price, product and service quality, product performance, and an Entity's ability to perform, technical competence and ability to make timely deliveries. ODOT must make every effort to construct Public Improvements at the least cost to ODOT.

(2) Solicitation Methods. ODOT may encourage meaningful competition through a variety of solicitation methods. ODOT shall choose the solicitation method that is most likely to encourage Offers representing optimal value to ODOT:

(a) ODOT may use an Invitation to Bid if ODOT believes it will receive optimal value by selecting the lowest priced Offer that meets the technical requirements of ODOT's Specifications;

(b) ODOT may use a Request for Proposal if ODOT believes it will receive optimal value:

(A) By selecting an Offer using both price and non-price related factors; or

(B) By selecting an Offer using both price and non-price related factors and permitting negotiations pursuant to OAR 731-005-0650.

(c) ODOT may permit negotiations under a Request for Proposal pursuant to OAR 731-005-0650 if:

(A) ODOT intends to consider alternative terms and conditions to reduce Agency cost or enhance the value of the product or service requested; or

(B) ODOT finds negotiation is required to effect a successful procurement (e.g. the Specifications are complex and ODOT expects numerous queries as to the proper interpretation of the Specification; the Work requires a high level of technical or managerial competence that cannot be defined adequately in the Specifications; or ODOT believes negotiations are necessary to gauge the Proposer's understanding of complex Specifications).

(3) Solicitation Documents. The Solicitation Document shall include the following:

(a) General Information:

(A) Notice of any pre-Offer conference as follows:

(i) The time, date and location of any pre-Offer conference;

(ii) Whether attendance at the conference will be mandatory or voluntary; and

(iii) That statements made by ODOT's representatives at the conference are not binding upon ODOT unless confirmed by Written Addendum.

(B) The deadline for submitting mandatory prequalification applications and the class or classes of Work for which Offerors must be prequalified if prequalification is a requirement;

(C) The name and title of the authorized Agency person designated for receipt of Offers and contact person (if different);

(D) Instructions and information concerning submission requirements including the address of the office to which Offers must be delivered and any other special information, e.g., whether Offers may be submitted by Facsimile, Electronic Data Interchange or Electronic Procurement (See OAR 731-005-0500, 731-005-0505 and 731-005-0510 for required provisions for Facsimile, Electronic Data Interchange or Electronic Procurement);

(E) The time, date and place of Opening;

(F) The time and date of Closing after which ODOT will not accept Offers, which time shall be not less than five Days after the date of the last publication of the advertisement. The interval between the date of issuance of the Solicitation Document and a Closing should not be less than 14 Days for an ITB and not less than 30 Days for an RFP unless ODOT finds a shorter interval is in the public's interest. If ODOT is issuing an ITB that may result in a Contract for a Public Improvement with a value in excess of \$75,000, ODOT shall not designate a time of Closing that falls when ODOT is closed to the public or after 12 noon on Friday (see also, OAR 731-007-0260; for timing issues relating to Addenda see OAR 731-005-0580(3));

(G) The form and submission of Offers and any information required therein, including Bid or Proposal security, if any;

(H) The office where the plans and Specifications for the Work or goods may be reviewed;

(I) A statement that each Offeror to an ITB or RFP must identify whether the Bidder or Proposer is a "resident bidder," as defined in ORS 279A.120;

(J) If the Contract resulting from a Solicitation will be a Contract for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a), a statement that no Offer will be received or considered by ODOT unless the Offer contains a statement by the Offeror as a part of its Offer that "Contractor agrees to be bound by and will comply with the provisions of ORS 279C.830 or 40 U.S.C. 276a;"

(K) If the Work so requires, a statement that ODOT will not receive or consider an Offer from an Entity when the Entity is not registered with the Construction Contractors Board or is not licensed by the State Landscape Contractors Board as required by ORS 671.530;

(L) Whether a Contractor or a subcontractor under the Contract must be licensed under ORS 468A.720;

(M) Contractor's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110. (See OAR 731-005-0670(3)); and

(N) How ODOT will notify Offerors of Addenda and how ODOT will make Addenda available. See OAR 731-005-0580.

(b) Agency Need. The character of the Work or goods ODOT is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements;

(c) Evaluation process:

(A) A statement that ODOT may reject any Offer not in compliance with all prescribed solicitation bidding procedures and requirements and other applicable laws, including the requirement to demonstrate the Bidder's responsibility under ORS 279C.375(3)(b), and that ODOT may reject for good cause any or all Offers after finding that doing so is in the public interest;

(B) The anticipated solicitation schedule, deadlines, protest process, and evaluation process, if any;

(C) Evaluation criteria, including the relative value applicable to each criterion, that ODOT will use to determine the Responsible Bidder with the lowest Responsive Bid or the Responsible Proposer with the best Responsive Proposal and the evaluation criteria ODOT will use to determine acceptability of any Work or goods to be purchased:

(i) If Contract award is to be based upon low Bid, ODOT shall set forth objective evaluation criteria in the Solicitation Document. Examples of such criteria that may be used in determining low Bid include, but are not limited to, conversion costs, transportation cost, volume weighing, trade-in allowances, cash discounts, depreciation allowances, cartage penalties, ownership or life-cycle cost formulas, performance history on other private and public Contracts, experience of key personnel, adequacy of equipment and physical plant, financial wherewithal, sources of supply, references and warranty provisions. Evaluation criteria need not be precise predictors of actual future costs. However, to the extent possible, such evaluation factors shall be reasonable estimates based upon information ODOT has available concerning future use;

(ii) If the Solicitation Document is a Request for Proposal, ODOT shall set forth selection criteria in the Solicitation Document. Examples of evaluation criteria include price or cost, quality of a product or service, past performance, management, capability, personnel qualification, prior experience, compatibility, reliability, operating efficiency, expansion potential, experience of key personnel, adequacy of equipment or physical plant, financial wherewithal, sources of supply, references and warranty provisions. Evaluation factors need not be precise predictors of actual future costs and performance, but to the extent possible, such factors shall be reasonable estimates based on information available to ODOT; or

(iii) If the Solicitation Document is a Request For Proposal and ODOT is willing to negotiate terms and conditions of the Contract, ODOT must identify the specific terms and conditions in the Solicitation Document that are subject to negotiation and authorize Offerors to propose certain alternative terms and conditions in lieu of the terms and conditions ODOT has identified as authorized for negotiation. ODOT must describe the evaluation and negotiation process in accordance with OAR 731-005-0650, including the Competitive Range; and

(D) Reference to statutory preference for materials and supplies manufactured from recycled materials under ORS 279A.125.

(d) Terms and conditions. ODOT shall include all Contract terms and conditions, including warranties and bonding requirements, ODOT considers necessary. Without limiting the preceding sentence, ODOT must include all applicable Contract provisions required by ORS 279C.500 through 279C.870 as follows:

ADMINISTRATIVE RULES

(A) Payment of all Entities furnishing labor or material, contributions to Industrial Accident Fund, liens and withholding taxes (ORS 279C.505);

(B) If the Contract is for a Public Improvement, a condition that the Contractor shall demonstrate it has established a drug-testing program for its employees;

(C) If the Contract calls for demolition Work described in ORS 279C.510, a condition requiring the Contractor to salvage or recycle construction and demolition debris, if feasible and cost-effective;

(D) If the Contract calls for lawn or landscape maintenance, a condition requiring the Contractor to compost or mulch yard waste material at an approved site, if feasible and cost effective (ORS 279C.510);

(E) Payment of claims by public officers (ORS 279C.515);

(F) Contractor and first-tier subcontractor liability for late payment on Public Improvement Contracts pursuant to ORS 279C.515;

(G) Entity's right to file a complaint with the Construction Contractors Board for all Contracts related to a Public Improvement Contract (ORS 279C.515);

(H) Hours of labor in compliance with ORS 279C.520 and 279C.540;

(I) Environmental and natural resources regulations (ORS 279C.525);

(J) Payment for medical care and providing workers' compensation (ORS 279C.530);

(K) Maximum hours and overtime (ORS 279C.540);

(L) Claims for overtime (ORS 279C.545);

(M) Prevailing wage rates (ORS 279C.800 to 279C.870);

(N) Retainage (ORS 279C.550 through 279C.570);

(O) Prompt payment policy (ORS 279C.570);

(P) Contractor's relations with subcontractors (ORS 279C.580);

(Q) Notice of claim (ORS 279C.605);

(R) With respect to state Agencies, provisions regarding use of recovered resources and recycled materials and to the extent economically feasible, use of recycled paper and PETE products (ORS 279A.150 and 279A.155);

(S) Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385;

(T) A Contract provision substantially as follows: "All employers, including Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements." (ORS 279C.530);

(U) Contractor's certification that all subcontractors performing Work described in ORS 701.005 (i.e., construction Work) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 to 701.055 before the subcontractors commence Work under the Contract; and

(V) Price escalation and de-escalation Contract Provision relating to steel materials. As used in this paragraph, "steel material" includes any steel products used for and permanently incorporated in the construction, reconstruction or major renovation of a road or highway. "Escalation and de-escalation" relate to and shall be applied to the raw steel in the steel materials listed in the Contract Provision.

(e) If federal funds are involved, the federal laws, rules and regulations applicable to the fund requirements shall govern in the event they conflict with a provision required by ORS 279A.120 to 279A.155;

(f) Unless otherwise provided in the Contract, the Contractor shall not assign, sell, dispose of, or transfer rights, nor delegate duties under the Contract, either in whole or in part, without ODOT's prior Written consent. Unless otherwise agreed by ODOT in Writing, such consent shall not relieve the Contractor of any obligations under the Contract. Any assignee or transferee shall be considered the agent of the Contractor and be bound to abide by all provisions of the Contract. If ODOT consents in Writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, shall remain liable to ODOT for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless ODOT otherwise agrees in Writing.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065

Stats. Implemented: ORS 279A.030, 279A.120, 279C.300, 279C.345, 279C.365, 279C.375, 279C.390, 279C.500 - 279C.870, 305.385, 701.005 & 701.055

Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 4-2006, f. & cert. ef. 2-16-06; DOT 4-2007, f. & cert. ef. 5-23-07; DOT 5-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DOT 1-2010, f. & cert. ef. 5-18-10

731-005-0670

Rejection of an Offer

(1) Rejection of an Offer.

(a) ODOT may reject any Offer upon finding that to accept the Offer may impair the integrity of the procurement process or that rejecting the Offer is in the public interest.

(b) ODOT shall reject an Offer upon ODOT's finding that the Offer:

(A) Is contingent upon ODOT's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document;

(B) Takes exception to terms and conditions (including Specifications);

(C) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of Solicitation Document or in contravention of applicable law;

(D) Offers Work or goods that fail to meet the Specifications of the Solicitation Document;

(E) Is late;

(F) Is not in substantial compliance with the Solicitation Documents;

or

(G) Is not in substantial compliance with all prescribed public solicitation procedures.

(c) ODOT shall reject an Offer upon ODOT's finding that the Offeror:

(A) Has not been prequalified under ORS 279C.430 and ODOT required mandatory prequalification;

(B) Has been Disqualified;

(C) Has been declared ineligible under ORS 279C.860 by the Commissioner of Bureau of Labor and Industries has declared and the Contract is for a Public Work;

(D) Is listed as not qualified by the Construction Contractors Board;

(E) Has not met the requirements of ORS 279A.105 if required by the Solicitation Document;

(F) Has not submitted properly executed Bid or Proposal security as required by the Solicitation Document;

(G) Has failed to provide the certification required under section (3) of this rule; or

(H) Is nonresponsible. Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. ODOT uses a prequalification process as described in OAR Chapter 734 Division 10 to determine if a Contractor is responsible. Before awarding a Contract, ODOT must have information that indicates that the Offeror meets the applicable standards of responsibility. To be a Responsible Offeror, ODOT must determine that the Offeror:

(i) Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to demonstrate the capability of the Offeror to meet all contractual responsibilities;

(ii) Has completed previous contracts of a similar nature with a satisfactory record of performance. A satisfactory record of performance means that to the extent the costs associated with and time available to perform a previous contract were within the Offeror's control, the Offeror stayed within the time and budget allotted for the procurement and otherwise performed the contract in a satisfactory manner. ODOT should carefully scrutinize an Offeror's record of Contract performance if the Offeror is or recently has been materially deficient in Contract performance. In reviewing the Offeror's performance, ODOT should determine whether the Offeror's deficient performance was expressly excused under the terms of Contract, or whether the Offeror took appropriate corrective action. ODOT may review the Offeror's performance on both private and public Contracts in determining the Offeror's record of Contract performance. ODOT shall make its basis for determining an Offeror nonresponsible under this paragraph part of the solicitation file;

(iii) Has a satisfactory record of integrity. An Offeror may lack integrity if ODOT determines the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to ODOT. ODOT may find an Offeror nonresponsible based on the lack of integrity of any Entity having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror's performance of the Contract or a parent company, predecessor or successor Entity). ODOT may find an Offeror nonresponsible based on previous convictions of offenses related to obtaining or attempting to obtain a Contract or subcontract or in connection with the Offeror's performance of a contract or subcontract. The standards for Conduct Disqualification under OAR 731-005-0710 may be used to determine an Offeror's integrity. ODOT shall make its basis for determining that an Offeror is nonresponsible under this paragraph part of the solicitation file;

(iv) Is legally qualified to Contract with ODOT; and

ADMINISTRATIVE RULES

(v) Has supplied all necessary information in connection with the inquiry concerning responsibility. If the Offeror fails to promptly supply information requested by ODOT concerning responsibility, ODOT shall base the determination of responsibility upon any available information, or may find the Offeror nonresponsible.

(2) Form of Business Entity. For purposes of this rule, ODOT may investigate any Entity submitting an Offer. The investigation may include that Entity's officers, directors, owners, affiliates, or any other Entity acquiring ownership of the Entity to determine application of this rule or to apply the disqualification provisions of ORS 279C.440 to 279C.450 and OAR 731-005-0710.

(3) Certification of Non-Discrimination. The Offeror shall certify and deliver to ODOT Written certification, as part of the Offer, that the Offeror has not discriminated against minority, women or emerging small business enterprises or against a business enterprise that is owned or controlled by or that employs a disabled veteran as defined in ORS 408.225 in obtaining any required subcontracts.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065
Stats. Implemented: ORS 279A.105, 279A.110, 279C.375 & 279C.395
Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 5-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DOT 1-2010, f. & cert. ef. 5-18-10

731-007-0210

Effective Date

OAR 731-007-0200 through 731-007-0400 as amended become effective on January 1, 2010 and apply to Public Contracts first advertised, but if not advertised then entered into, on or after January 1, 2010.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065
Stats. Implemented: ORS 279A.005 & Sec. 335 & 337, Ch. 794, OL 2003
Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 5-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DOT 1-2010, f. & cert. ef. 5-18-10

731-007-0260

Disclosure and Substitution of First-Tier Subcontractors

(1) Required Disclosure. Within two working hours of the Bid Closing on an ITB for a Public Improvement having a Bid price exceeding \$100,000, a Bidder shall submit to ODOT a disclosure form as described by this rule. The disclosure form shall identify any first-tier subcontractors (those Entities that would be contracting directly with the prime Contractor) that will be furnishing labor or labor and materials on the Contract, if awarded, whose subcontract value would be equal to or greater than:

- (a) Five percent of the total Contract Bid, but at least \$15,000; or
- (b) \$350,000 regardless of the percentage of the total Bid.

(2) Disclosure Deadline and Bid Opening. For each Bid Proposal on ITB to which this rule applies, ODOT shall:

(a) Receive bids until the time identified as Closing time and at the location described in the ITB and immediately thereafter publicly open the bids;

(b) Set the Bid Opening at the time and place identified in the ITB; and

(c) Consider for Contract award only those Bids for which the required disclosure has been submitted by the announced deadline on forms prescribed by the Agency.

(3) Bidder Instructions and Disclosure Form. For the purposes of this rule, ODOT in its solicitation shall:

- (a) Prescribe the disclosure form that must be utilized; and
- (b) Provide instructions in a notice substantially similar to the following:

(A) "Instructions for First-Tier Subcontractor Disclosure. Bidders are required to disclose information about certain first-tier subcontractors (see ORS 279C.370). Specifically, when the Bid of a first-tier subcontractor is greater than or equal to:

- (i) 5% of the project Bid, but at least \$15,000; or
- (ii) \$350,000 regardless of the percentage, you must disclose the following information about that subcontract within two (2) working hours of Bid Closing:

- (aa) The subcontractor's name;
- (bb) The category of work the subcontractor will be performing; and
- (cc) The dollar value of the subcontract.

(B) If you will not be using any subcontractors that are subject to the above disclosure requirements, you are required to indicate "NONE" on the accompanying form.

ODOT MUST REJECT THE BID(S) OF A BIDDER WHO, IF REQUIRED TO SUBMIT THIS DISCLOSURE FORM, FAILS TO SUBMIT THE DISCLOSURE FORM WITH THE REQUESTED INFORMATION BY THE STATED DEADLINE.
(See OAR 731-007-0270).

(4) To determine disclosure requirements, ODOT recommends that you disclose subcontract information for any subcontractor as follows:

(a) Determine the lowest possible Bid. That will be the base Bid amount less all alternate deductive Bid amounts (exclusive of any options that can only be exercised after Bid award).

(b) Provide the required disclosure information for any first-tier subcontractor whose potential Contract services (i.e., subcontractor's base Bid amount plus all alternate additive Bid amounts, exclusive of any options that can only be exercised after Contract award) are greater than or equal to:

- (i) 5% of the lowest Bid amount, but at least \$15,000; or
- (ii) \$350,000, regardless of the percentage. Total all possible Work for each subcontractor in making this determination (e.g., if a subcontractor will provide \$15,000 worth of services on the base Bid and \$40,000 on an additive alternate, then the potential amount of subcontractor's services is \$55,000. Assuming that \$55,000 exceeds 5% of the lowest Bid, provide the disclosure for both the \$15,000 services and the \$40,000 services).

(5) For determination of compliance with the disclosure requirements, ODOT will use the total Bid amount submitted by the contractor as verified by ODOT."

(6) Submission. A Bidder shall submit the disclosure form required by this rule within two working hours of Bid Closing in the manner specified by the ITB.

(7) Late Submission. Compliance with the disclosure and submittal requirements of ORS 279C.370 and this rule is a matter of Responsiveness. Bids that are submitted by Bid Closing, but for which the separate disclosure submittal has not been made by the specified deadline, are not Responsive and shall not be considered for Contract award.

(8) Substitution. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585. ODOT does not have a statutory role or duty to review, approve or resolve disputes concerning such substitutions. However, ODOT is not precluded from making related inquiries or investigating complaints in order to enforce Contract provisions that require compliance generally with laws, rules and regulations.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065
Stats. Implemented: ORS 279C.370 & 279C.585
Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 5-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DOT 1-2010, f. & cert. ef. 5-18-10

731-007-0290

Retainage

(1) Withholding of Retainage. ODOT may retain payment but shall not retain an amount in excess of 5 percent of the Contract Price for Work completed. If the Contractor has performed at least 50 percent of the Contract Work and is progressing satisfactorily or if all Work on a subcontract is complete, upon the Contractor's submission of Written application containing the surety's Written approval, ODOT may, in its discretion, reduce or eliminate retainage on any remaining progress payments. ODOT shall respond in Writing to all such applications within a reasonable time. When the Contract Work is 97-1/2 percent completed, ODOT may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent of the value of the remaining unperformed Contract Work. ODOT may at any time reinstate retainage. Retainage shall be included in the final payment of the Contract Price.

(2) Form of Retainage. Unless a Contracting Agency that reserves an amount as retainage finds in writing that accepting a bond or instrument described in part (a) or (b) of this section poses an extraordinary risk that is not typically associated with the bond or instrument, the Contracting Agency, in lieu of withholding moneys from payment, shall accept from the Contractor:

- (a) Bonds, securities or other instruments that are deposited and accepted as provided in subsection (4)(a) of this rule; or
- (b) A surety bond deposited as provided in subsection (4)(b) of this rule.

(3) Deposit in interest-bearing accounts. ODOT shall deposit cash retainage in an interest-bearing account through the State Treasurer, for the benefit of ODOT. Earnings on such account shall accrue to the Contractor.

(4) Alternatives to cash retainage. In lieu of cash retainage to be held by ODOT, the Contractor may substitute one of the following:

(a) Deposit of bonds, securities and other instruments of the character described in ORS 279C.560(6);

(A) The Contractor may deposit bonds, securities and other instruments with ODOT or in any bank or trust company to be held for the benefit of ODOT. If ODOT accepts the deposit, ODOT shall reduce the cash retainage by an amount equal to the value of the bonds, securities and other

ADMINISTRATIVE RULES

instruments, and reimburse the excess to the Contractor. Interest or earnings on the bonds, securities or other instruments shall accrue to the Contractor.

(B) Bonds, securities and other instruments deposited or acquired in lieu of cash retainage must be of a character approved by the Director of the Oregon Department of Administrative Services, including but not limited to:

- (i) Bills, certificates, notes or bonds of the United States.
- (ii) Other obligations of the United States or agencies of the United States.
- (iii) Obligations of a corporation wholly owned by the Federal Government.
- (iv) Indebtedness of the Federal National Mortgage Association.
- (v) General obligation bonds of the State of Oregon or a political subdivision of the State of Oregon.
- (vi) Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008.

(C) Upon ODOT's determination that all requirements for the protection of ODOT's interests have been fulfilled, it shall release to the Contractor all bonds, securities and other instruments deposited in lieu of retainage.

(b) Deposit of surety bond: ODOT, at its discretion, may allow the Contractor to deposit a surety bond in a form acceptable to ODOT in lieu of all or a portion of funds retained or to be retained. ODOT requires that the first \$10,000 of retainage be held as cash, before the retainage bond takes effect. A Contractor depositing such a bond shall accept surety bonds from its subcontractors and suppliers in lieu of retainage. In such cases, retainage shall be reduced by an amount equal to the value of the bond, and the excess shall be reimbursed.

(5) Recovery of costs. ODOT may recover from the Contractor all costs incurred in the proper handling of retainage, bonds, securities and other instruments, and surety bonds, by reduction of the final payment.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065
Stats. Implemented: ORS 279C.560, 279C.570 & 701.420
Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 5-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DOT 1-2010, f. & cert. ef. 5-18-10

731-146-0010

Application

(1) The Oregon Department of Transportation (ODOT) adopts OAR 137-046-0100 through 137-046-0480 (effective January 1, 2010), the Department of Justice Model Rules, General Provisions Related to Public Contracting including the additional provisions provided in these rules.

(2) Unless the context of a specifically applicable definition in the Code or Model Rules requires otherwise, capitalized terms used in ODOT's public contracting rules (ODOT's Rules) will have the meaning set forth in the division of ODOT's Rules in which they appear, and if not defined there, the meaning set forth in Code or Model Rules.

(3) This rule applies retroactively to January 1, 2010.
Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.030 & 279A.065
Hist.: DOT 3-2005(Temp), f. 2-16-05, cert. ef. 3-1-05 thru 8-27-05; DOT 5-2005, f. & cert. ef. 8-23-05; DOT 5-2006(Temp), f. & cert. ef. 5-25-06 thru 11-20-06; DOT 7-2006, f. & cert. ef. 11-17-06; DOT 5-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DOT 1-2010, f. & cert. ef. 5-18-10

731-147-0010

Application

(1) The Oregon Department of Transportation adopts OAR 137-047-0000 through 137-047-0810 (effective January 1, 2010) with the exception of 137-047-0270(3) and 137-047-0275, the Department of Justice Model Rules, Public Procurements for Goods or Services General Provisions including the additional provisions provided in these rules.

(2) This rule applies retroactively to January 1, 2010.
Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.015
Hist.: DOT 3-2005(Temp), f. 2-16-05, cert. ef. 3-1-05 thru 8-27-05; DOT 5-2005, f. & cert. ef. 8-23-05; DOT 5-2006(Temp), f. & cert. ef. 5-25-06 thru 11-20-06; DOT 7-2006, f. & cert. ef. 11-17-06; DOT 5-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DOT 1-2010, f. & cert. ef. 5-18-10

731-148-0010

Application

(1) The Oregon Department of Transportation adopts OAR 137-048-0100 through 137-048-0320 (effective January 1, 2010), the Department of Justice Model Rules, Consultant Selection: Architectural, Engineering, Land Surveying, and Related Services Contracts including the additional provisions provided in these rules.

(2) This rule applies retroactively to January 1, 2010.
Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065

Hist.: DOT 3-2005(Temp), f. 2-16-05, cert. ef. 3-1-05 thru 8-27-05; DOT 5-2005, f. & cert. ef. 8-23-05; DOT 5-2006(Temp), f. & cert. ef. 5-25-06 thru 11-20-06; DOT 7-2006, f. & cert. ef. 11-17-06; DOT 5-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DOT 1-2010, f. & cert. ef. 5-18-10

731-149-0010

Application

(1) The Oregon Department of Transportation adopts OAR 137-049-0100 through 137-049-0910 (effective January 1, 2010), the Department of Justice Model Rules, General Provisions Related to Public Contracts for Construction Services. The adoption of the Department of Justice Model Rules by this rule does not apply to any contracts that are subject to OAR chapter 731, division 5 or 7.

(2) The Public Improvements Contracts as well as the Public Contracts for ordinary construction Services that are not Public Improvements shall also comply with OAR 731-007-0335.

(3) This rule applies retroactively to January 1, 2010.
Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOT 3-2005(Temp), f. 2-16-05, cert. ef. 3-1-05 thru 8-27-05; DOT 5-2005, f. & cert. ef. 8-23-05; DOT 5-2006(Temp), f. & cert. ef. 5-25-06 thru 11-20-06; DOT 7-2006, f. & cert. ef. 11-17-06; DOT 5-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DOT 1-2010, f. & cert. ef. 5-18-10

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

Rule Caption: Provisions Regarding Administrative Review of a Driver License Suspension, Revocation or Cancellation.

Adm. Order No.: DMV 10-2010

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-18-10

Notice Publication Date: 4-1-2010

Rules Amended: 735-001-0050

Subject: Due to statutory changes regarding when DMV will provide an administrative review, DMV amended OAR 735-001-0050 to reflect those changes and delete two outdated references.

Section (2) amendment: The limited vision condition program is no longer a pilot program and no longer contains a provision for DMV to notify all persons issued a driving privilege under the program of a cancellation effective on June 30, 2008, for which the person was entitled to an administrative review.

Section (5) amendment: Likewise the provision providing an administrative review based on a denial of a certificate of eligibility by the State Health Officer has changed as DMV now employs a Medical Determination Officer and any person denied driving privileges due to a determination by DMV is entitled to a contested case hearing.

Three new sections were added to describe when DMV will provide an administrative review as provided by law. These sections update statutory changes. In addition to those circumstances already described, DMV will provide an administrative review when a hazardous materials endorsement is canceled under ORS 807.173, when there is a lapse in future financial responsibility filings under ORS 809.415(3)(c) and when DMV receives notification from the Federal Highway Safety Administration that a person is disqualified from holding a commercial driver license as an imminent hazard under ORS 809.413(8).

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-001-0050

Administrative Review

In addition to those circumstances specified in ORS 809.140, Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will provide an administrative review of a suspension, revocation, or cancellation action for:

- (1) Failure to install an ignition interlock device under ORS 813.602;
- (2) Failure to complete and pass a security threat assessment required for a hazardous materials endorsement from the federal Transportation Security Administration (TSA) or being assessed as a security threat by TSA under ORS 807.173;
- (3) Notice of violating of an out-of-service order ORS 809.413(7);

ADMINISTRATIVE RULES

(4) Notification from the Federal Motor Carrier Safety Administration that a person is disqualified from operating a commercial motor vehicle as an imminent hazard under ORS 809.413(8);

(5) Failure to pay a judgment under ORS 809.415(1);

(6) A lapse in making future financial responsibility filings under ORS 809.415(3)(c);

(7) Notification from the superintendent of a hospital under ORS 807.700;

(8) A request by a school superintendent or a school district board under ORS 339.254; and

(9) Notice that a person under 18 years of age has withdrawn from school under ORS 339.257.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.440

Stats. Implemented: ORS 809.440

Hist.: MV 27-1991, f. & cert. ef. 12-16-91; DMV 23-2004, f. & cert. ef. 11-17-04; DMV 10-2010, f. & cert. ef. 5-18-10

Department of Transportation, Highway Division Chapter 734

Rule Caption: Tow Hearing Process addressing 2009 legislative changes.

Adm. Order No.: HWD 4-2010

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-18-10

Notice Publication Date: 4-1-2010

Rules Amended: 734-020-0148

Rules Repealed: 734-020-0148(T)

Subject: This rule establishes the hearing process required by changes to agency responsibility for tow hearings in HB 2738 passed by the 2009 Legislature. The change shifted responsibility for abandoned vehicle and hazard vehicle tows from the sheriff's office to the agency responsible for ordering the tow.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-020-0148

Tow Hearing Process

If a vehicle has been taken into custody by The Oregon Department of Transportation (department) in accordance with ORS 819.110 or 819.120, the department shall provide written notice to the owner of the vehicle in accordance with ORS 819.170 or 819.180. The vehicle owner(s), person entitled to possession or any person with an interest recorded on the title of the vehicle, may request a hearing in writing, which must be received by the department at the address identified in the notice, within 5 days (Saturdays, Sundays, and holidays excluded) from the date of the posting or mailing of the notice, to contest the validity of the towing and custody of the vehicle, and subject to subsection 7 below, the reasonableness of the charges for towing and storage. The hearing shall comply with all of the following:

(1) The department shall set a time for the hearing within 72 hours of the receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the owner(s) of the vehicle, and any lessors or security interest holders shown in the department records. The 72 hour period of time does not include Saturdays, Sundays, or Holidays.

(2) Actions taken by department, including conducting the hearing, are not subject to ORS chapter 183; and are therefore, not subject to the Administrative Procedures Act and the hearings are not conducted by the Office of Administrative Hearings.

(3) The department District Manager for the district within which the tow occurred is hereby designated to act as the department's hearings officer. In the event the District Manager is unable or unavailable to conduct the hearing, a department employee shall be designated by the District Manager to act as hearings officer.

(4) The hearing shall be conducted via telephone unless the person requesting the hearing requests other accommodations with justification for the request in which case the hearing shall be held at the District Manager's or the designee's office.

(5) If the District Manager, or designee, determines the towing of the vehicle was invalid, the vehicle shall be immediately released upon payment by the department of the towing and storage fees, which shall occur as quickly as reasonably possible. The person to whom the vehicle is released is not liable for any towing or storage charges. If the towing and storage fee has already been paid, the department shall reimburse the per-

son who paid the fee for the charges upon presentation of satisfactory proof of payment.

(6) If the District Manager, or designee, determines the custody and towing of the vehicle was valid, the department shall order the vehicle to be held in custody until the costs of the hearing and all towing and storage costs are paid by the party claiming the vehicle.

(7) If the person requesting the hearing contests the reasonableness of the charges for towing and storage, the District Manager, or designee, shall consider such request only when the department has used its own personnel, equipment and facilities for the towing and storage of vehicles and shall provide a determination concerning the reasonableness of the department's charges in the written statement of the results of the hearing.

(8) The department shall only conduct one hearing for each vehicle custody and tow even if the person requesting the hearing, or any other interested party or witness fails to appear at the scheduled hearing unless the person provides reasons satisfactory to the District Manager or designee for such failure to appear.

(9) Hearings shall be informal in nature, and the presentation of evidence shall be consistent with the requirements of ORS 183.450.

(10) The District Manager, or designee, shall provide a written statement of the results of the hearing to the person requesting the hearing.

(11) The determination of a hearing is final and is not subject to appeal.

Stat. Authority: ORS 184.616, 184.619, 819.120, Ch. 371 OL 2009

Stats. Implemented: ORS 819.110 - 819.215, Ch. 371 OL 2009

Hist.: HWD 1-2010(Temp), f & cert. ef. 1-28-10 thru 7-19-10; HWD 4-2010, f. & cert. ef. 5-18-10

Department of Veterans' Affairs Chapter 274

Rule Caption: Mediation Communication Confidentiality and Inadmissibility

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

Filed with Sec. of State: 6-1-2010

Certified to be Effective: 6-1-10 thru 11-2-10

Notice Publication Date:

Rules Adopted: 274-007-0001

Subject: OAR 274-007-0001 establishes procedures for the Oregon Department of Veterans' Affairs (ODVA) to make mediation communications confidential and to limit the discovery and admissibility of mediation communications in subsequent proceedings. This rule covers mediation in which ODVA is a party or is mediating a dispute as to which the agency has regulatory authority.

Rules Coordinator: Bruce Craig—(503) 373-2327

274-007-0001

Confidentiality and Inadmissibility of Mediation Communications.

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the "mediator" in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Mediations Excluded. Sections (6)-(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

ADMINISTRATIVE RULES

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential; or

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)-(d), (j)-(l) or (o)-(p) of section (9) of this rule.

(7) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in sections (8)-(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties' agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an "agreement to mediate."

AGREEMENT TO PARTICIPATE IN A CONFIDENTIAL MEDIATION

The Oregon Department of Veterans' Affairs and the parties to the mediation agree to participate in a mediation in which the mediation communications are confidential and/or nondiscoverable and inadmissible to the extent authorized by OAR 274-007-0001(7) and this agreement.

This agreement relates to the following mediation:

To the extent authorized by OAR 274-007-0001(7), mediation communications in this mediation are: (check one or more)

___ Confidential and may not be disclosed to any other person.

___ Not admissible in any subsequent administrative proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent administrative proceeding, or introduced as evidence by the parties or the mediator in any subsequent administrative proceeding.

___ Not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent administrative, judicial or arbitration proceeding, or introduced as evidence by the parties or the mediator in any subsequent administrative, judicial or arbitration proceeding.

Steve: PDF of Table included. You can remove it hear if you like.

Name of Agency: Oregon Department of Veterans' Affairs

Signature of ODVA's authorized representative (if ODVA is a party)

Date

Signature of ODVA employee acting as the mediator (if ODVA is mediating the dispute)

Date

Name of party to the mediation

Signature of party's authorized representative

Date

Name of party to the mediation

Signature of party's authorized representative

Date

(9) Exceptions to confidentiality and inadmissibility.

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation.

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation; or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation; or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) Attorney work product prepared in anticipation of litigation or for trial; or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or

ADMINISTRATIVE RULES

(E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Department of Veterans' Affairs Director or designee determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 30.402 or state or federal law requires the terms to be confidential.

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Auth.: ORS 36.224 & 184.340
Stats. Implemented: ORS 36.224, 36.228, 36.230 & 36.232
Hist.: DVA 1-2010(Temp), f. & cert. ef. 6-1-10 thru 11-2-10

Landscape Contractors Board Chapter 808

Rule Caption: Clarifies a landscape contracting business may only advertise for those phases of landscaping work for which its owners or employees hold a valid landscape construction professional license.

Adm. Order No.: LCB 2-2010

Filed with Sec. of State: 6-1-2010

Certified to be Effective: 6-1-10

Notice Publication Date: 4-1-2010

Rules Amended: 808-002-0885, 808-003-0010, 808-003-0018

Subject: 808-002-0885 – Clarifies a “valid” license as an active license.

808-003-0010 – Does not allow a landscape contracting business to advertise to work outside the scope of the business' license.

808-003-0018 – clarifies how a landscape contracting business must employ the landscape construction professional and moves change of license phase to another rule.

Rules Coordinator: Kim Gladwill-Rowley—(503) 378-5909

808-002-0885

Valid

“Valid,” as used in ORS 671.530 and OAR Chapter 808, means a landscape contracting business license or a landscape construction professional license that is active.

Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.530(1)
Hist.: LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 2-2010, f. & cert. ef. 6-1-10

808-003-0010

Written Advertising

(1) All written advertising, except telephone and internet directory line listings and uniforms, shall include the landscape contracting business license number.

(2) Advertising shall include, but not be limited to:

(a) Newsprint classified advertising and newsprint display advertising for work subject to ORS 671.510 through 671.710;

(b) Telephone or internet directory space ads, display ads and line listings;

(c) Business cards;

(d) Business flyers;

(e) Business letterhead;

(f) Business signs at construction sites; and

(g) Websites.

(3) No person shall advertise under the heading of “landscape contractor” or any other heading that would lead any person to believe the busi-

ness is a landscape contracting business in any advertising media unless the person holds an active landscape contracting business license.

(4) A landscape contracting business that holds a valid license shall not advertise for landscaping work outside the scope of the license.

Stat. Auth.: ORS 183 & 671

Stats. Implemented: ORS 671.530

Hist.: LC 1-1980, f. & ef. 2-5-80; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0012; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 6-2009(Temp), f. & cert. ef. 10-14-09 thru 4-11-10; Administrative correction 4-21-10; LCB 2-2010, f. & cert. ef. 6-1-10

808-003-0018

Supervisory Responsibilities; Employment

(1) The licensed landscape construction professional who holds part or the complete phase basis of the landscape contracting business license must perform the following supervisory services:

(a) Review and initial the landscape plan and written contract for each job;

(b) Attend all on-site meetings and appear at any hearings that are a consequence of any claims filed against the landscape contracting business that relate to the landscape construction professional's phase of license; and

(c) Directly supervise all non-licensed employees employed by the landscape contracting business as defined in OAR 808-002-0328. For the purpose of verification of direct supervision of an unlicensed employee as required by ORS 671.540(15) or (16), the communication requirement of direct supervision will be considered met if the licensed landscape construction professional communicates with the Landscape Contractors Board investigator who requested the unlicensed employee to contact the supervising landscape construction professional before midnight of the same day of the request.

(2) A landscape contracting business must:

(a) require a licensed landscape construction professional to directly supervise the unlicensed employees of the landscape contracting business who are performing work that corresponds to the landscape construction professional's phase of license; and

(b) Have the landscape construction professional who is responsible for supervision as required in subsection (a) of this section on the payroll each hour receiving at least minimum wage or meeting the salary test for salaried exempt employees during the time the landscape contracting business is engaged in landscaping work that corresponds to this landscape construction professional's phase of license except when the landscape construction professional is not considered a subject worker under ORS 656.027.

(3) Upon application for and before the renewal of a landscape contracting business license, and at any other time the board requests, a landscape contracting business must submit:

(a) A completed, signed and notarized Verification form (provided by the board) for every licensed landscape construction professional for whom the landscape contracting business has not previously submitted this Verification form and who is supervising work for the landscape contracting business;

(b) A copy of the landscape construction professionals current pay stub issued by the landscape contracting business if the landscape construction professional is a paid employee with the social security number and dollar amounts redacted or blackened out; and

(c) A Verification form when a new landscape construction professional becomes part or the complete basis of the landscape contracting business license.

(4) The Verification form verifies that the licensed landscape construction professional:

(a) Is a paid employee of the landscape contracting business and is on the payroll each hour receiving at least minimum wage or meets the salary test for salaried, exempt employees or is an owner of the business as defined in OAR 808-002-0734 during the time the business is performing landscape work related to the landscape construction professional's phase of license;

(b) Will directly supervise work based on the landscape construction professional's phase of license;

(c) Will attend on site meetings and appear at any hearings that are a consequence of any claims filed against the landscape contracting business that relate to the landscape construction professional's phase of license; and

(d) Understands the requirement to notify the board within ten calendar days after termination of employment from the landscape contracting business.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.565

Hist.: LCB 2-1998, f. & cert. ef. 4-30-98; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 2-2006, f. 8-2-06, cert. ef. 10-2-06; LCCB 3-2007, f. & cert. ef. 8-1-07; LCB 4-2007, f. 12-19-

ADMINISTRATIVE RULES

07, cert. ef. 1-1-08; LCB 3-2008, f. & cert. ef. 4-11-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08; LCB 10-2008, f. & cert. ef. 11-6-08; LCB 2-2010, f. & cert. ef. 6-1-10

Rule Caption: Updates civil penalties; clarifies hours and documentation for continuing education.

Adm. Order No.: LCB 3-2010

Filed with Sec. of State: 6-1-2010

Certified to be Effective: 6-1-10

Notice Publication Date: 4-1-2010

Rules Amended: 808-005-0020, 808-040-0060

Subject: 808-005-0020 – Updates civil penalties to include penalty for failure to submit complete continuing education documentation and failure to complete the hours by the deadline.

808-040-0060 – Clarifies satisfactory documentation of completing the required continuing education.

Rules Coordinator: Kim Gladwill-Rowley — (503) 378-5909

808-005-0020

Schedule of Civil Penalties

Sections 1-4 may be adjusted per the terms of a settlement agreement for the first offense:

(1) Operating as a landscape contracting business in violation of ORS 671.530(1) or (3):

- (a) if the value of the work is \$500 or less; \$500; and
- (b) if the value of the work is more than \$500; \$1,000

(2) Operating as a landscape contracting business in violation of ORS 671.530(1) or (3), when a claim has been filed for damages arising out of that work, \$2,000.

(3) Operating as a landscape construction professional in violation of ORS 671.530(1), \$1,000.

(4) Advertising in violation of ORS 671.530(2), (4), or (5):

- (a) \$500 for the first offense; and
- (b) \$1,000 for subsequent offenses occurring after action taken on first offense.

(5) Advertising for landscaping work outside the scope of the landscape contracting business license in violation of OAR 808-003-0040:

- (a) \$500 for the first offense; and
- (b) \$1,000 for subsequent offenses occurring after action taken on first offense.

(6) Operating as a landscape contracting business in violation of ORS 671.530(1) or (3) when one or more previous violations have occurred after action taken on first offense, \$2,000.

(7) Operating as a landscaping contracting business without having at least one owner or employee who is a licensed landscape construction professional licensed within the phase of work performed, in violation of OAR 808-003-0040 and 808-003-0045:

- (a) \$500 for the first offense; and
- (b) \$1,000 for subsequent offenses occurring after action taken on first offense.

(8) Performing landscaping work while not subject to a written contract or failing to comply with minimum contract standards, in violation of ORS 671.625(2) and OAR 808-002-0020:

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(9) Failure to include the license number in all written advertising, in violation of OAR 808-003-0010:

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(10) Performing work outside the scope of the landscape contracting business license in violation of OAR 808-003-0040:

- (a) \$500 for the first offense; and
- (b) \$1,000 for subsequent offenses occurring after action taken on first offense.

(11) Installation of an irrigation backflow assembly or tapping into the potable water supply in violation of a written agreement with the Board as provided in OAR 808-003-0040, \$1,000 and suspension of the license until Backflow Prevention license is obtained.

(12) Failure to maintain the insurance required by ORS 671.565 or bond or other board accepted surety as required by ORS 671.690 in effect continuously throughout the license period:

- (a) \$200 for the first offense; and

(b) \$500 for subsequent offenses occurring after action taken on first offense.

(13) Failure to conform to information provided on the application in violation of ORS 671.510 to 671.710:

(a) \$500 for the first offense and suspension of the license until the applicant provides the agency with proof of compliance with the statutes and rules; and

(b) \$1,000 for subsequent offenses occurring after action taken on first offense and suspension of the license until the applicant provides the agency with proof of compliance with the statutes and rules.

(14) Failure to comply with any part of ORS Chapters 316, 656, 657, and 671, as authorized by ORS 671.510 to 671.710:

(a) \$500 for the first offense and suspension of the license until the applicant provides the agency with proof of conformance with the application; and

(b) \$1,000 for subsequent offenses occurring after action taken on first offense and suspension of the license until the applicant provides the agency with proof of conformance with the application.

(15) Violating an order to stop work as authorized by ORS 671.510 to 671.710, \$1,000 per day.

(16) Failure to obtain a permit to tap into a potable water supply prior to the installation of an irrigation backflow assembly or failure to comply with applicable plumbing code requirements as required by OAR 808-003-0040(3)(a):

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(17) Failure to obtain the appropriate building code permit(s):

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(18) When as set forth in ORS 671.610(5), the number of licensed landscape contracting businesses working together on the same task on the same job site, where one of the businesses is licensed exempt under ORS 671.525(2)(b), exceeded two sole proprietors, one partnership, one corporation, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows:

- (a) \$1,000 for the first offense;
- (b) \$2,000 for the second offense;
- (c) Six month suspension of the license for the third offense; and
- (d) Three-year revocation of license for a fourth offense.

(19) Failure of a landscape contracting business to notify the board of a change in the landscaping business' phase of license as required by OAR 808-003-0045(4):

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(20) Failure by the landscape construction professional to comply with the supervisory responsibilities as required by OAR 808-003-0018:

- (a) \$200 for the first offense;
- (b) \$500 for the second offense occurring after action taken on first offense; and
- (c) \$1,000 and six month suspension of the license for the third offense.

(21) Failure of the landscape construction professional to notify the Landscape Contractors Board of a change of address or employment in writing or on line at the LCB website as required by ORS 671.603 and OAR 808-003-0045:

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(22) Failure of a landscape contracting business to notify the board of a change in address in writing or on line at the LCB website as required by ORS 671.603:

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(23) Failure of a landscape contracting business to require the landscape construction professional to directly supervise unlicensed employees of the landscaping business performing landscaping work that is related to the landscape construction professional phase of license:

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

ADMINISTRATIVE RULES

(24) Failure of a landscape contracting business to obtain the correct amount of surety bond or irrevocable letter of credit, as required by ORS 671.690(1):

(a) \$500 for the first offense and immediate suspension per ORS 671.610(2) until the proper bond is received in the State Landscape Contractors Board office;

(b) \$1,000 for the second offense occurring after action taken on the first offense and immediate suspension per ORS 671.610(2) until the proper bond is received in the State Landscape Contractors Board office.

(25) Failure to notify the LCB of a new business name (including any new assumed business name) or, in the case of a sole proprietor, any personal surname under which the business is conducted, in violation of OAR 808-003-0020:

(a) \$200 for first offense; and

(b) \$500 for subsequent offenses occurring after action taken on first offense.

(26) Failure to respond to the continuing education audit as required under OAR 808-040-0060(3):

(a) For the first offense:

(A) \$200; and

(B) Suspension of the license until the CEH documentation is received by the agency. For purposes of subsection 26(a) only, if the CEH documentation as required by OAR 808-040-0060(3) is received by the agency on or before the 21st day after the date of the contested case notice, the contested case will be withdrawn without prejudice.

(b) For subsequent offenses occurring after action taken on the first offense:

(A) \$500; and

(B) Suspension of the license until the CEH documentation is received by the agency.

(27) Failure to submit complete documentation as required under OAR 808-004-0060(3), (4), (5) or (6):

(a) For the first offense:

(A) \$200; and

(B) Suspension of the license until the CEH documentation is received by the agency. For purposes of subsection 27(a) only, if the CEH documentation as required by OAR 808-040-0060(3), (4), (5) or (6) is received by the agency on or before the 21st day after the date of the contested case notice, the contested case will be withdrawn without prejudice.

(b) For subsequent offenses occurring after action taken on the first offense:

(A) \$500; and

(B) Suspension of the license until the CEH documentation is received by the agency.

(28) Failure to complete the continuing education hours by the deadline as required under OAR 808-040-0020(1):

(a) For the first offense, \$200; and

(b) For subsequent offenses occurring after action taken on the first offense, \$500.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 671.670

Stats. Implemented: ORS 671.997

Hist.: LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 2-1991(Temp), f. 9-27-91, cert. ef. 9-29-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 4-2003, f. 5-27-03, cert. ef. 6-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 2-2005, f. & cert. ef. 4-5-05; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCCB 3-2007, f. & cert. ef. 8-1-07; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 7-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 3-2008, f. & cert. ef. 4-11-08; LCB 10-2008, f. & cert. ef. 11-6-08; LCB 1-2010, f. & cert. ef. 1-27-10; LCB 3-2010, f. & cert. ef. 6-1-10

808-040-0060

Continuing Education: Audit, Required Documentation

(1) To ensure adequate proof of continuing education course completion is available for audit or investigation by the Landscape Contractors Board the licensees shall maintain a record of attendance for two years following renewal.

(2) The Landscape Contractors Board will audit a select percentage of renewals determined by the Board to verify compliance with continued education hour requirement at intervals determined by the Board.

(3) Licensees notified of selection for audit of continuing education verification shall submit to the agency within 21 calendar days from the date of issuance of the notification, satisfactory documentation of completing the required continuing education outlined in OAR 808-040-0020.

(4) Documentation for a preapproved program or preapproved course provided by any institution, agency, professional organization or association, must be a certificate issued by the program provider and approved by the Landscape Contractors Board which includes:

(a) Name of sponsoring institution/association or organization;

(b) Title of presentation;

(c) Date of attendance;

(d) Type of CEH;

(e) Number of approved CEH; and

(f) Instructor's, presenter's or sponsor's signature or official stamp signifying attendance and completion of the course.

(5) Documentation for independent study course, volunteering and other non-sponsored education must be an approval form issued pursuant to a CEH approval request made by the licensee under OAR 808-040-0050(2).

(6) Documentation for attending an accredited educational institution must be in the form of an official transcript showing the length of the academic term.

(7) The Board may perform an audit on any licensee at any time the board determines necessary to maintain compliance with the CEH requirement.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: Ch. 550 OL 2007

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 1-2010, f. & cert. ef. 1-27-10; LCB 3-2010, f. & cert. ef. 6-1-10

Rule Caption: Clarifies uniforms are not required to include the LCB number, eliminates the fee for a new license card, clarifies bond language.

Adm. Order No.: LCB 4-2010

Filed with Sec. of State: 6-2-2010

Certified to be Effective: 6-2-10

Notice Publication Date: 4-1-2010

Rules Amended: 808-003-0010, 808-003-0130, 808-003-0610

Subject: 808-003-0010 – clarifies that uniforms are not required to include the landscape contracting business license number.

808-003-0130 – Eliminates the requirement for a licensee to pay a fee when a new card is required to be issued.

808-003-0610 – Clarifies bonds effective January 1, 2010 should state “landscape contracting business”; not “contractor”.

Rules Coordinator: Kim Gladwill-Rowley—(503) 378-5909

808-003-0010

Written Advertising

Advertising:

(1) All written advertising, except telephone and internet directory line listings and uniforms, shall include the landscape contracting business license number.

(2) Advertising shall include, but not be limited to:

(a) Newsprint classified advertising and newsprint display advertising for work subject to ORS 671.510 through 671.710;

(b) Telephone or internet directory space ads, display ads and line listings;

(c) Business cards;

(d) Business flyers;

(e) Business letterhead;

(f) Business signs at construction sites; and

(g) Websites.

(3) No person shall advertise under the heading of “landscape contractor” or any other heading that would lead any person to believe the business is a landscape contracting business in any advertising media unless the person holds an active landscape contracting business license.

(4) A landscape contracting business that holds a valid license shall not advertise for landscaping work outside the scope of the license.

Stat. Auth.: ORS 183 & 671

Stats. Implemented: ORS 671.530

Hist.: LC 1-1980, f. & ef. 2-5-80; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0012; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 6-2009(Temp), f. & cert. ef. 10-14-09 thru 4-11-10; Administrative correction 4-21-10; LCB 2-2010, f. & cert. ef. 6-1-10; LCB 4-2010, f. & cert. ef. 6-2-10

808-003-0130

Fees

(1) Initial license or renewal of active license:

(a) Landscape contracting business, \$260.

(b) Landscape construction professional, \$95.

(2) Renewal of inactive license

(a) Landscape contracting business, \$260.

(b) Landscape construction professional, \$95.

(3) Late penalty fee:

ADMINISTRATIVE RULES

- (a) Landscape contracting business, \$35.
- (b) Landscape construction professional, \$35.
- (4) Landscape Construction Professional License Application fee: \$100.

- (5) Landscape Contracting Business License Application fee: \$150.
- (6) Probationary Landscape Construction Professional License Application: \$75.

- (7) Owner or Managing Employee Application fee: \$60.
- (8) Request from license holder for a license card: \$20.
- (9) Reinstatement of suspended license: \$30.
- (10) If a landscape construction professional license expires, the amount to be paid for reinstatement equals the required fee for each year of lapse (up to two years) plus a late penalty fee for each year.
- (11) If a Landscape contracting business license expires, and the Landscape contracting business has continuously maintained its bond, irrevocable letter of credit or deposit together with required liability insurance, the amount to be paid for reinstatement equals the required fee for each year of expiration (up to two years) plus a late penalty fee for each year. The reinstatement will be retroactive to the expiration date.

- (12) If a Landscape contracting business license expires, and no bond, irrevocable letter of credit or deposit, or required liability insurance, has been in effect during the interim, the amount to be paid for reinstatement equals the required fee for each year of expiration (up to two years) plus a late penalty fee for each year. The reinstatement date will be the date the required fee and documentation are received in the board office.

- (13) Payments received after board deadlines, including, but not limited to payments for renewals, applications and civil penalties will be considered late and penalties shall be assessed.

- (14) The board may waive the late fee if:

- (a) The properly completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or

- (b) The licensee's failure to meet the renewal date was caused entirely or in part by a board error or omission.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.595, 671.650 & 671.660

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1983(Temp), f. 10-14-83, ef. 10-15-83; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0035; LCB 3-1988(Temp), f. 4-11-88, cert. ef. 5-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LCB 1-1989(Temp), f. 5-16-89, cert. ef. 7-1-89; LCB 2-1989, f. & cert. ef. 7-24-89; LSCB 1-1995, f. & cert. ef. 2-2-95; LSCB 1-1997(Temp), f. & cert. ef. 6-10-97; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-2002, f. & cert. ef. 7-1-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 5-2004, f. & cert. ef. 10-4-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 7-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 3-2008, f. & cert. ef. 4-11-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08; LCB 10-2008, f. & cert. ef. 11-6-08; LCB 4-2009, f. 6-1-09, cert. ef. 7-1-09; LCB 9-2009(Temp), f. & cert. ef. 10-28-09 thru 4-25-10; Administrative correction 5-19-10; LCB 4-2010, f. & cert. ef. 6-2-10

808-003-0610

Bonds, Generally

- (1) A properly executed Landscape Contractors Board bond issued after January 1, 2010 must:

- (a) Be in the form adopted by the Landscape Contractors Board as the Landscape Contractors Board Surety Bond revised January 1, 2010.

- (b) Be signed by an authorized agent of the surety or by one having power of attorney; must bear a bond number; and must be filed within the time stated on the bond. Additionally, the agency may require the licensee and surety to use the most recent revision of the surety bond form.

- (c) If issued after January 1, 2010 include the following:

"NOW THEREFORE, the conditions of the foregoing obligation are that if said principal with regard to all work done by the principal as a "landscape contracting business" as defined by ORS 671.520, shall pay all amounts that may be ordered by the Landscape Contractors Board against the principal by reason of negligent or improper work or breach of contract in performing any of said work, in accordance with ORS chapter 671 and OAR chapter 808, then this obligation shall be void; otherwise to remain in full force and effect. This bond is for the exclusive purpose of payment of final orders of the Landscape Contractors Board in accordance with ORS chapter 671. This bond shall be one continuing obligation, and the liability of the surety for the aggregate of any and all claims, which may arise hereunder, shall in no event exceed the amount of the penalty of this bond. This bond shall become effective on the date the principal meets all requirements for licensing or renewal and shall continuously remain in effect until depleted by claims paid under ORS chapter 671, unless the surety sooner cancels the bond. This bond may be canceled by the surety and the surety be relieved of further liability for work performed on contracts entered after cancellation by giving 30 days' written notice to the principal and the Landscape Contractors Board of the State of Oregon. Cancellation shall not limit the responsibility of the surety for final orders relating to work performed during the work period of a contract entered into prior to the cancellation. This bond shall not be valid for purposes of licensing in accordance with ORS chapter 671 unless filed with the Landscape Contractors Board within sixty (60) days of the date shown below."

- (2) Bond documents received at the agency office from a surety company or agent via electronic facsimile may be accepted as original doc-

uments. The surety must provide the original bond document to the agency upon request.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.690

Hist.: LCB 7-2009, f. & cert. ef. 10-28-09; LCB 11-2009(Temp), f. & cert. ef. 12-1-09 thru 5-30-10; LCB 4-2010, f. & cert. ef. 6-2-10

Oregon Business Development Department Chapter 123

Rule Caption: These rules revise the Oregon Coalition Brownfields cleanup Fund.

Adm. Order No.: OBDD 19-2010(Temp)

Filed with Sec. of State: 5-21-2010

Certified to be Effective: 5-21-10 thru 11-17-10

Notice Publication Date:

Rules Amended: 123-140-0010, 123-140-0020, 123-140-0030

Subject: These rules revise loan eligibility requirements.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-140-0010

Purpose, Scope, and Incorporated Documents

(1) As provided in Oregon Revised Statutes (ORS) 285A.190, the Oregon Business Development Department (Department) shall administer the federally funded revolving fund to provide cleanup financing to eligible publicly and privately owned brownfields as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, by the Small Business Liability Relief and Brownfields Revitalization Act of 2001 (PL 107-118).

(2) Oregon Coalition Brownfields Cleanup Fund Program is funded through a cooperative agreement (BF-97080301, and as amended from time to time) between the U.S. Environmental Protection Agency and Department and includes any program income generated as a result of Department loans to Recipients as provided for in ORS 285A.192. The primary objectives of the Program are to:

- (a) Remove or abate environmental health risks at sites not yet addressed by the private market;

- (b) Provide resource assistance to rural, distressed, or affected communities allowing them to build quality, livable communities and neighborhoods; and

- (c) Employ a problem-solving philosophy of coordination through state and local partnerships.

Stat. Auth.: ORS 285A.190, 285A.192 & 285A.075

Stats. Implemented: ORS 285A.190

Hist.: EDD 9-2006, f. 10-30-06, cert. ef. 10-31-06; OBDD 8-2010, f. 3-30-10, cert. ef. 4-1-10; OBDD 19-2010(Temp), f. & cert. ef. 5-21-10 thru 11-17-10

123-140-0020

Definitions

For the purposes of these rules additional definitions may be found in Procedural Rules, OAR 123-001. For purposes of this division of administrative rules, unless the context demands otherwise:

- (1) "Applicant" means any public or private entity that is eligible under OAR 123, division 140 to receive an OBCF loan or grant and that has control over or access to a brownfields site, except those entities that may potentially be liable under CERCLA, or are currently suspended or debarred from receiving federal funding, or are otherwise declared ineligible.

- (2) "Bridge Loan" means a loan that will be repaid in full at the end of a short-term, twelve (12) to twenty four (24) months in length as determined at time of award or upon request within one year of award, following loan closing;

- (3) "Brownfields" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

- (4) "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act (42 United States Code 9601) as amended by the Small Business Liability Relief and Brownfields Revitalization Act (P.L. 107-118), and any subsequent amendments.

- (5) "Fund" means the Oregon Coalition Brownfields Cleanup Fund.

- (6) "Non-profit Organization" means as defined at Section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999 except those non-profit organizations described in Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act of 1995.

- (7) "Program" means the Oregon Coalition Brownfields Cleanup Fund Program

ADMINISTRATIVE RULES

(8) "Project" means under this division those remedial and/or removal action activities identified in the Contract for which the Recipient may expend, obligate or commit funds to address cleanup of a brownfields.

(9) "Recipient" means an Applicant that has been awarded an OBCF grant or loan for a Project.

(10) "Remedial and/or Removal Actions" means those eligible cost activities listed in the Program Guidelines and Application Handbook.

(11) "Site" means the parcel or parcels of real property on which the funded activities will be performed;

(12) "USEPA" means the Environmental Protection Agency of the United States federal government.

Stat. Auth.: ORS 285A.190 & 285A.192, 285A.075

Stats. Implemented: ORS 285A.190

Hist.: EDD 9-2006, f. 10-30-06, cert. ef. 10-31-06; OBDD 8-2010, f. 3-30-10, cert. ef. 4-1-10; OBDD 19-2010(Temp), f. & cert. ef. 5-21-10 thru 11-17-10

123-140-0030

Eligible Applicants and Activities

(1) Eligible loan applicants are any public, private, or Non-Profit organization with control over a brownfields site, except those entities which are potentially liable under CERCLA, or which are currently suspended, debarred from receiving federal funding, or are otherwise declared ineligible.

(2) The Department will conduct a financial review on complete applications in accordance with prudent lending practices. Conditions of a loan award such as requiring collateral or other security; requiring a co-signer or guarantor; or obtaining an environmental insurance policy may be required in order to provide additional securities to mitigate credit deficiencies.

(3) Applicants may be responsible for closing costs associated with the loan including but not limited to document preparation, review of documentation for legal sufficiency, title, escrow, recording or filing fees.

(4) The Department shall set the interest rate for municipal and non-municipal loan recipients at the time of award based on subsidy need, credit risk, and other appropriate considerations.

(5) Interest accrual, repayment and disbursement schedules, complete or partial waiver of interest, and other necessary conditions shall be stated in the loan agreement.

(6) Bridge loans shall have a maximum term of one (1) year from the beginning of loan disbursement unless the loan recipient requests an extension.

(a) Upon receipt of a request for extension, the maximum term of the extension shall not exceed one (1) additional year. If a bridge loan is not repaid within the approved period, a rate of interest may be applied from the date of first disbursement.

(b) A bridge loan recipient may be converted to a term loan. If a loan is converted, a rate of interest shall be applied from the date of first disbursement.

(7) The Department will set terms of repayment with consideration to the applicant's ability to repay, credit worthiness, economic benefit of the project, and use of proceeds as defined in the project. The maximum term of a loan shall not exceed 20 years from the date of loan closing.

(8) A term loan may convert to a bridge loan with the approval of the Department as long as the maximum bridge loan term of two (2) years has not passed from the date of loan closing.

(9) If the project includes other funding in the form of loan(s) obtained from a financial institution, the Department may subordinate the Fund loan to the financial institution loan(s) if appropriate.

(10) The Department has the discretion to establish loan terms that differ from those enumerated in OAR chapter 123, division 135 as long as it furthers the goals and objectives of the program.

(11) For loan funded projects, the total loan amount shall not exceed the final total project cost. Grant Agreement Conditions

(12) Eligible grant applicants are any public or Non-Profit organization that owns a brownfields at the time the grant is awarded, except those entities which are potentially liable under CERCLA, which are currently suspended, debarred from receiving federal funding, or are otherwise declared ineligible.

(13) Eligible and ineligible activities are defined in CERCLA and in USEPA's Revolving Loan Fund Administrative Manual (October 2004), as well as subsequent revisions or editions of such guidelines.

Stat. Auth.: ORS 285A.190, 285A.192 & 285A.075

Stats. Implemented: ORS 285A.190

Hist.: EDD 9-2006, f. 10-30-06, cert. ef. 10-31-06; OBDD 8-2010, f. 3-30-10, cert. ef. 4-1-10; OBDD 19-2010(Temp), f. & cert. ef. 5-21-10 thru 11-17-10

Rule Caption: These rules revise the Oregon Business Development Loan Fund to implement the BOOST Fund.

Adm. Order No.: OBDD 20-2010(Temp)

Filed with Sec. of State: 5-28-2010

Certified to be Effective: 5-28-10 thru 10-9-10

Notice Publication Date:

Rules Adopted: 123-017-0060, 123-017-0070, 123-017-0080

Rules Amended: 123-017-0008, 123-017-0015, 123-017-0020, 123-017-0025, 123-017-0030, 123-017-0035, 123-017-0055

Rules Suspended: 123-017-0008(T), 123-017-0015(T), 123-017-0025(T), 123-017-0030(T), 123-017-0035(T)

Subject: These rules are being revised due to legislation brought forth in the 2010 Special Session of the Legislature through HB 3698. The legislation created the Building Opportunities for Oregon Small Business Today Program or BOOST fund. The newly adopted rules explain eligibility and approval requirements for both loan and grant programs offered by the BOOST fund.

Statute references have been updated as well as other small house-keeping changes.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-017-0008

Delegation

(1) Authority for the day-to-day operation of the fund, including approval of loans and projects, and amendments thereto, is delegated to the Finance Committee.

(2) The Commission shall review and evaluate the operation of the fund with such frequency as it may from time to time determine, and may order any changes that it considers necessary or desirable.

(3) The Commission shall retain final authority over policies and administrative procedures governing the operation of the fund.

(4) The Director or designee is authorized to execute any document reasonably necessary or convenient to close any loan approved by the Finance Committee or, in the case of loans of \$250,000 or less, by the Director.

(5) When applicable, the references to the Finance Committee shall include the Director, acting in regard to loans for business development projects of \$250,000 or less pursuant to ORS 285B.080(3).

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.050 - 285B.098

Hist.: EDD 10-1988, f. & cert. ef. 3-18-88; EDD 37-1988, f. & cert. ef. 12-15-88; EDD 9-1989(Temp), f. & cert. ef. 11-3-89; EDD 5-1990, f. & cert. ef. 3-5-90; EDD 11-1999, f. & cert. ef. 10-11-99; EDD 6-2001, f. & cert. ef. 10-9-01; EDD 6-2007(Temp), f. & cert. ef. 8-29-07 thru 2-23-08; EDD 3-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 21-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 22-2009, f. 11-30-09, cert. ef. 12-1-09; OBDD 9-2010(Temp), f. & cert. ef. 4-12-10 thru 10-9-10; OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10

123-017-0015

Eligibility

(1) Eligible projects are business development projects as defined in OAR 123-017-0010(2). If the Department is unable to obtain a sufficient number of approvable applications to meet the requirements of ORS 285B.059(5), it may, notwithstanding the limitations imposed by 285B.050(2)(g)(B), make loans to service and retail businesses operated by emerging small businesses which are located in or draw their workforces from within distressed areas as determined by the Department, when such projects provide compelling economic development benefits. The amount of loans the Department may make to service and retail businesses under (1) of this section shall be limited to the amount calculated under the method described in 285B.059(5).

(2) Eligible purposes are the financing of land, buildings, fixture, equipment and machinery, research and development, and the provision of working capital.

(3) Eligible applicants are defined in OAR 123-017-0010(1).

(4) The relocation of a facility from one labor market area to another, if not accompanied by an expansion of the applicant's business or employment, is an eligible activity if:

(a) The relocation is caused by forces beyond the control of the applicant; or

(b) The relocation is necessary for the continued operation of the business; or

(c) There is no resulting loss of employment at the former site of the business.

ADMINISTRATIVE RULES

(5) Relending of funds shall not be an eligible activity, except that the funds may be used for the local injection share of an SBA 503 or 504 Certified Development Company transaction.

(6) In cases where an otherwise eligible company or project has an insignificant (less than 25 percent) ineligible portion, the entire project may be determined eligible for a loan from the fund.

(7) Other than as specified in section (6) and (10) of this rule, Fund financing will be limited to 40 percent of the amount of the eligible costs, except that Fund financing may equal up to 50 percent of eligible costs when the application is submitted through a Financial Institution.

(8) Tourist facilities shall not be eligible unless:

(a) The project can be qualified as a convention center; or

(b) The project can be qualified as a destination attraction with significant regional economic impact.

(9) Refinancing of existing debt, including existing trade payables and delinquent taxes, shall not be eligible unless the applicant demonstrates to the satisfaction of the Finance Committee that:

(a) The applicant contributes significantly to a target population or to a geographical area targeted by the Oregon Business Development Fund;

(b) The applicant requires refinancing to remain viable. Assessment of viability will be made at the sole discretion of the Finance Committee;

(c) Lenders agree to extend due dates, provide additional financing or provide other favorable terms to the applicant; and

(d) The applicant meets all other requirements set forth in statute and administrative rule, including demonstrating to the satisfaction of the Finance Committee that the project is feasible and a reasonable risk, has a reasonable prospect of repayment and can provide good and sufficient collateral.

(10) Except for the Oregon Targeted Development Account, Fund financing may exceed 40 percent of the amount of the eligible project costs and/or may be approved without a commitment from a commercial or private lender, or a local development group, to participate in the financing of the project, if

(a) Two or more Financial Institutions have denied a financing request for the project by the borrower. Such denied financing request must:

(A) Be for a loan for an eligible Fund loan purpose; and

(B) Be evidenced by a written denial from the Financial Institution specifying the reason(s) for the denial. Denial for reasons such as an incomplete application, failure to provide requested information, or the requested loan is for a purpose for which or on terms under which the Financial Institution does not make loans is not acceptable as a denial of financing; and

(b) The applicant certifies that there is no other available financing for the project with documentation as required by the Finance Committee.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.059, 285B.080(3) & 285B.092

Hist.: EDD 2-1983(Temp), f. & cert. ef. 5-25-83; EDD 1-1984, f. & cert. ef. 1-5-84; EDD 10-1988, f. & cert. ef. 3-18-88; EDD 37-1988, f. & cert. ef. 12-15-88; EDD 9-1989(Temp), f. & cert. ef. 11-3-89; EDD 5-1990, f. & cert. ef. 3-5-90; EDD 25-1990 (Temp), f. & cert. ef. 9-13-90; EDD 29-1990, f. & cert. ef. 12-12-90; EDD 6-1991(Temp), f. & cert. ef. 6-18-91; EDD 8-1996(Temp), f. & cert. ef. 8-13-96; EDD 4-1997, f. & cert. ef. 3-25-97; EDD 9-1997(Temp), f. & cert. ef. 10-7-97; EDD 8-1998, f. & cert. ef. 5-22-98; EDD 11-1999, f. & cert. ef. 10-11-99; EDD 6-2001, f. & cert. ef. 10-9-01; EDD 6-2007(Temp), f. & cert. ef. 8-29-07 thru 2-23-08; EDD 3-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 21-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 22-2009, f. 11-30-09, cert. ef. 12-1-09; OBDD 9-2010(Temp), f. & cert. ef. 4-12-10 thru 10-9-10; OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10

123-017-0020 Preference

(1) Except in the case of a loan made from the Oregon Targeted Development Account, the Finance Committee shall give preference to loan applications for projects that demonstrate an overall community benefit and that have one or more of the following characteristics:

(a) Have a ratio of at least one projected job created or saved per \$30,000 sought to be borrowed from the Oregon Business Development Fund.

(b) Are operated by businesses with 100 or fewer employees;

(c) Are located in rural or distressed areas of the state;

(d) Are located in Enterprise Zones designated under ORS 285C.050–285C.250;

(e) Employ displaced workers in the area;

(f) Assist in the economic diversification of the area;

(g) Contain a significant amount of owner equity capital. At least ten percent of the project costs for established companies (three years old or more) and 30 percent of project costs for start-ups (firms less than three years old, or firms making the transition from research and development to production) should come from equity or subordinated loans from the owners;

(h) Maximize participation by financial institutions and local development groups;

(i) Produce goods or services for the export market;

(j) Encourage the flow of capital from outside the local area; and

(k) Do not cause severe adverse competitive disadvantages to existing businesses.

(2) The Finance Committee shall be the sole judge of the relative importance of each of the above factors for each individual loan application under consideration. Factors will not necessarily be assigned the same weights under all circumstances.

(3) In the case of a loan made from the Oregon Targeted Development Account, the Finance Committee will strive to fund projects that will create or save at least one job for every \$20,000 of Oregon Business Development Fund investment.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.059 & 285B.092

Hist.: EDD 2-1998(Temp), f. & cert. ef. 5-25-83; EDD 1-1984, f. & cert. ef. 1-5-84; EDD 10-1988, f. & cert. ef. 3-18-88; EDD 37-1988, f. & cert. ef. 12-15-88; EDD 5-1990, f. & cert. ef. 3-5-90; EDD 6-1991(Temp), f. & cert. ef. 6-18-91; EDD 11-1999, f. & cert. ef. 10-11-99; EDD 6-2001, f. & cert. ef. 10-9-01; EDD 5-2005, f. & cert. ef. 5-11-05; EDD 6-2007(Temp), f. & cert. ef. 8-29-07 thru 2-23-08; EDD 3-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 21-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10

123-017-0025

Application Procedure

(1) It is the policy of the Finance Committee to strive for and encourage, throughout the application process:

(a) Maximum participation by financial institutions and local development groups; and

(b) A minimum administrative burden on the applicant and on the local government.

(2) Any applicant may submit an application to the Department on a form approved by the Department, together with an application fee.

(3) If the amount of the loan being sought from the Fund is \$250,000 or less, the Director may in the Director's sole discretion approve or deny the loan request or forward it to the Finance Committee for the Committee's consideration.

(4) If the amount of the loan being sought from the fund exceeds \$250,000 the Department shall make a recommendation to the Finance Committee, which may in its sole discretion approve or deny the loan request.

(5) If a loan request is approved, the Department shall prepare the documents necessary to close the loan transaction. Such documents shall reflect all terms and conditions upon which the Finance Committee or the Director may have conditioned approval of the loan. Any material modifications of those terms and conditions must be approved by the Chair of the Finance Committee or his/her designee, or the Director for loans of \$250,000 or less.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.053 & 285B.092

Hist.: EDD 2-1983(Temp), f. & cert. ef. 5-25-83; EDD 1-1984, f. & cert. ef. 1-5-84; EDD 10-1988, f. & cert. ef. 3-18-88; EDD 37-1988, f. & cert. ef. 12-15-87; EDD 11-1999, f. & cert. ef. 10-11-99; EDD 6-2001, f. & cert. ef. 10-9-01; EDD 5-2005, f. & cert. ef. 5-11-05; EDD 6-2007(Temp), f. & cert. ef. 8-29-07 thru 2-23-08; EDD 3-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 21-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 22-2009, f. 11-30-09, cert. ef. 12-1-09; OBDD 9-2010(Temp), f. & cert. ef. 4-12-10 thru 10-9-10; OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10

123-017-0030

Loan Conditions

(1) The Director (for loan requests of \$250,000 or less) or the Finance Committee may approve a loan request if it finds that:

(a) Fund participation in any financing shall not exceed 40 percent of the total amount of the eligible project costs, except that Fund financing may be up to 50 percent when an application is submitted through a Financial Institution or Fund financing may exceed 40 percent when two or more Financial Institutions have denied financing as outlined in OAR 123-017-0015 (10).

(b) The proposed business development project is feasible and a reasonable risk from practical and economic standpoints, and the loan has reasonable prospect of repayment.

(c) The applicant can provide good and sufficient collateral for the loan, as determined by the Commission. The Commission's security interest may be subordinated to the security interest of other lenders participating in the project. The security interest of loans from the Oregon Targeted Development Account will not be subordinated to the security interest of other lenders, unless the Finance Committee or the Director finds there is an abundance of collateral and/or company or guarantor financial strength. The Business Development Commission may make loans in distressed

ADMINISTRATIVE RULES

areas, as defined by the Department, without regard to the requirements for security and collateral under ORS 285B.059 and 285B.062 that are otherwise applicable. Collateral value of out-of-state real property will be significantly discounted from nominal assessed or appraised value.

(d) Monies in the Oregon Business Development Fund are or will be available for the proposed business development project.

(e) There is a need for the proposed business development project.

(f) The applicant's financial resources are adequate to ensure success of the project.

(g) The applicant has not received or entered into a contract or contracts exceeding \$700,000 with the Commission, under authority of ORS 285B.050-285B.098, for the previous 365 days.

(2) The Finance Committee may, in its sole discretion, permit the assumption of an outstanding Oregon Business Development Fund Loan, if the assuming obligor satisfies the Finance Committee or the Director as to its willingness and ability to perform all obligations of the original borrower related to the loan, including but not limited to the obligation to repay the loan in accordance with its terms, and if the State's collateral position is not diminished. Oregon Business Development Fund loans are not, however, necessarily or automatically assumable. A complete application, application fee and supporting documentation are required to initiate review of the request.

(3) The applicant agrees to abide by all laws and regulations applicable to the applicant's project.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.059 & 285B.092

Hist.: EDD 2-1983(Temp), f. & cert. ef. 5-25-83; EDD 1-1984, f. & cert. ef. 1-5-84; EDD 10-1988, f. & cert. ef. 3-18-88; EDD 37-1988, f. & cert. ef. 12-15-88; EDD 9-1989(Temp), f. & cert. ef. 11-3-89; EDD 5-1990, f. & cert. ef. 3-5-90; EDD 8-1996(Temp), f. & cert. ef. 8-13-96; EDD 4-1997, f. & cert. ef. 3-25-97; EDD 9-1997(Temp), f. & cert. ef. 10-7-97; EDD 8-1998, f. & cert. ef. 5-22-98; EDD 11-1999, f. & cert. ef. 10-11-99; EDD 6-2001, f. & cert. ef. 10-9-01; EDD 5-2005, f. & cert. ef. 5-11-05; EDD 6-2007(Temp), f. & cert. ef. 8-29-07 thru 2-23-08; EDD 3-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 21-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 22-2009, f. 11-30-09, cert. ef. 12-1-09; OBDD 9-2010(Temp), f. & cert. ef. 4-12-10 thru 10-9-10; OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10

123-017-0035

Loan Agreement

If the Finance Committee approves the business development project, the Finance Committee or the Director, on behalf of the state, and the borrower may enter into a loan contract of not more than \$700,000, secured by good and sufficient collateral (except as noted in OAR 123-017-0030(1)(c)), as determined by the Finance Committee, that shall set forth, among other matters:

(1) A plan for repayment by the borrower to the Oregon Business Development Fund moneys borrowed from the Fund used for the business development project with interest charged on those moneys at the fixed rate of one percentage point more than the prevailing interest rate on United States Treasury bills, notes or bonds of a comparable maturity. Loans made from the Oregon Targeted Development Account shall be made at a fixed interest rate of four percentage points less than the prevailing prime rate. Loans made under the conditions of OAR 123-0017-0015(10) shall be made at a fixed interest rate of not less than five percentage points over the prevailing prime rate. The rate shall not be less than four percent. For the purposes of this section, the prevailing interest rate shall be the weekly average interest rate as set forth in the most recent Federal Reserve Statistical Release H.15(519) that the Department has received at the time the loan is approved. The repayment plan, among other matters:

(a) Shall provide for commencement of repayment by the applicant of moneys used for the business development project and interest thereon no later than one year after the date of the loan contract or at such other time as the Finance Committee may provide;

(b) May provide for reasonable extension of the time for making any repayment in emergency or hardship circumstances if approved by the Finance Committee or the Director;

(c) Shall provide for such evidence of debt assurance of, and security for, repayment of the loan as is considered necessary by the Finance Committee;

(d) Shall set forth a schedule of payments and the period of loan which shall not exceed the usable life of the contracted project or 25 years from the date of the contract, whichever is less. The term of the Fund loan will normally be matched to, and not exceed twice that of the commercial or private lender participating in the project. Loans from the Oregon Targeted Development Account shall be for a maximum term of 5 years, with a maximum amortization of 15 years. The term of the loan from the Oregon Targeted Development Account may be extended by the Finance Committee, with any additional terms and conditions, including interest rate, that it may determine. The payment schedule shall include repayment

of interest that accrues during any period of delay in repayment authorized by subsection (a) of this section, and the payment schedule may require payments of varying amounts for collection of accrued interest. Loans made under the terms of OAR 123-017-0015(10) shall be for a maximum term of 5 years, with a maximum amortization of 20 years. The term of loans made as a result of OAR 123-017-0015(10) may be extended by the Finance Committee, with any additional terms and conditions, including interest rate, that it may determine.

(e) Shall set forth a procedure for formal declaration of delinquency or default of payment by the Department. Loans shall be declared delinquent when any payment is more than ten days late. Borrower shall be notified in writing of declaration of delinquency, and shall have 31 days from the original payment date to bring the loan current. If the loan is not brought current, or arrangements satisfactory to the Department for bringing the loan current have not been made, the Department may declare the loan in default, declare the entire outstanding indebtedness to be forthwith due and payable and assign the loan to the Attorney General for collection;

(f) May allow for other forms of payment on loans other than scheduled principal and interest payments, as determined by the Finance Committee, or Director in the case of loans of \$250,000 or less.

(2) Provisions satisfactory to the Department for field engineering and inspection, the Department to be the final judge of completion of the contract.

(3) That the liability of the state under the contract is contingent upon the availability of moneys in the Oregon Business Development Fund for use in the business development project.

(4) Such further provisions as the Finance Committee considers necessary to ensure expenditure of the funds for the purposes set forth in the approved application.

(5) That the borrower is responsible for payment of:

(a) All of the expenses of the operation and maintenance of the project, including adequate insurance;

(b) All taxes and special assessments levied with respect to the leased premises and payable during the term of the lease;

(c) Insurance premiums and providing insurance in amount and coverage acceptable to the Finance Committee. Such insurance shall include but shall not be limited to: fire and hazard insurance, liability insurance and flood insurance (if applicable); and

(d) Out-of-pocket costs associated with the loan closing which may include but are not limited to filing and recording fees, title insurance and appraisals, and attorney fees.

(6) That the borrower will provide to the Department on an annual basis, within 120 days of the end of its fiscal year, the same type of financial statements as required by the participating bank. The Finance Committee or the Department may require additional financial information.

(7) The Finance Committee, or Director for loans under \$250,000, may require an assignment of life insurance on active principals in borrower.

(8) The Department, at its sole discretion, may require the execution of a Commitment Letter and receipt of a non-refundable Commitment Fee to secure resources necessary to fund the loan. The Commitment Fee will be applied at closing to the loan fee. If the loan does not close, the Commitment Fee will not be refunded.

(9) In the case of loans of more than \$100,000 that are funded by proceeds from the Oregon Lottery, that the borrower shall make a good faith effort to hire and retain low-income individuals who have received job training assistance from publicly funded job training providers and enter into a first-source hiring agreement with a publicly funded job training provider.

(10) If the loan will result in the construction, expansion, rehabilitation or remodeling of a facility to which the public has access, adequate access for handicapped persons must be provided. This provision applies only to firms that deal directly with the general public in the normal and usual course of their business, and to facilities in which business is customarily transacted by and with members of the general public.

(11) If a project involves building construction, expansion, rehabilitation or modification, a loan from the fund shall be permanent and not interim financing.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.062 & 285B.092

Hist.: EDD 2-1983(Temp), f. & cert. ef. 5-25-83; EDD 1-1984, f. & cert. ef. 1-5-84; EDD 10-1988, f. & cert. ef. 3-18-88; EDD 37-1988, f. & cert. ef. 12-15-88; EDD 9-1989(Temp), f. & cert. ef. 11-3-89; EDD 5-1990, f. & cert. ef. 3-5-90; EDD 25-1990 (Temp), f. & cert. ef. 9-13-90; EDD 29-1990, f. & cert. ef. 12-12-90; EDD 8-1996(Temp), f. & cert. ef. 8-13-96; EDD 4-1997, f. & cert. ef. 3-25-97; EDD 9-1997(Temp), f. & cert. ef. 10-7-97; EDD 8-1998, f. & cert. ef. 5-22-98; EDD 11-1999, f. & cert. ef. 10-11-99; EDD 6-2001, f. & cert. ef. 10-9-01; EDD 5-2005, f. & cert. ef. 5-11-05; EDD 6-2007(Temp), f. & cert. ef. 8-29-07 thru 2-23-08; EDD 3-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 21-2008, f. 7-31-08, cert. ef. 8-

ADMINISTRATIVE RULES

1-08; EDD 22-2009, f. 11-30-09, cert. ef. 12-1-09; OBDD 9-2010(Temp), f. & cert. ef. 4-12-10 thru 10-9-10; OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10

123-017-0055

Fees and Charges

(1) The Department shall charge and collect a loan fee of \$200 at the time the application is filed.

(2) In addition, the applicant, immediately upon receiving the loan proceeds, shall pay to the Department one and one-half percent of the principal amount of the loan.

(3) The Department may charge and collect a Commitment Fee, payable to the Department, in an amount up to three quarters of one percent of the principal amount of the loan to be applied to the fee specified in section (2) of this rule at closing of the loan. If the loan does not close, the Commitment Fee will not be refunded.

(4) The Department may charge and collect an Assumption Fee, payable to the Department, in an amount up to one half of one percent of the remaining principal balance of the loan. The individual or entity assuming the obligation will also be responsible for closing costs associated with the transfer of debt including but not limited to document preparation, review of documentation for legal sufficiency, title, escrow, recording or filing fees.

(5) The Department may charge and collect a Loan Modification Fee, payable to the Department, of \$50 at the time of the modification request. A loan modification may include, but, is not limited to, modification to terms of repayment, subordination requests or collateral swaps. The individual or entity requesting the modification will also be responsible for costs associated with the modification including, but, not limited to, document preparation, review of documentation for legal sufficiency, title, escrow, recording or filing fees.

(6) Monies referred to in (1), (2), (3), (4) and (5) of this section shall be paid into the Fund.

(7) The Department may, in its sole discretion, use some or all of the money collected under section (2) of this rule, plus a maximum of an additional one and one-half percent as payment to a local development group, county or municipality for packaging the loan, processing applications, investigating proposed business development projects and servicing outstanding loans. The additional amount of up to one and one-half percent may be paid for projects which are located in an enterprise zone or in a distressed area or for which the OBDF loan being sought is not more than \$100,000. In no case shall the Department make any payment of more than \$10,000 for any one project. In no case shall the Department make any payment to any third party until the loan has been closed and the Department has collected the fee specified in section (2) of this rule.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.056, 285B.068 & 285B.092

Hist.: EDD 2-1983(Temp), f. & ef. 5-25-83; EDD 1-1984, f. & ef. 1-5-84; EDD 10-1988, f. & cert. ef. 3-13-88; EDD 37-1988, f. & cert. ef. 12-15-88; EDD 5-1990, f. & cert. ef. 3-5-90; EDD 11-1999, f. & cert. ef. 10-11-99; EDD 6-2001, f. & cert. ef. 10-9-01; EDD 6-2007(Temp), f. & cert. ef. 8-29-07 thru 2-23-08; EDD 3-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 21-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 22-2009, f. 11-30-09, cert. ef. 12-1-09; OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10

123-017-0060

Building Opportunities for Oregon Small Business Today Program

The purpose of these rules is to provide procedures, standards and criteria for the making of loans and grants from the Building Opportunities for Oregon Small Business Today (BOOST) Account which is established within the Oregon Business Development Fund. Definitions: For the purpose of rules 123-017-0060 through 123-017-0080, the following terms shall have the following meanings:

(1) "Applicant" means any individual, association of individuals, joint venture, partnership, limited liability company or corporation applying for a loan or a grant from the BOOST Account.

(2) "Comparable Wages" means the average wage per full-time equivalent job provided by the Applicant is at least 85% of the Average Pay for Applicant's NAICS for the County or Counties in which the Applicant has employees, as shown in the most recent Covered Employment and Wages Summary Report from the Oregon Employment Department. The average wage per full-time equivalent job of the Applicant shall be calculated according to the following formula using information obtained by the Department from the Oregon Employment Department or other information determined by Department to be comparable:

(a) $A = W / H$

(b) A = Represents the Applicant's average wage per full-time equivalent job;

(c) W = Represents the total wages paid to Applicant's employees during the one-year period preceding application; and

(d) H = Represents the total hours worked by Applicant's employees during the same one-year period divided by 1820.

(3) "Health benefit plan" has the meaning as defined in ORS 743.730.

(4) "Full-time Job" means a job which has no foreseeable ending date and is filled by an employee who works a minimum of 35 hours per week or a minimum of 25 hours per week with health benefit plan coverage.

(5) "Employee" is a person:

(a) Paid through the Applicant's normal payroll system;

(b) For whom FICA and state and federal income taxes are deducted from his or her gross wages, which are then forwarded to the appropriate agencies by the Applicant on behalf of the person;

(c) For whom the Applicant pays state and federal unemployment insurance;

(d) For whom the Applicant contributes to FICA tax;

(e) Not hired through a temporary agency; and

(f) Not acting as an independent contractor.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.050 - 285B.098

Hist.: OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10

123-017-0070

Building Opportunities for Oregon Small Business Today Loan Program

(1) In order to approve a loan from the BOOST Account, the Department must first find that the Applicant:

(a) Is a traded sector business that meets the requirements set forth in ORS 285.055;

(b) Is legally organized and authorized to conduct business in Oregon;

(c) Has 100 or fewer employees in Oregon at the time of application as demonstrated by:

(A) The average number of workers reported on the most recent Form OQ filed by the Applicant with and as required by the Oregon Employment Department; or,

(B) Other documentation determined to be acceptable by Department.

(d) Demonstrates a reasonable capacity to create or retain Full-time Jobs in Oregon;

(e) Provides Comparable Wages to its employees;

(f) Demonstrates a reasonable prospect of repayment of the loan from the BOOST Account;

(g) Can provide good and sufficient collateral for the loan;

(h) Has a ratio of at least one projected Full-time Job created or retained per \$50,000 sought to be borrowed from the BOOST Account;

(i) Has submitted an application on a form approved by the Department together with the application fee of \$200;

(j) Meets the loan condition requirements in OAR 123-017-0030 except (1)(a) and (d); and,

(k) Demonstrates a need for the loan.

(2) In order to approve a loan from the BOOST Account, the Department must first determine:

(a) Money is or will be available in the BOOST Account to fund the loan;

(b) The loan amount does not exceed \$150,000;

(c) The interest rate on the loan is a fixed rate of not less than the prevailing prime rate plus an annual percentage rate of 5%;

(d) The loan term will not exceed four years;

(e) The loan amortization will not exceed four years; and

(f) The purpose of the BOOST loan is not for the purchase of real estate.

(3) The Department shall give preference to an Applicant that proposes to create Full-time Jobs.

(4) After approval of a loan from the BOOST Account, the Department will enter into a loan contract with the Applicant. At a minimum, the loan contract shall:

(a) Set forth the terms as outlined in OAR 123-017-0035(1)(a), (e), and (f);

(b) Set forth the terms as outlined in OAR 123-017-0035(2), (5), (7), (8), (9), (10), and (11);

(c) Provide for such evidence of debt assurance of, and security for, repayment of the loan as considered necessary by the Finance Committee or the Director;

(d) Set forth a schedule of payments and the period of loan which shall not exceed the usable life of the asset(s) securing the loan or 4 years from the date of the contract, whichever is less. The payment schedule shall include repayment of interest that accrues during any period of delay in repayment authorized by OAR 123-017-0035(1)(a) and the payment sched-

ADMINISTRATIVE RULES

ule may require payments of varying amounts for collection of accrued interest;

(e) Set forth the liability of the Department under the contract to be contingent upon the availability of moneys in the BOOST Account;

(f) Set forth such further provision as the Finance Committee or the Director considers necessary to ensure expenditure of the funds for the purposes set forth in the approved application; and

(g) Requires the Applicant to provide financial statements to the Department, on an annual basis, within 120 days of the end of its fiscal year and any other additional financial information reasonably requested by Department.

(5) The Applicant will be subject to OAR 123-017-0055.

(6) The Applicant will be subject to OAR 123-017-0037 with the following exception:

(a) The BOOST loan and amortization shall not be extended beyond the terms described in the original loan agreement.

(7) The Director or the Director's designee may, in his sole discretion, approve or deny the loan or forward the loan application to the Finance Committee for the Committee's consideration.

(8) The Department may, in its sole discretion, use some or all of the money collected under section 123-017-0070(5) of this rule as payment to a local development group, county or municipality for packaging the BOOST loan, processing BOOST applications, and servicing outstanding BOOST loans.

(9) The Department will set aside 5% of the total capitalization provided to the BOOST Account to offset collection and administrative expenses of the loans made from the BOOST Account.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.050 - 285B.098

Hist.: OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10

123-0017-0080

Building Opportunities for Oregon Small Business Today Grant Program

(1) In order to approve a grant from the BOOST Account, the Department must first determine that the Applicant:

(a) Is a traded sector business that meets the requirements set forth in ORS 285A.055;

(b) Is legally organized and authorized to conduct business in Oregon;

(c) Has 100 or fewer employees in Oregon at the time of application as demonstrated by:

(A) The average number of workers reported on the most recent Form OQ filed by the Applicant with and as required by the Oregon Employment Department; or

(B) Other documentation determined to be acceptable by the Department.

(d) Has established goals to create Full-time Jobs in Oregon within 90 days after approval of the grant;

(e) Demonstrates a reasonable capacity of achieving its goals to create Full-time Jobs in Oregon within 90 days after approval of the grant;

(f) Provides Comparable Wages to its employees; and

(g) Has paid the \$50 non-refundable application fee to the Department.

(2) In order to approve a grant from the BOOST Account, the Department must first determine that funds are or will be available in the BOOST Account to fund the grant.

(3) After approval of a grant, the Department will enter into a grant agreement with the Applicant. Among other items, the grant agreement will contain the following provisions:

(a) Grant funds will be disbursed to the Applicant upon receipt of the report described in (3)(b) and a determination by the Department, in the reasonable exercise of its administrative discretion that the Department has sufficient funds in and expenditure authorization for the BOOST Account, to make the disbursement.

(b) No later than 10 months after the date the grant was approved by the Department, the Applicant shall submit a report to the Department for each new employee who:

(A) Was not an employee of the Applicant within the nine months prior to the current date of hire;

(B) Was unemployed for at least the 60 days prior to the date of hire by the Applicant;

(C) Was hired by the Applicant within 90 days after the date the Department approved the grant;

(D) Has signed an affidavit that he or she was unemployed for at least the 60 days prior to the date of hire by the Applicant;

(4) Worked at least:

(a) 35 hours in each of the 26 consecutive weeks since hired by the Applicant; or

(b) 25 hours in each of the consecutive 26 weeks since hired by the Applicant when the Applicant provides a Health Benefit Plan.

(c) The report submitted to the Department will include the following information for each employee who meets the criteria described in (3)(b):

(A) Legal Name;

(B) Social Security Number;

(C) Date of hire;

(D) Date of departure from the applicant if applicable

(E) Number of hours worked in each of the 26 consecutive weeks beginning the week the employee was hired by the Applicant.

(5) The amount of the grant to be disbursed to the Applicant shall be the minimum of:

(a) \$50,000 in a calendar year;

(b) The grant amount approved;

(c) The amount in the BOOST Account available to be disbursed to the Applicant;

(d) The next increase in employment as demonstrated by the formula $G = (A1 - A2) * \$2,500$, where:

(A) G = the amount of the grant to be disbursed;

(B) A1 = the average number of workers reported on the most recent Form OQ filed by the Applicant with and as required by the Oregon Employment Department or as demonstrated by other documentation determined to be acceptable by Department; and,

(C) A2 = the average number of workers determined in accordance with section (1)(c) above.

(6) The net increase in eligible employees as demonstrated by the formula $G = [P - (P - A)] * \$2,500$ where:

(a) G = the amount of the grant to be disbursed;

(b) P = the number of projected Full-time Jobs submitted by the Application in the grant application;

(c) A = the total number of employees listed in the report described in (3)(b) above.

(7) The total amount of BOOST grants awarded and made shall not exceed 20% of the total capitalization provided to the BOOST Account from the Tax Enforcement Account.

(8) Applications for a grant from the BOOST Account will be processed on a first come, first served basis. If the Department determines an application for a grant from the BOOST Account is incomplete, the Department shall notify the Applicant in writing of the additional information needed and any deficiencies in the application. The Applicant must submit the information necessary for the Department to determine that the application is complete within thirty days after the date of notification or the application will no longer be considered for a grant award.

(9) Applications for a grant from the BOOST Account may be submitted by an Applicant to the Department at any time until 5:00 P.M. on June 30, 2012

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.050 - 285B.098

Hist.: OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10

Rule Caption: These rules have been revised to comply with current statute.

Adm. Order No.: OBDD 21-2010

Filed with Sec. of State: 5-28-2010

Certified to be Effective: 6-1-10

Notice Publication Date: 5-1-2010

Rules Amended: 123-125-0000, 123-125-0020, 123-125-0040

Subject: These rules have been revised to comply with HB 2152 brought in the 2009 Legislative Session. The name of the department has been changed, some definitions have been deleted and others revised.

Statute references have been updated as well as other small house-keeping changes.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-125-0000

Purpose

These rules specify the source selection methods to be used by the Department for public contracts relating to its Foreign Representative Offices.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.075, 279A.025(2), 279A.065, OL 1999, Ch. 817

ADMINISTRATIVE RULES

Hist.: EDD 13-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; EDD 2-2000, f. & cert. ef. 1-5-00; EDD 12-2005, f. 11-30-05, cert. ef. 12-1-05; OBDD 21-2010, f. 5-28-10, cert. ef. 6-1-10

123-125-0020

Definitions

For the purposes of these rules 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: "Foreign Representative Office" means representation in an office operating outside the state designed primarily to:

- (1) Assist Oregon businesses in finding international markets for their goods and services;
- (2) Assist local units of government in Oregon in attracting foreign businesses to locate within their jurisdiction; and
- (3) Promote awareness in foreign countries of Department policy, programs and services and of assistance and economic incentives available from government at all levels.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.075, 279A.065, & OL 1999, Ch. 817

Hist.: EDD 13-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; EDD 2-2000, f. & cert. ef. 1-5-00; EDD 12-2005, f. 11-30-05, cert. ef. 12-1-05; OBDD 21-2010, f. 5-28-10, cert. ef. 6-1-10

123-125-0040

Standard Procedures and Exceptions

The Department will comply with the Oregon Department of Justice Model Public Contract Rules, OAR chapter 137, divisions 046 and 047, as applicable, for all its public contracts under this division, with the following exceptions:

(1) For Architectural, Engineering, Land Surveying and Related Services contracts, a special class of personal services contracts, the Department will comply with OAR 137, division 048.

(2) For all specified approvals, the Director or delegate shall exercise such authority.

(3) For all required public notices or advertisements related to source selection methods, the Department will comply with 123-006-0030.

(4) For personal services contracts that are best implemented as multiple work order contracts under an Agreement-to-Agree, the Department will comply with OAR 123-006-0025.

(5) The provisions of OAR 137-047-0800, 137-047-0265(2) and 137-047-0270(4) (regarding contract amendments) shall not apply to public contracts under this division. The Department will comply with OAR 123-006-0035 for all amendments to public contracts under this division.

(6) The Public Notice for Sole-source Procurements in OAR 137-047-0275(2) shall be given at least ten (10) days before Award of the Contract, unless the Department determines that a shorter interval is in the public's interest and documents specific reasons to the procurement file.

(7) The provisions of OAR 137-047-0670 (regarding cancelled offers) shall not apply to public contracts under this division.

(8) The provisions of OAR 137-047-0700 through 137-047-0760 (regarding legal remedies) shall not apply to public contracts under this division.

Stat. Auth.: ORS, 285A.075 & 279A.065

Stats. Implemented: ORS, 279A.065 & OL 1999, Ch. 817

Hist.: EDD 13-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; EDD 2-2000, f. & cert. ef. 1-5-00; EDD 12-2005, f. 11-30-05, cert. ef. 12-1-05; OBDD 21-2010, f. 5-28-10, cert. ef. 6-1-10

Rule Caption: This division of rules relates to Enterprise Zones and is being repealed.

Adm. Order No.: OBDD 22-2010

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 6-14-10

Notice Publication Date: 5-1-2010

Rules Repealed: 123-065-0000, 123-065-0005, 123-065-0010, 123-065-0059, 123-065-0080, 123-065-0090, 123-065-0095, 123-065-0100, 123-065-0140, 123-065-0150, 123-065-0200, 123-065-0220, 123-065-0230, 123-065-0240, 123-065-0255, 123-065-0300, 123-065-0310, 123-065-0320, 123-065-0330, 123-065-0350, 123-065-0365, 123-065-1000, 123-065-1050, 123-065-1060, 123-065-1070, 123-065-1080, 123-065-1500, 123-065-1510, 123-065-1520, 123-065-1530, 123-065-1540, 123-065-1550, 123-065-1553, 123-065-1557, 123-065-1560, 123-065-1570, 123-065-1580, 123-065-1590, 123-065-1600, 123-065-1610, 123-065-1620, 123-065-1650, 123-065-1670, 123-065-1700, 123-065-1710, 123-065-1720, 123-065-

1730, 123-065-1740, 123-065-1750, 123-065-1900, 123-065-1910, 123-065-1920, 123-065-2500, 123-065-2510, 123-065-2520, 123-065-2530, 123-065-2540, 123-065-2550, 123-065-2700, 123-065-3000, 123-065-3030, 123-065-3110, 123-065-3130, 123-065-3140, 123-065-3170, 123-065-3200, 123-065-3230, 123-065-3300, 123-065-3330, 123-065-3360, 123-065-3400, 123-065-3430, 123-065-3445, 123-065-3460, 123-065-3480, 123-065-3500, 123-065-3530, 123-065-3545, 123-065-3560, 123-065-3600, 123-065-3800, 123-065-3830, 123-065-3850, 123-065-4000, 123-065-4010, 123-065-4020, 123-065-4050, 123-065-4060, 123-065-4070, 123-065-4100, 123-065-4110, 123-065-4120, 123-065-4130, 123-065-4140, 123-065-4200, 123-065-4220, 123-065-4230, 123-065-4240, 123-065-4250, 123-065-4260, 123-065-4270, 123-065-4280, 123-065-4300, 123-065-4310, 123-065-4313, 123-065-4315, 123-065-4318, 123-065-4320, 123-065-4323, 123-065-4325, 123-065-4328, 123-065-4330, 123-065-4340, 123-065-4345, 123-065-4355, 123-065-4365, 123-065-4375, 123-065-4380, 123-065-4400, 123-065-4410, 123-065-4420, 123-065-4430, 123-065-4440, 123-065-4450, 123-065-4460, 123-065-4470, 123-065-4480, 123-065-4500, 123-065-4510, 123-065-4520, 123-065-4530, 123-065-4540, 123-065-4550, 123-065-4560, 123-065-4565, 123-065-4570, 123-065-4580, 123-065-4590, 123-065-4600, 123-065-4610, 123-065-4620, 123-065-4630, 123-065-4640, 123-065-4700, 123-065-4710, 123-065-4720, 123-065-4730, 123-065-4740, 123-065-4750, 123-065-4760, 123-065-4800, 123-065-4950, 123-065-4960, 123-065-4970, 123-065-4980, 123-065-4990, 123-065-7000, 123-065-7100, 123-065-7200, 123-065-7300, 123-065-7400, 123-065-7500, 123-065-7600, 123-065-7700, 123-065-8000, 123-065-8100, 123-065-8200, 123-065-8300, 123-065-8400, 123-065-0210

Subject: This division of rules relating to Enterprise Zones is being repealed. Seven new divisions will replace 123-065.

123-650 – Enterprise Zone Creation and Amendment.

123-656 – Tribally and Federally Based Zone Designations.

123-662 – Electronic Commerce Enterprise Zones.

123-668 – Local Enterprise Zone Sponsorship.

123-674 – Standard Exemption on Taxable Enterprise Zone Property.

123-680 – Rural Renewable Energy Development Zones.

123-690 – Long-Term Rural Enterprise Zone Incentives.

Rules Coordinator: Mindee Sublette—(503) 986-0036

Rule Caption: These rules relate to enterprise zone creation and amendment.

Adm. Order No.: OBDD 23-2010

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 6-14-10

Notice Publication Date: 5-1-2010

Rules Adopted: 123-650-0001, 123-650-0059, 123-650-0100, 123-650-0500, 123-650-0700, 123-650-1000, 123-650-1100, 123-650-1500, 123-650-2000, 123-650-2100, 123-650-2200, 123-650-2300, 123-650-2400, 123-650-2500, 123-650-2600, 123-650-3000, 123-650-3100, 123-650-3200, 123-650-3300, 123-650-3400, 123-650-5000, 123-650-5100, 123-650-5200, 123-650-5500, 123-650-7000, 123-650-7100, 123-650-7200, 123-650-7300, 123-650-7400, 123-650-9100, 123-650-9300

Subject: This new division replaces and focuses on a portion of the enterprise zone division (123-065). In this case, this division of administrative rules governs the existence, modification and termination of regular enterprise zones areas, as sponsored by city, port and county governments.

These rules comply with legislation from the 2009 legislation session through HB 2152 which changes the departments name to Oregon Business Development Department.

Rules Coordinator: Mindee Sublette—(503) 986-0036

ADMINISTRATIVE RULES

123-650-0001

Purpose & Scope

This division of administrative rules governs the existence, modification and termination of regular enterprise zone areas under ORS 285C.050 to 285C.250 (**Oregon Enterprise Zone Act**), as sponsored by city, port and county governments, and as designated by the Director of Business Oregon and initially subject to a measure of economic hardship. Subsequent divisions in this chapter address other forms of designation and the tax incentives for business firms in these zones, in particular, see OAR 123-656 for tribally and federally related designations and 123-668 for local zone sponsor guidelines.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.050 - 285.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-0059

Maximum Number of Enterprise Zones

(1) The total number of enterprise zones allowed for designation is 57, plus, as addressed in OAR 123-656:

(a) Any designation based on a federal enterprise zone under ORS 285C.085 (which after it terminates becomes simply another regular enterprise zone through re-designation under ORS 285C.250); and

(b) Any designation of a reservation enterprise zone under ORS 285C.306(2), for which a total of nine may exist.

(2) Subject to change, the 59 enterprise zones presently in existence arose from the following provisions:

(a) Fourteen under ORS 285C.065 and 285C.080 (which permit no more designations);

(b) Forty-four under ORS 285C.065 and 285C.250 (one of which was formerly designated under ORS 285C.085);

(c) None directly under ORS 285C.085; and

(d) One under ORS 285C.306(2).

(3) This rule does not pertain to:

(a) Designation of any federal enterprise zone in Oregon; or

(b) The existence of reservation partnership zones under ORS 285C.306(3), which are in addition to any maximum for the enterprise zones identified in this rule (see OAR 123-656).

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.050, 285C.065, 285C.080, 285C.115, 285C.250, 285C.306 & 285C.320
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-0100

Definitions

ORS 285C.050 and OAR 123-001 (Procedural Rules) contain definitions in addition to the following, as used in this division of administrative rules, unless the context requires otherwise:

(1) **“Applicant”** means the Sponsoring Government or Governments submitting the application for an enterprise zone designation.

(2) **“Census Statistical Unit”** includes any standard geographic area, legal entity or administrative designation for which data are available through the most recent federal decennial census, such as the following: County, county subdivision, incorporated place, census designated (unincorporated) place, ZIP code tabulation area, census tract, census block numbering area (BNA), census block group (BG) or census block.

(3) **“Original enterprise zone”** as used in ORS 285C.115(2) means the area within the boundary of the zone at the time when it was most recently designated, irrespective of intervening boundary amendments.

(4) **“Enterprise Zone Population”** means:

(a) For rural enterprise zones, the total population of incorporated cities, in which any part of the zone is located, plus the currently estimated population of Census Statistical Units that include unincorporated territory within the boundary of the zone; or

(b) For urban enterprise zones, the currently estimated population of Census Statistical Units that include area within the boundary of the zone and in any associated target community for the zone.

(5) **“Preexisting Enterprise Zone”** means an enterprise zone:

(a) Designated within three years of an enterprise zone’s being Terminated-by-Statute;

(b) For which at least one-half of its cosponsors comprised a majority of the cosponsors of the enterprise zone Terminated-by-Statute; and

(c) Recognized as the continuation of the previous enterprise zone, even though it is technically and statutorily a new zone designation.

(6) **“Round of Designation”** means the period, not less than 90 days, beginning with the public notice and ending with the effective date for the last of any resulting designations under ORS 285C.065, 285C.080 and 285C.250 (see OAR 123-650-2000).

(7) **“Sponsoring Government”** means a county, port or city participating as an Applicant in proposing an enterprise zone (or a district that has effectively the same governing body as the county, port or city, and that contains all of that Sponsoring Government’s territory inside the proposed zone).

(8) **“Target community”** means an extensive residential area or group of such areas proximate to a proposed urban enterprise zone boundary, and encompassing a populace that the Applicant intends to help through employment opportunities and relevant public or private efforts in relation to the proposed zone.

(9) **“Terminated-by-Statute”** means the automatic termination of an enterprise zone, previously designated under ORS 285C.065, 285C.080, 285C.085 or 285C.250, by operation of law after more than 10 years under ORS 285C.245(2).

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.050 - 285.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-0500

Local Government Sponsorship or Consent

(1) An enterprise zone shall be sponsored by, and only by, the governing body of every city or county jurisdiction or port district in which it is located, with the following exceptions:

(a) A **port** need not cosponsor a zone, if both of the following are true:

(A) The zone is located inside the territory of a sponsoring city, county or two or more such jurisdictions; and

(B) The port granted consent for the zone to exist in its territory through a resolution adopted by the port’s governing body.

(b) A **county** need not cosponsor a zone, if:

(A) The zone is located completely in the incorporated territory of the city/cities that/each of which sponsors the zone;

(B) The county has consented to the zone in its territory for sponsorship by a port through a resolution adopted by the governing body of the county; or

(C) The county granted consent for the zone in its unincorporated territory through a resolution adopted by the governing body of the county and the only unincorporated territory inside the zone lies within the urban growth area between the corporate limits and the urban growth boundary of a city that sponsors the zone. (Inside a regional or metropolitan urban growth boundary, any such urban growth boundary must be subject to annexation by a sponsoring city)

(c) A **city** need not cosponsor a zone, if all of the following are true:

(A) The zone is located inside the territory of a sponsoring county or of a sponsoring port;

(B) The city granted consent for the zone to exist in its territory through a resolution adopted by the city’s governing body based on port/county sponsorship; and

(C) Less than the zone’s entire area lies within less than the entire incorporated territory of the city.

(2) As otherwise consistent with section (1) of this rule, city/county/port sponsorship or consent is permissible in combinations not specifically described by this rule.

(3) In accordance with OAR 123-656:

(a) A city, port or county shall sponsor neither the designation of a reservation enterprise zone nor an amendment to such a zone that adds only land described under ORS 285C.306(2), but such sponsorship is necessary for a boundary change under ORS 285C.115(3).

(b) This rule does not pertain to a reservation partnership zone under ORS 285C.306(3), except pursuant to a boundary change under ORS 285C.115(3).

(c) Not every city, port or county need sponsor a designation under ORS 285C.085 based on a federal enterprise zone.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.066
Stats. Implemented: ORS 285C.050, 285C.065, 285C.115, 285C.250, 285C.306 & 285C.320
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-0700

Rural & Urban Designations

(1) As defined in ORS 285C.050(8), an “enterprise zone” is a designated area (or a reservation partnership zone under a co-sponsorship agreement), categorized as either “rural” or “urban” under ORS 285C.050(17) or (21).

(2) As used in ORS 285C.050(21), “regional or metropolitan urban growth boundary” means:

(a) The Metro/Portland-area regional urban growth boundary (UGB);

or

ADMINISTRATIVE RULES

(b) The UGB encompassing the largest city inside a federally established metropolitan statistical area (MSA) and any other city that jointly undertakes comprehensive planning with that city to determine their mutual UGB(s). Subject to change in federal MSAs or joint arrangements for inter-city planning, this currently includes the UGBs for:

- (A) Bend;
- (B) Corvallis;
- (C) Eugene and Springfield;
- (D) Medford; and
- (E) Salem and Keizer.

(3) For the purposes of ORS 285C.050(21), "inside" means that an enterprise zone may be neither designated nor amended to include areas both inside and outside a regional or metropolitan urban growth boundary, except for a (rural) reservation enterprise zone or reservation partnership zone.

(4) The rural/urban category of any existing (non-reservation) enterprise zone shall switch according to a change in the circumstances with subsection (2)(b) of this rule, for purposes of future actions by the zone sponsor.

(5) If a new or newly modified regional or metropolitan urban growth boundary intersects an existing enterprise zone, including but not limited to changes affecting subsection (2)(b) of this rule, the zone's categorization as either rural or urban shall remain unchanged. If a subsequent modification to the regional or metropolitan urban growth boundary (or to the definition thereof) situates the zone entirely outside or inside of that boundary, then the zone's categorization as rural or urban shall switch accordingly.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.050 - 285C.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-1000 Size & Distances

For purposes of an enterprise zone designation or boundary change:

(1) Except as allowed in OAR 123-650-1100:

(a) The straight-line distance between any two points within the zone may not exceed 12 miles.

(b) A separate area of the zone must be five or fewer miles of straight-line distance away from another area of the zone as measured between the two closest points of each area.

(2) No part of the zone may be inside the boundary of another enterprise zone.

(3) The total area of the zone may not exceed 12 square miles, for which the following are ignored:

(a) Any road, track, transmission line or right of way that nominally connects separate areas of the zone; or

(b) Any area below the ordinary high water mark of navigable bodies of water, including but not limited to the borders/territory of this state corresponding to the jurisdiction of the zone sponsor, such as areas of the ocean up to three nautical miles directly from shore.

(4) No part of this rule applies to federal enterprise zones, nor does it affect a rural renewable energy development zone under ORS 285C.353, consistent with OAR 123-680.

(5) Consistent with OAR 123-656:

(a) Other than section (2) no part of this rule restricts the designation or amendment of an enterprise zone based on a federal enterprise zone under ORS 285C.085.

(b) Other than sections (2) and (3) no part of this rule affects the designation or existence of a reservation enterprise zone under ORS 285C.306(2), except pursuant to a boundary change under ORS 285C.115(3).

(c) No part of this rule pertains to a reservation partnership zone under ORS 285C.306(3), except pursuant to a boundary change under ORS 285C.115(3).

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.065 & 285C.090
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-1100 Extended Rural Distances

For purposes of ORS 285C.050(18), 285C.090(4) and 285C.120:

(1) This rule applies only to rural enterprise zones that are or will be at least partially outside a county, for which the latest estimate of the county's total population divided by the current area exceeds 100 persons per square mile, known for purposes of this rule as a "densely populated county."

(2) The maximum distance allowed in OAR 123-650-1000(1)(a) increases from 12 to:

(a) Twenty-five lineal miles, if no area of the zone is in a densely populated county; or

(b) Twenty lineal miles, if some but not all of the zone area lies in a densely populated county.

(3) The maximum distance allowed in OAR 123-650-1000(1)(b) increases from 5 to 15 lineal miles if none of the separate area is in a densely populated county.

(4) In accordance with ORS 285C.120(2), the Director may waive a limitation in section (2) or (3) of this rule to allow even greater distance pursuant to an enterprise zone designation or boundary change:

(a) As specifically requested by the Applicant for designation or the current zone sponsor and any proposed cosponsor;

(b) Such that the waiver is part of the Director's order designating or changing the boundary of the enterprise zone boundary; and

(c) If evidence or indications as evaluated by the Department satisfy points described in section (5) of this rule.

(5) For a waiver as described in section (4) of this rule, the Director must find that each of the following three points is satisfied:

(a) The impracticality of separate enterprise zones as an alternative, such that relative to outstanding local demand for available designations, for example, the distant area proposed for inclusion in the zone will serve an isolated site or small community that might be infeasible on its own as a zone.

(b) Effective administration within the overall requested boundary appears likely, in that for example, it is located entirely in one county, traversable over relatively direct and efficient road distances, and the appointed zone (co-)manager(s) can take care of the entire zone, or the zone sponsor will devote sufficient resources for management of the extended zone.

(c) Furtherance of the goals and purpose of applicable state policies, such as state land use goals, or the opportunity to efficiently and expeditiously site a significant business investment, to serve an area exhibiting particular hardship but also the potential for economic development, or to accommodate the expressed preference of local jurisdictions.

(6) Nothing in this rule affects the restriction of up to but not more than 12 square miles for total enterprise zone area described in OAR 123-650-1000(3).

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.120(2)
Stats. Implemented: ORS 285C.050, 285C.065, 285C.090, 285C.120 & 285C.350
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-1500 Mapping & Defining Zone Boundary

Any proposed enterprise zone designation or boundary change, as described in this division of administrative rules, shall demonstrate adherence with OAR 123-650-1000 or 123-650-1100 by including all of the following with the application or request submitted to the Department:

(1) Estimate to the nearest 0.1 square miles of the entire proposed enterprise zone area (pursuant to boundary change).

(2) Map or set of maps drawn to scale with a clear representation of the entire enterprise zone's proposed boundary, such that:

(a) Maps contain north directional arrow, legend/scale and title with the name of the zone;

(b) An overview map shows the entire proposed zone on a single page;

(c) As necessary, inset or sub-maps provide detail for portions of the zone, as referenced or linked to the overview map; and

(d) A boundary change request specifically identifies added and removed areas.

(3) Narrative legal description of the enterprise zone's boundary in a continuous fashion that corresponds to the mapping in section (2) of this rule, but which would overrule the mapping in the event of any material discrepancy. Though primarily based on metes & bounds surveying, for the sake of simplification one or more of the following may substitute partially or entirely for metes & bounds, where it exactly corresponds or coincides to the enterprise zone boundary:

(a) Permanent landmarks or natural margins such as a waterway, road, track or transmission line;

(b) Official borders or demarcations such as city limit, urban growth boundary, county line or right of way, provided that dated documentary references are made (zone boundary will not automatically change with later changes to these demarcations);

(c) Census Statistical Units larger than a census block (with official, dated documentation);

(d) Whole cadastral sections, quarter sections and so forth; or

ADMINISTRATIVE RULES

(e) Listing of tax lots as dated and documented in specific reference to county assessor maps, preferably based on highlighted copies of such maps included with the submission.

(4) The following items, although the Department may accept and approve a designation or boundary change pending their receipt from the zone sponsor:

(a) Geo-coded data (shape file) for geographic information systems (GIS); and

(b) Electronic image file corresponding to subsection (2)(b) of this rule.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3) & 285C.250(4)
Stats. Implemented: ORS 285C.060, 285C.065, 285C.075, 285C.085, 285C.090, 285C.115, 285C.120 & 285C.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-2000

Application Receipt & Review

(1) The Department shall issue public notice specifying the deadline for applications, which shall indicate any maximum number of enterprise zones available in the Round of Designation. The Department shall determine how to announce the round or publish the notice, including but not limited to posting application information at the Department's internet web site, not less than 60 days in advance of the specified deadline.

(2) An Applicant may submit a valid application under ORS 285C.065 only pursuant to an announced Round of Designation, in that on or before the date of the application deadline:

(a) The Applicant sent it by that date, as indicated by a postmark or the receipt of a commercial deliverer; or

(b) The Department received it at its Salem office by 5 p.m. that day if directly delivered by the Applicant.

(3) The Department shall complete a review of all received applications for enterprise zone designation within 60 days after the specified deadline, to determine which Applicants meet the requirements and mandatory qualifications under ORS 285C.090 and other applicable provisions of ORS 285C.050 to 285C.250.

(4) When the number of qualified Applicants exceeds the maximum number of zones, or if requested by the Director, the Department shall further evaluate the applications, using the competitive criteria described in OAR 123-650-3000 through 123-650-3400.

(5) The Department shall prepare a staff report to the Director based on the review in section (3) of this rule that:

(a) Identifies and delineates basic features of each qualified Applicant, summarizing applicable evaluations and rankings arising from section (4) of this rule;

(b) Discusses other significant analyses and considerations about the proposed enterprise zones, as available; and

(c) Highlights key issues and parameters affecting the current Round of Designation.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3) & 285C.250(4)
Stats. Implemented: ORS 285C.065, 285C.075, 285C.090 & 285C.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-2100

Mandatory Economic Need & Land

For purposes of designation, a proposed enterprise zone must demonstrate that the local economy is lagging, and that it contains land ready for development:

(1) Except as allowed in section (2) of this rule, a proposed enterprise zone must meet one of the following relative measures of economic hardship in order to qualify for designation:

(a) The proposed enterprise zone's median income per household or mean income per capita is 80 percent or less of the equivalent statewide income;

(b) The proposed enterprise zone's unemployment rate is at least two percentage points higher than the statewide unemployment rate;

(c) The proposed enterprise zone's percentage of persons or households below the poverty level is at least five percentage points higher than the equivalent statewide percentage; or

(d) The change in Enterprise Zone Population during the most recent ten-year period is at least 15 percentage points less than the baseline growth for the statewide population. (For example, if the Enterprise Zone Population grew by 10 percent, but the state's population growth over the same ten-year period was 26 percent, the proposed enterprise zone would meet this qualification.)

(2) A proposed enterprise zone may nevertheless qualify for designation under ORS 285C.090(1)(c), if the Director finds based on evidence documented by the Applicant that the proposed zone will effectively serve

communities with economic needs at least as severe as that represented in section (1) of this rule. This may include a combination of recently available facts and data for social and economic conditions, or for example, permanent closures or curtailments within 30 miles of the proposed zone by specified employers during the three years preceding the application deadline that are associated with heavy job losses.

(3) The proposed enterprise zone boundary must encompass significant land that is vacant, improvable and suitable for use and rapid development by eligible business firms.

(4) No part of this rule shall exclude enterprise zones so designated or amended under federal law or under ORS 285C.085, 285C.115 or 285C.306.

(5) The application form and instructions prepared by the Department for the Round of Designation are hereby incorporated into and made part of these administrative rules by reference, for purposes of an Applicant's satisfying this rule with respect to how an Applicant shall:

(a) Assemble, average and compare economic statistics;

(b) Properly relate those statistics to the proposed zone area and to this state/equivalent;

(c) Document the adequacy and quantity of project-ready land;

(d) Undertake or integrate relevant strategic planning efforts; and

(e) Address other matters.

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

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3) & 285C.250(4)
Stats. Implemented: ORS 285B.283, 285C.075, 285C.090 & 285C.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-2200

Acceptance & Effect of Application

With a given Round of Designation:

(1) The application for designation of an enterprise zone as submitted by an Applicant:

(a) Shall include all items and information specified in OAR 123-650-2300, for which failure to perform an associated task may result in termination of the zone after designation under ORS 285C.245(5).

(b) May come from any city, port or county or combination of cities, ports or counties in accordance with OAR 123-650-0500, except as described in section (2) of this rule.

(c) Shall specify a name for the proposed zone corresponding to place names or common geographic or jurisdictional terms. (A Preexisting Enterprise Zone with the same name shall, as necessary, use suffix "II," "III," etc. for purposes of reapplication)

(d) May contain binding proposals by each Sponsoring Government (as indicated in its resolution) to provide local incentives under ORS 285C.065(4) to (6) (consistent with OAR 123-668-1300) to authorized or qualified business firms locating or expanding in parts of the proposed zone exclusive to that government's political or service territory.

(e) Serves as an opportunity for a Preexisting Enterprise Zone to revise any existing policy.

(2) The Department shall reject an application if:

(a) The proposed zone includes area in any existing enterprise zone (including but not limited to a reservation partnership zone) unless the other zone will be Terminated-by-Statute at the round's conclusion.

(b) Any Sponsoring Government is:

(A) A city, port or county that sponsored an enterprise zone terminated by order of the Director under ORS 285C.245(4) or (5), other than a county or port if a port/city also sponsored the terminated zone and none of the proposed enterprise zone area for designation was inside the terminated zone.

(B) A city or a port (without one or more city cosponsors) that is also sponsoring a previously received application in the same round.

(C) A city with a population of less than 100,000 that sponsors an existing enterprise zone, unless it is a reservation partnership zone or will be Terminated-by-Statute at the round's conclusion, or as specially allowed by the Director respective to other near-term terminations and anticipated re-applications.

(3) Only with or directly pursuant to application for an enterprise zone may a city or county establish under ORS 285C.070 that a business operating a hotel, motel or destination resort is eligible under ORS 285C.135(5)(c) in a enterprise zone or in part of the zone exclusive to the city's or county's entire jurisdiction. Moreover:

(a) Any such election or restriction depends on resolution(s) (jointly) adopted by all city and county Sponsoring Government(s).

(b) A Sponsoring Government may revise an election, restriction or lack thereof, regardless of what the application said, by resolution(s) adopted not more than six months after the date of designation.

ADMINISTRATIVE RULES

(c) For a Preexisting Enterprise Zone with an existing election, hotel/resort eligibility does not automatically carry over (such that future hotel/resorts are ineligible throughout the new zone without a positive election as described in this section).

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3), 285C.066 & 285C.250(4)
Stats. Implemented: ORS 285C.065, 285C.070, 285C.075 & 285C.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-2300

Required Elements of Application

An application proposing designation of an enterprise zone **must contain**:

(1) A form as prescribed by and available from the Department that the Applicant fills out and includes with the information described in this rule.

(2) A copy of a resolution, duly adopted not more than 90 days before submission of the application to the Department for that Round of Designation:

(a) Consistent with OAR 123-650-2400 from each Sponsoring Government; and

(b) Of consent from any other applicable city, port or county.

(3) A description of the boundary and surface area of the proposed zone (see OAR 123-650-1500).

(4) Information sufficient to verify satisfaction of mandatory qualifications in OAR 123-650-2100 by including:

(a) Data for social and economic conditions, which also serve the competitive criteria in OAR 123-650-3100; and

(b) Evidence about the readiness of land for development, including but not limited to an enterprise zone map that shows land use zoning and key sites.

(5) Documentation of notice and consultation with local taxing districts (see OAR 123-650-5000 to 123-650-5200).

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

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3), 285C.066, 285C.067(2) & 285C.250(4)

Stats. Implemented: ORS 285C.065, 285C.075, 285C.090 & 285C.250

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-2400

Local Resolutions for Designation

In addition to requesting designation, the resolutions of Sponsoring Governments for purposes of OAR 123-650-2300(2) shall:

(1) State the Applicant's principal reasons for an enterprise zone, as appropriate.

(2) Acknowledge other participants in a joint application, if any.

(3) Confirm that the Applicant will give priority to the use in a designated zone of any economic development or job training funds received directly or indirectly from the federal government.

(4) Declare that the Applicant will fulfill its duties under ORS 285C.050 to 285C.250 and comply with ORS 285C.105 (see OAR 123-668), including but not limited to:

(a) Appointing a local zone manager within 90 days of designation, if one is not already appointed through the application; and

(b) Fully implementing within six months of designation:

(A) Any proposal in the application for local incentives under ORS 285C.065(4) to (6) (per OAR 123-668-1300); and

(B) Duties of the sponsor described in OAR 123-668-1100 and 123-668-1400.

(5) Attest to actions taken for purposes of public involvement, including but not limited to the nature and outcome of the consultations with local taxing districts under ORS 285C.067.

(6) Highlight other characteristics of the application or the proposed zone as deemed appropriate by the Sponsoring Government.

(7) Address applicable elections or restrictions for hotel/resort eligibility, as described in OAR 123-650-2200(3), or for similar matters.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3), 285C.067(2) & 285C.250(4)

Stats. Implemented: ORS 285C.065, 285C.067, 285C.070, 285C.095, 285C.105 & 285C.110

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-2500

Director's Determination

For purposes of designating enterprise zones:

(1) The Director's consideration shall include but is not limited to the staff report in OAR 123-650-2000.

(2) For a given Round of Designation:

(a) All zones available for designation under ORS 285C.250(1) to replace zones that are Terminated-by-Statute shall be designated if there are qualified Applicants;

(b) The Director may determine not to designate a zone available under another provision, despite qualified Applicants; and

(c) Any zone remaining undesignated shall be available in a future Round of Designation as determined by the Director.

(3) No enterprise zone shall be designated if any such designation would cause the total number of enterprise zones in existence to exceed the maximum allowed by law.

(4) The decision of the Director as to which qualified Applicant(s) to designate (or deny):

(a) May not be appealed; and

(b) Depends ultimately (subject to sections (2) and (3) of this rule) on the Director's determination of which Applicant/proposed enterprise zone represents if designated the best chance to fulfill the public purposes of the **Oregon Enterprise Zone Act**.

(5) The Department shall contact all unsuccessful Applicants within 30 days of the Director's determination, notifying them in writing under ORS 285C.075(4).

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.067(2) & 285C.250(4)

Stats. Implemented: ORS 285C.045, 285C.055, 285C.060, 285C.067, 285C.075, 285C.080 & 285C.250

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-2600

Orders of Designation

Pursuant to OAR 123-650-2500:

(1) The Director shall issue an order designating the enterprise zone or zones.

(2) The order of designation shall acknowledge:

(a) The particular statutory basis for the designation;

(b) The basic features of the new enterprise zone, such as its Sponsoring Government(s) and supporting documentation describing the zone's area;

(c) The effective designation date and the latest expected termination date for the new enterprise zone;

(d) If applicable, that the new zone is the continuation of a Preexisting Enterprise Zone;

(e) Any distance waiver under ORS 285C.120(2), as described in 123-650-1100; and

(f) That the new enterprise zone shall exempt qualified property of hotels, motels and destination resorts, as allowed under ORS 285C.070, and any other similarly special matters.

(3) An order of designation shall typically set the effective date of designation on the date when done, but it may be made effective at a reasonable time later or earlier, including but not limited to the following cases:

(a) Designation of any zone available under ORS 285C.250(1) to replace a zone Terminated-by-Statute shall take effect on July 1.

(b) For a zone available under another provision, the effective designation date may be earlier to accommodate qualification of an investment in qualified property by an eligible business firm in the newly designated zone, with the following provisos:

(A) The effective date may not be earlier than receipt of the formal application for designation from the Applicant;

(B) Nothing by the Department in such regards shall be construed as ensuring any benefit for the firm, including but not limited to exemption on taxable property under ORS 285C.175;

(C) The application for designation must clearly indicate the investment as a consideration for designation of the proposed enterprise zone;

(D) The merit of this investment shall be given consideration by the Department and Director commensurate with that given any other prospective investment contained in competing applications; and

(E) The firm still needs to have applied for authorization under ORS 285C.140 before beginning physical work on the investment.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.055, 285C.060, 285C.070, 285C.075 & 285C.250

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-3000

Scoring System

(1) OAR 123-650-3100, 123-650-3200, 123-650-3300 and 123-650-3400 each entail a category of criteria for evaluating and awarding points on the need, likelihood of success and other qualities of a proposed enterprise zone:

(a) Total points for all of the categories and criteria shall not exceed 2,000.

(b) OAR 123-650-3100 carries 750-point maximum and 123-650-3200 carries 500-point maximum.

ADMINISTRATIVE RULES

(c) For each criterion without a definite formula, the Department shall assign points based on comparison among the Applicants in that Round of Designation.

(d) No penalty shall be associated with either the response or the absence of a response to any criterion.

(e) If two or more Applicants have the same number of total points for all categories, then the Director shall determine how to break such a tie, as necessary, for that Round of Designation.

(f) The evaluation may include input/scoring by external reviewers (that are reasonably expected to be impartial) if justified by the number of qualified Applicants relative to available zones.

(2) In order to be accepted by the Department, all responses to such competitive criteria must be submitted with the deadline specified in OAR 123-650-2000, except for those in 123-650-3200, 123-650-3300 and 123-650-3400 if:

(a) So stipulated in those administrative rules for that criterion; or

(b) In the public notice in OAR 123-650-2000, the Department allows submission of such responses within 30 calendar days after the deadline. In this case, the Department shall advise all Applicants about the importance of such responses, as soon as possible after the deadline.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3) & 285C.250(4)

Stats. Implemented: ORS 285C.065, 285C.075, 285C.090 & 285C.250

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-3100

Economic Hardship & Betterment

The following criteria measure the economic hardship of the proposed enterprise zone and may serve to satisfy OAR 123-650-2100(1) or (2), but the Applicant at its discretion may make additional responses only by the time of the deadline in 123-650-2000:

(1) Ten points, for every percent that the average/median per capita or per household income of the zone is below the equivalent statewide income.

(2) One point, for every basis point by which the zone's unemployment rate exceeds the statewide rate.

(3) Four points, for every 10 basis point by which the zone's percentage of persons or households below the poverty level exceeds the equivalent statewide percentage.

(4) Four points, for every 30 basis point by which the baseline population growth of the state during the most recent ten-year period exceeds the change in the Enterprise Zone Population over the same period.

(5) Sixty points, for each Distressed Area that either is a Sponsoring Government or entirely contained within the proposed zone.

(6) Extra points at the discretion of the Department for:

(a) Other economic statistics or circumstances, such as local closures and job losses or special studies of overall economic conditions, as presented and documented by the Applicant; or

(b) If the Department finds that designation of the proposed zone is likely to contribute significantly to opportunities for growth in a larger, economically lagging region of the state.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3) & 285C.250(4)

Stats. Implemented: ORS 285A.020, 285C.055, 285C.075, 285C.090 & 285C.250

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-3200

Successful & Sound Development

The following criteria evaluate the proposed enterprise zone's potential to induce additional investment by eligible business firms and thereby stimulate local economic opportunity through new jobs, wealth and business diversity, and to otherwise integrate the enterprise zone into efforts to create and sustain a healthy community. Applicant may respond at its discretion and may consolidate two or more of the following criteria:

(1) Available or planned education and training opportunities, as well as career/personal counseling, job placement or similar services, for employers and employees that:

(a) Could influence eligible business firms to locate, start up, expand or remain in the proposed enterprise zone; or

(b) Are capable of enhancing skill levels, productivity and earnings for eligible employers and employees located in the proposed enterprise zone.

(2) History of economic and community development activities on the part of the Applicant or other jurisdictions and groups that would play an active role in promoting the proposed enterprise zone (maximum 150 points). For Preexisting Enterprise Zones:

(a) One point shall be awarded under this section for each of the first 150 jobs created by qualified business firms within the terminated or terminating zone since its most recent designation; and

(b) The Department shall determine the most recent figures for the jobs created and associated with such a zone based on information reported by the county assessor under ORS 285C.130, subject to revision through communications of the Department with qualified business firms or the assessor. (This subsection relieves a relevant Applicant of having to report job figures.)

(3) Recent or planned improvements in the availability, capacity or efficiency of public infrastructure that will generally facilitate business development in the proposed zone.

(4) Proposed package of local incentives, inasmuch as they would be binding as described in OAR 123-668-1300, such that:

(a) The package may include local incentives adopted within one year prior to the application deadline; and

(b) Applicants shall account for the feasibility or prudence in terms of fiscal or other impacts on relevant governmental entities due to proposed reductions in direct service fees.

(5) A plan for marketing the proposed enterprise zone or the local area with respect to the expansion, retention, start-up or recruitment of eligible business firms.

(6) A strategic plan or similar efforts applicable to the proposed enterprise zone, in terms of local analyses, objectives, actions and anticipated results.

(7) General supply of land that is useable for eligible business firms in general, including but not limited to sites ready for rapid development or redevelopment inside the proposed enterprise zone.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3) & 285C.250(4)

Stats. Implemented: ORS 285B.283, 285C.055, 285C.060, 285C.065, 285C.075 & 285C.250

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-3300

Immediate Investment Prospects

The following criteria assess the immediate investment prospects within the proposed enterprise zone by eligible business firms considering a location or an expansion in employment within the zone. Responses are at the discretion of the Applicant and of such firms:

(1) Such immediate prospects must be on investments reasonably expected to qualify within the proposed enterprise zone no later than January 1 following the second full calendar year after the zone's designation.

(2) Evidence of such prospects shall take the form of:

(a) An authorization application;

(b) A list of authorized business firms prepared by the Applicant; or

(c) A (confidential) letter from an executive officer of the eligible business firm on its letterhead to the Director stating:

(A) How the enterprise zone designation weighs crucially in the firm's decision to locate or expand;

(B) Any specific site that the firm is considering for its investment;

(C) The estimated number of new employees to be hired within the zone by the time that the firm's investment will qualify for the enterprise zone exemption; and

(D) The estimated cost of the investment in qualified property.

(3) Each new employee that such a prospect will hire shall generate one point.

(4) Each \$1,000,000 in qualified property that such a prospect will invest shall generate three points.

(5) The Department must receive any such relevant evidence for section (2) of this rule not more than 30 calendar days after the application deadline in OAR 123-650-2000.

(6) An eligible business firm may submit only one letter as described in subsection (2)(c) of this rule for each Round of Designation. If the firm submits two or more letters no points shall be awarded, but a letter may be withdrawn and replaced with a new letter if received by the Department within the time limit in section (5) of this rule.

(7) The Department shall award only 1/3 of the usual points as described in section (3) and (4) of this rule for an immediate investment prospect that plans to locate on a site within five miles of a current enterprise zone including one to be Terminated-by-Statute, unless the Applicant or the eligible business firm sufficiently justify why:

(a) The prospective investment cannot now qualify under ORS 285C.050 to 285C.250, including allowances for changes in an existing enterprise zone boundary; or

(b) The designation of the enterprise zone is nevertheless indispensable to the firm's investment.

(8) If the eligible business firm makes a final investment decision prior to the designation of the enterprise zone by the Director, no points

ADMINISTRATIVE RULES

shall be awarded for that investment. Evidence of such a decision includes but is not limited to a public announcement or action by the firm.

(9) The Department reserves the right to seek information on the credibility and business credibility of the eligible business firm before awarding points under this section.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3) & 285C.250(4)
Stats. Implemented: ORS 285C.055, 285C.060, 285C.065 & 285C.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-3400

Miscellaneous

The following criteria relate to how well the proposed enterprise zone will operate and achieve the economic development goals of the state as a whole. Applicant's responses are discretionary and may consolidate two or more criteria:

(1) A plan for managing the proposed zone, including but not limited to the appointment of a local enterprise zone manager or co-managers through provisions in the application or approved actions by the Sponsoring Governments.

(2) Existing or proposed arrangements for coordinating actions among the Sponsoring Governments, county assessor and other key participants in the proposed zone, including but not limited to the creation or naming of a zone association empowered and constituted by agreement among the Sponsoring Governments.

(3) Evidence of public awareness about the proposed zone within the local community, including but not limited to:

(a) A record of formal public discussion and involvement in the decisions to make application and to define the area for the zone; and

(b) Resolutions or letters of support for the zone from local organizations, institutions or property tax districts received by the Department within 30 calendar days of the application deadline in OAR 123-650-2000(1).

(4) For a proposed urban enterprise zone, the absence within the metropolitan statistical area of any other urban zone that will not be Terminated-by-Statute before the zone is designated (maximum of 150 points).

(5) The distance between a proposed rural enterprise zone and the nearest current enterprise zone that will not be Terminated-by-Statute before the zone is designated (2.5 points for every mile of the shortest distance over paved roadways, up to a maximum of 250 points).

(6) Number of cities, ports or counties participating in the proposed zone (40 points for each Sponsoring Government in excess of two).

(7) The results of consultations with local taxing districts under ORS 285C.067.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3), 285C.067(2) & 285C.250(4)
Stats. Implemented: ORS 285C.055, 285C.067, 285C.075, 285C.105 & 285C.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-5000

Notice with Regular Zone Application

An application to designate an enterprise zone under ORS 285C.080 or 285C.250 entails notice to and consultation with local taxing districts before making submissions to the Department:

(1) The notice goes to each taxing district (including but not limited to any municipal corporation or service district listed under ORS 198.010 and 198.180) that levies or has authority to levy ad valorem taxes on property within the proposed area of zone designation. The county assessor shall also receive notice, but it does not need to go to any taxing district that is a Sponsoring Government or a service district, urban renewal district, or the like with effectively the same governing body as a Sponsoring Government.

(2) The Applicant must send the notice at least 21 calendar days before the meeting described in OAR 123-650-5100, and the notice must include, but is not limited to:

(a) An invitation for representation from each district;

(b) An established meeting place, date and time (The Applicant is urged to coordinate scheduling with district officials who are known to be interested in relevant issues); and

(c) Brief background about the reasons for seeking an enterprise zone.

(3) The notice must always:

(a) Indicate the probable schedule for consideration of city/port/county resolutions to apply for designation even if lacking exact dates;

(b) Explain the potential for (limited-duration) exemption(s) from taxes on future business property inside the zone boundary (subject to certain requirements);

(c) Invite comments on the proposed zone to be directed at some or all of the sponsoring city/port/county governments; and

(d) Give contact details for submitting such comments or for receiving further information.

(4) The Applicant must furnish the Department with the following as part of the application:

(a) A list of contact names and mailing addresses for all applicable taxing districts;

(b) A (template) copy of the notice directed at such taxing districts;

(c) Any final document, materials or meeting minutes associated with consultative activities; and

(d) A statement signed by the authorized preparer of the application attesting that the notification was sent by regular mail to each listed district on a specified date.

(5) For all written comments received in response to the notice from any relevant taxing district, the Applicant or zone sponsor shall send copies to the Department with application submissions or no later than 15 calendar days following the Applicant's receipt.

(6) A taxing district's objection to or lack of support has no bearing on the zone's operation or tax abatements for business firms.

(7) Failure to perform any task stipulated by this rule may result in the Director's rescinding the relevant order.

(8) The tasks stipulated in this rule shall not discourage or replace other local efforts and actions to provide/elicit public information, commentary or involvement, as circumstantially appropriate, or as required by local law, policy, custom or practice.

(9) Copies of items listed in subsections (4)(a) and (b) of this rule shall also be furnished to the Special Districts Association of Oregon (Attn: Government Affairs) by the Applicant.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3), 285C.067(2) & 285C.250(4)
Stats. Implemented: ORS 285C.060, 285C.067, 285C.065, 285C.075 & 285C.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-5100

Public Meeting for Regular Applications

For purposes of ORS 285C.067, the Applicant for enterprise zone designation shall conduct a public meeting (though not necessarily hold a public hearing or issue a public notice for the meeting):

(1) That occurs not less than seven days before the adoption of a resolution of application by the governing body of any Sponsoring Government.

(2) To which the Applicant sends staff and community partners, who are directly involved with the application and knowledgeable about potential business development in the proposed zone, and elected or executive officials of the governments as feasible and appropriate.

(3) At which the Applicant:

(a) Makes available and reviews draft copies of a map of the proposed zone boundary and other such materials related to the application;

(b) Recognizes for the record any written commentary already received from a district;

(c) May allot time for opening statements by each district in attendance; and

(d) Sees that the proceedings are transcribed or recorded in some manner.

(4) That involves discussion of relevant issues and addresses follow-up steps for analysis or further consultation, as well as plans for adopting resolutions and submitting the enterprise zone application.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3), 285C.067(2) & 285C.250(4)
Stats. Implemented: ORS 285C.060, 285C.065, 285C.067, 285C.075 & 285C.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-5200

Consultations Generally with Taxing Districts

(1) In anticipation of or subsequent to the meeting described in OAR 123-650-5100, or as otherwise warranted, the Applicant or zone sponsor:

(a) May communicate, confer or interact with one or more local taxing districts, including but not limited to additional public or nonpublic meetings or other means of eliciting feedback and dialogue with districts.

(b) Shall respond within 10 business days to a local taxing district's formal request and make good faith efforts to fulfill any such a request for a special (one-on-one) meeting or for written comments or answers to specific questions.

(c) Shall assist one or more districts, as requested, to estimate or better understand short/long-term public revenues and service demands under particular assumptions or potentialities about enterprise zone development.

(d) May explore how to effectively resolve relevant, outstanding issues through local government permitting procedures and development standards affecting eligible business firms in the zone, including but not

ADMINISTRATIVE RULES

limited to design review, conditional use permits, comprehensive land use planning or zoning ordinances.

(2) As a consequence of consultative activities with local taxing districts, the Applicant or zone sponsor:

(a) May establish arrangements or agreements with one or more districts, contingent on zone designation.

(b) Shall describe any such arrangements in materials submitted to the Department, including but not limited to follow-up steps, timelines or outstanding points still subject to further development or finalization.

(c) May formally execute and document any such arrangement or agreement, but any description of verbal pledges or understandings does not itself create or represent an obligation by the zone sponsor.

(3) This rule does not create any authority over property tax collection or any right to obligate or burden the county assessor.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3), 285C.067(2), 285C.250(4), 285C.353(2) & 285C.370

Stats. Implemented: ORS 285C.060, 285C.065, 285C.067, 285C.075, 285C.085, 285C.115, 285C.120, 285C.250 & 285C.353

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-5500

Notice for Boundary Change, Federal Enterprise Zone or RRED Zone

An application or request to designate a rural renewable energy development zone (see OAR 123-680), to designate an enterprise zone under ORS 285C.085 (federal enterprise zone), or to change an existing enterprise zone boundary entails notice to local taxing districts before submission to the Department that generally conforms to that described in OAR 123-650-5000, except:

(1) In the case of a boundary change, the notice goes not only to each taxing district in any proposed area to be added, but also to those inside the entire, current zone area (aside from any jurisdiction seeking to join the zone).

(2) The sponsor/would-be sponsor shall send the notice at least 21 calendar days before adoption of the requisite resolution by the governing body of the sponsoring county. If there is no sponsoring county, notice must precede the resolution by every sponsoring city or port by 21 calendar days.

(3) There is no mandatory public meeting or other type of special consultation, but circumstances could demand further communications as described in OAR 123-650-5200, including but not limited to the proposed addition of a new cosponsor or of extensive area to an existing enterprise zone.

(4) Application/request to the Department is not complete without inclusion of relevant items listed in OAR 123-650-5000(4) or (5).

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.353(2) & 285C.370

Stats. Implemented: ORS 285C.085, 285C.115, 285C.120, 285C.250 & 285C.353

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-7000

Request by Zone Sponsor

The request by the sponsor of an enterprise zone to change its boundary under ORS 285C.115 shall address the following:

(1) Resolutions lately adopted by the governing body of each existing and proposed member comprising the zone sponsor, copies of which are included.

(2) Change or retention of the zone's official name.

(3) Definition of the zone boundary in accordance with OAR 123-650-1500.

(4) Consideration of economic hardship conditions in or near any area proposed for addition to the zone, relative to economic hardship of the original enterprise zone as described in OAR 123-650-7300.

(5) Adherence to OAR 123-650-7100 and 123-650-7200, including but not limited to commentary about the usability of land, urban growth boundaries and public involvement.

(6) Conformity with:

(a) Mandatory city/county/port sponsorship or consent in OAR 123-650-0500, such that despite previous consent by resolution of a city, port or county governing body, any subsequent boundary change still needs further consent to include additional area inside territory of the city, port or county, unless the previous resolution expressly granted open-ended consent for any such future amendment;

(b) Spatial parameters for an enterprise zone in OAR 123-650-1000 or 123-650-1100; and

(c) Requirements of ORS 285C.115(2)(b) and (d) for retaining sites of all current, actively authorized business firms and at least half of the land in the original enterprise zone.

(7) For a proposed new cosponsor, as desired and contained in its resolution:

(a) Binding proposals to provide local incentives under ORS 285C.115(7)(a) (consistent with OAR 123-668-1300) to authorized or qualified business firms locating or expanding in parts of the proposed zone exclusive to that jurisdiction or port district; or

(b) A restriction in the case of a city or county under ORS 285C.115(7)(b) from hotel, motel or destination resort businesses' being eligible in the enterprise zone exclusive to that city or county jurisdiction, but only if such businesses are eligible elsewhere in the existing zone.

(8) Request for a needed waiver of maximum rural distances per OAR 123-650-1100.

(9) Explain, as appropriate, why the change to the zone boundary complements the zone's strategic plan or marketing efforts as formulated with or since the application for designation of the zone.

(10) Describe any immediate justification, as appropriate, for the change to the zone boundary, including but not limited to one or more of the following:

(a) The ability to immediately site and authorize a prospective investment by an eligible business firm that will result in economic diversification or the creation or retention of significant employment opportunities for full-time work, quality jobs or special training;

(b) The opportunity to exploit recent changes in local land use designations and ordinances consistent with the purpose of the **Oregon Enterprise Zone Act**; or

(c) The extension of enterprise zone benefits to a city, port or county that is not sponsoring a current enterprise zone.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.066 & 285C.115(6)

Stats. Implemented: ORS 285C.060 & 285C.115

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-7100

Limitations on Boundary Changes

(1) The Director shall approve a change in an enterprise zone's boundary as requested by the zone sponsor only if land described in section (2) of this rule comprises:

(a) Not less than 20 percent of the land to be added (except as specially allowed by the Department); and

(b) None of what the sponsor proposes for removal.

(2) Useable land for purposes of section (1) of this rule excludes residential or agricultural properties and includes but is not limited to sites that are:

(a) Zoned outright for uses germane to eligible business firms consistent with an acknowledged comprehensive land use plan;

(b) Free of serious impediments to development and use by eligible business firms due to cultural or environmental concerns/regulations;

(c) Provided with or can be effectively provided with infrastructure, road access, utilities and public services that are adequate for eligible business operations; and

(d) Vacant or available for substantial new occupancy, expansions or improvements by one or more eligible business firms.

(3) In order to modify the boundary of a rural enterprise zone, so that it contains new area outside of any urban growth boundary, the request for the boundary change must indicate and explain as described in OAR 123-650-7000(10) to the satisfaction of the Department that there is significant justification for the change.

(4) The Director shall not approve a boundary change if:

(a) It adds any area that is:

(A) Outside a regional or metropolitan urban growth boundary, to an urban enterprise zone; or

(B) Inside such a boundary, to a rural zone (other than a reservation enterprise zone or reservation partnership zone);

(b) It adds area inside any other current enterprise zone; or

(c) A new cosponsor to be added under ORS 285C.115(7) is:

(A) A city, port or county that had sponsored an enterprise zone terminated under ORS 285C.245(4) or (5), except in the case of a county or port if the terminated zone was also port/city-sponsored and none of the area proposed for addition was inside the terminated zone; or

(B) A city with a population of less than 100,000 that currently sponsors another enterprise zone, except for a reservation partnership zone.

(5) Neither a boundary change nor any comparable procedure allows a city, port or county government:

(a) To make hotel/resort businesses eligible unless such firms are eligible in the zone already; or

(b) To renounce, rescind or terminate its existing sponsorship and inclusion in the zone, which is possible only by termination of the entire zone under ORS 285C.245 or by dissolution of the jurisdiction.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.066 & 285C.115(6)

Stats. Implemented: ORS 285C.065 & 285C.115

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

ADMINISTRATIVE RULES

123-650-7200

Public Involvement

The zone sponsor shall solicit public involvement that:

(1) Occurs prior to the approval of resolutions as described in OAR 123-650-7000 or prior to the submission of a revised request for the boundary change under ORS 285C.115(8);

(2) Is commensurate with the scale and potential impact of the requested boundary change on members of the public, recognizing, for example, that a minor addition of land within an urban growth boundary will generally necessitate little or no public involvement;

(3) Potentially includes but is not necessarily dependent on: Public notice, period of public comment, dissemination of information, or public meeting/hearing, notwithstanding whether they are a requisite part of a jurisdiction's process for adoption of a resolution; and

(4) Conforms with and includes documentation stipulated in OAR 123-650-5500 for timely communication with local taxing districts, including but not limited to districts with territory that is already in the enterprise zone.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.115(6)

Stats. Implemented: ORS 285C.115

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-7300

Economic Conditions

Under ORS 285C.115(2)(c), an area may not be added to an enterprise zone if it contains or adjoins residential areas that are significantly better-off, economically, compared to the original enterprise zone:

(1) Economic statistics or data for the original enterprise zone shall be:

- (a) From the time of the application for designation of the zone; or
- (b) As are most recently available.

(2) For purposes of the boundary change request and OAR 123-650-7000(4), general commentary shall suffice for this issue if it is readily apparent that any area for addition to the zone:

- (a) Is virtually devoid of and geographically removed from residential areas; or
- (b) Has/borders only residential areas with more severe economic hardship conditions.

(3) If the case is less plain than indicated in section (2) of this rule, then the request shall contain a suitable comparison of the original enterprise zone's economics to Census Statistical Units that contain, overlap or are adjacent to areas to be added to the zone.

(4) The comparison in section (3) of this rule must show that such Census Statistical Units, based on the most recently available data, have:

- (a) Less than 25 percent of their land zoned for residential use; or
- (b) Generally the same or a lower/higher household or personal income/poverty, or alternatively a higher unemployment rate, or otherwise exhibit analogous conditions, compared to the original enterprise zone.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.115

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-7400

Special Cases for Boundary Changes

(1) If modification of a local, state or federal definition or delineation causes a previously existing regional or metropolitan urban growth boundary to intersect a rural enterprise zone, a change to the zone boundary may not add areas within the regional or metropolitan urban growth boundary, as it existed before intersecting the zone.

(2) If a city annexes into its jurisdiction an area of an enterprise zone, of which the city is not a sponsor, or to which the city did not consent under ORS 285C.065(1):

(a) The tax exemptions of authorized or qualified business firms in the annexed area shall continue unaffected, enjoying the same protection under relevant provisions in statute, law and this chapter of administrative rules for location in a terminated enterprise zone;

(b) An eligible business firm proposing an investment in qualified property at a location in the annexed area of the zone may be authorized contingent on an amendment to the zone's sponsorship as provided in subsection (c) of this section; and

(c) An eligible business firm authorized consistent with subsection (b) of this section may not qualify nor receive an enterprise zone exemption for the investment unless and until such time as the Director issues an order based on a request by resolutions of the zone sponsor and the city, such that either:

(A) The city becomes a new cosponsor of the zone under ORS 285C.115(7); or

(B) The city consents consistent with ORS 285C.065(1) that the zone may contain area within the city's jurisdiction.

(3) A non-sponsoring city, port or county need neither consent nor cosponsor in order for a boundary change to add area outside its territory, even if the enterprise zone already contains territory of the city, port or county due to prior consent.

(4) A port's joining an existing enterprise zone under ORS 285C.068 is equivalent to a boundary change, aside from not necessarily adding or removing any area and other specific provisions of ORS 285C.115.

(5) If a boundary change removes the site of a business firm's operations or property, the firm shall enjoy the same protection under relevant provisions in statute, law and this chapter of administrative rules for location in a terminated enterprise zone.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.066

Stats. Implemented: ORS 285C.065, 285C.068 & 285C.115

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-9100

Events & Timing

(1) Determinations by the Director on the designation, termination or rejection of an application for designation of an enterprise zone are final.

(2) Enterprise zones that are Terminated-by-Statute or are designated as replacements under ORS 285C.250(1) shall be terminated or designated effective at 12 midnight of July 1.

(3) Any zone that is designated under ORS 285C.250(1) to replace an enterprise zone that was concurrently Terminated-by-Statute shall not itself terminate under ORS 285C.245(2) until in effect eleven tax years after its designation.

(4) Following the termination of an enterprise zone:

(a) The local policies adopted by the zone sponsor under ORS 285C.105 or other statutory provisions shall remain in force as they were at the time of termination.

(b) The only change that the sponsor of the terminated zone may make to the zone's local policies is to appoint a replacement as needed for the local zone manager, if the position previously held by the local zone manager lacks qualified personnel.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.245 & 285C.250

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

123-650-9300

Early Termination of Unused Zone

Under ORS 285C.245(6), an enterprise zone terminates (in a manner comparable to one Terminated-by-Statute), if no eligible business firm has effectively used the zone after at least six full years, such that:

(1) The Director shall order termination effective on December 31 six years after the December 31, on or immediately after which the effective date of the zone's designation occurs.

(2) This rule does not apply if the Department determines that a business firm has qualified in that zone for an exemption under ORS 285C.175.

(3) Termination per this rule shall be provisional and subject to rescission and reversal, if the Department finds that during the sixth full calendar year of the zone's existence, an actively authorized business firm placed qualified property in service and successfully claims the exemption.

(4) Termination of an enterprise zone as described in this rule does not preclude the sponsor or any cosponsor of the zone from applying for designation of another enterprise zone, though not as a Preexisting Enterprise Zone.

(5) This rule has no bearing on:

(a) A reservation enterprise zone or reservation partnership zone; or

(b) Any enterprise zone for which the date of designation preceded January 1, 2004.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.245 & 285C.250

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10

.....

Rule Caption: These rules relate to tribally and federally based enterprise zone designations.

Adm. Order No.: OBDD 24-2010

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 6-14-10

Notice Publication Date: 5-1-2010

ADMINISTRATIVE RULES

Rules Adopted: 123-656-0001, 123-656-0100, 123-656-1000, 123-656-1200, 123-656-1400, 123-656-1600, 123-656-2000, 123-656-2100, 123-656-2300

Subject: This new division replaces and focuses on a portion of the enterprise zone division (123-065). In this case, this division of administrative rules addresses the existence of enterprise zones respective to Oregon-based tribes and special federal designations.

These rules also comply with SB 726 resulting from the 2009 Legislative which created reservation partnership zones as well as HB 3680 from the 2010 Special Session. HB 2152 in the 2009 Legislative Session changed the name of department to the Oregon Business Development Department

Rules Coordinator: Mindée Sublette—(503) 986-0036

123-656-0001

Purpose & Scope

This division of administrative rules addresses the existence of enterprise zones in addition to OAR 123-650, as provided under:

(1) ORS 285C.300 to 285C.320 respective to Oregon-based tribes; and

(2) ORS 285C.085 based on special federal designations.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.085 & 285C.300 - 285C.320

Hist.: OBDD 24-2010, f. & cert. ef. 6-14-10

123-656-0100

Definitions

OAR 123-001 (Procedural Rules) and OAR 123-650 define terms used in this division of administrative rules. In addition:

(1) As used in ORS 285C.085(4)(b), “all areas within both the federal enterprise zone and the city, county or port are included in a state enterprise zone” means that the state enterprise zone will need to encompass all of the Federal Enterprise Zone inside territory of any city, port or county that will sponsor the zone:

(a) Even if such area is also inside an overlapping city, port or county that neither sponsors nor consents to the zone, regardless of OAR 123-650-0500; but

(b) Not such area that overlaps with another existing state enterprise zone.

(2) As used in these administrative rules, unless the context dictates otherwise:

(a) “**Federal Enterprise Zone**” is a designation by an agency of the U.S. government that is:

(A) Not terminated;

(B) Located at least partially in this state;

(C) Delimited by formal boundaries and an established period of existence lasting five or more years;

(D) Intended at least in part to create or improve economic opportunities and development within the local community;

(E) Provided for by federal law that includes congressionally authorized benefits for purposes of paragraph (D) of this subsection;

(F) Qualified based on federal guidelines, including but not limited to criteria for a level of economic hardship generally comparable to that indicated under ORS 285C.090;

(G) Subject to a significant degree of national selectivity and uniqueness, in relation to paragraph (F) of this subsection, such that having more than five of any designation type awarded to this state at any one time might be highly unlikely; and

(H) For example, comparable to federal Renewal Communities, Empowerment Zones or Enterprise Communities (but not a Recovery Zone, which many municipalities might self-designate).

(b) “**RENZ**” means a reservation enterprise zone under ORS 285C.306(2).

(c) “**RPRZ**” means a reservation partnership zone under ORS 285C.306(3).

(d) “**Tribe**” means one of the federally recognized Indian tribes in Oregon listed under ORS 285C.306(1).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.050, 285C.085 & 285C.300 - 285C.320

Hist.: OBDD 24-2010, f. & cert. ef. 6-14-10

123-656-1000

Applicability of Regular Parameters

For purposes of RENZs and RPRZs:

(1) Neither counts against any overall cap on the number of enterprise zones in this state, being in addition to the designations allowed under ORS

285C.080, 285C.085 and 285C.250 for city, port and county sponsorship. At any one time, however, the Department shall not designate more than one RENZ respective to each Tribe or effectively not more than nine RENZs in total.

(2) Designation does not depend on any measure of local economic hardship, on inclusion of quality industrial sites, or on consultation with local taxing districts.

(3) Only pursuant to a boundary change under ORS 285C.115(3) do they ever need to satisfy requirements for maximum distances or general co-sponsorship by city, port or county governments. In the event of such a boundary change, those requirements apply as described in OAR 123-650.

(4) Each may have total area within its boundary of up to but not more than 12 square miles, for which:

(a) An RENZ shall conform to OAR 123-650-1000(3) and 123-650-1500 and may consist of separate, noncontiguous areas.

(b) The cosponsors of an RPRZ shall determine how to define, map and describe the zone’s area, which must be contiguous.

(5) In terms of zone overlap and local sponsorship:

(a) An RENZ shall not overlap any other enterprise area and shall not have a cosponsoring city with a population of less than 100,000 that already sponsors any other enterprise zone.

(b) An RPRZ may include a city, port or county cosponsor that currently sponsors another enterprise zone, other than an RENZ, and as originally cosponsored, it may overlap another existing enterprise zone other than an RENZ or another RPRZ.

(6) Either may apply for electronic commerce status under ORS 285C.095 (see OAR 123-662).

(7) The zone sponsor shall fulfill the duties incumbent on it under ORS 285C.105 or elsewhere in ORS chapter 285C, including but not limited to those addressed in OAR 123-668.

(8) They are invariably ‘rural’ enterprise zones with respect to the standard exemption under ORS 285C.175 (see OAR 123-674) and long-term tax incentives under ORS 285C.409 and 317.124 (see OAR 123-690), regardless of where any part of the zone exists:

(a) The facility must nevertheless be in an applicable county for the long-term tax incentives; and

(b) Neither an RENZ (designated after 2003) nor an RPRZ sponsor may elect or allow a hotel, motel or destination resort business to be eligible for the standard exemption.

(9) They are not subject to statutory sunset, being excluded from the effect of ORS 285C.255.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.050 - 285C.250, 285C.255 & 285C.300 - 285C.320

Hist.: OBDD 24-2010, f. & cert. ef. 6-14-10

123-656-1200

Reservation Enterprise Zone Designations

For purposes of RENZs, consistent with OAR 123-656-1000:

(1) To apply for designation of an RENZ, the Tribe shall furnish the Department with the following:

(a) Copy of the resolution requesting designation, as duly adopted by the Tribe’s governing body within the past 90 days;

(b) Map and legal description of the zone boundary and the estimated area within that boundary; and

(c) A formal statement or evidence to the effect that:

(A) The status of any previous RENZ designation by the Tribe is confirmed;

(B) The area to be designated does not include area inside any other enterprise zone, including but not limited to an RPRZ; and

(C) That such area contains only such land of the Tribe under ORS 285C.306(2)(b) that is one or more of the following: Land held in trust, land officially pending trust status, or any on-reservation area, based on current laws, authority or treaties with the U.S. government. For purposes of this paragraph, the request shall include:

(i) Copies of federal documents attesting to relevant status, as necessary or appropriate; and

(ii) A map of the zone showing and labeling the respective nature of the tribal lands comprising the designated area.

(2) Subject to the accuracy and completeness of materials provided per section (1) of this rule and to any other information that the Department may request:

(a) The Director shall order the designation; and

(b) Designation shall take effect as early as when the Department received a complete application, as warranted.

(3) In conformance with sections (1) and (2) of this rule, the Tribe may seek to have the RENZ:

ADMINISTRATIVE RULES

(a) Amended through a boundary change at any time without triggering provisions under ORS 285C.115(3).

(b) Re-designated concurrent with or after the July-1 date once the RENZ has terminated by operation of law, immediately following more than 10 years since the effective date of its designation. Termination of an RENZ does not occur under ORS 285C.245(3) to (6) or in any other way prematurely.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.245, 285C.300 - 285C.320
Hist.: OBDD 24-2010, f. & cert. ef. 6-14-10

123-656-1400

Reservation Partnership Zone Co-sponsorships

For purposes of RPRZs, consistent with OAR 123-656-1000 and pursuant to a co-sponsorship agreement:

(1) The zone's effective beginning, equivalent to designation, is the execution of the agreement or a specified, later date.

(2) The agreement shall be between a single Tribe and at least one or more cities, ports or counties, but it may include only one or two such local governments, in terms of their jurisdictional territory inside the RPRZ, regardless of provisions for joint sponsor or consent by any other such government under ORS 285C.065, 285C.066 or 285C.068.

(3) The RPRZ shall contain area inside the jurisdictional territory of each city, port or county that cosponsors it, and it may (but does not need to) contain land of the Tribe under ORS 285C.306(2)(b)(A) or (C) or both.

(4) The Tribe and any cosponsoring city, port and county are the "zone sponsor" of the RPRZ, and their agreement shall contain appropriate and necessary provisions under ORS 190.110, as well as mutual and respective roles and responsibility as the zone sponsor including but not limited to provisions under ORS 285C.105. Any other party to the agreement as allowed under ORS 190.110 would not be part of the zone sponsor.

(5) The sponsor of the RPRZ is urged to:

(a) Consult with other cities, ports or counties that have territory in the zone;

(b) Communicate with other local taxing districts that have territory in the zone; and

(c) Advise the Department of its existence, area and co-sponsorship.

(6) With respect to altering the contiguous area inside the RPRZ at any time:

(a) The sponsor may mutually amend the agreement to add or remove land as described in section (3) of this rule.

(b) To include any other area shall also entail boundary change and related requirements under ORS 285C.115, including but not limited to submitting a request to the Department, zone distance criteria, excluding area in any existing zone, and sponsorship (with accession to the agreement) or consent by all relevant city, port or county governments.

(7) With respect to RPRZ termination:

(a) The agreement shall recognize that the zone does terminate by operation of law after June 30 immediately following 10 years since the effective date of its beginning, and the term of the agreement shall be for at least that long.

(b) It does not occur under ORS 285C.245(3) to (6) or in any other way prematurely, except on or after the effective dissolution of the agreement by mutual consent of its parties. In the event of such dissolution, any business firm shall enjoy the same protection under relevant provisions in statute, law and this chapter of administrative rules for location in a terminated enterprise zone.

(8) The Tribe and city, port or county may create a new RPRZ pursuant to or in replacement of a terminated one, based on a newly executed co-sponsorship agreement consistent with this rule.

(9) There is no particular limit on the number of RPRZs that may exist statewide, or that any city, port, county or Tribe may cosponsor.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.115, 285C.245 & 285C.300 - 285C.320
Hist.: OBDD 24-2010, f. & cert. ef. 6-14-10

123-656-1600

Tribal Credit against State Income Taxes

For purposes of the credit under ORS 285C.309 to offset state personal or corporate income/excise tax liabilities based on tribal taxes incurred or paid to the Tribe for an applicable business facility in any RENZ or RPRZ:

(1) It is available to a business engaged in any type of income-furthering activity, other than leasing the facility, without respect to receipt or qualification for any other enterprise-zone tax abatement by the business or the facility.

(2) The business must have acquired the facility (by purchase or lease) or completed its construction, erection or installation, commencing operations there, only since January 1, 2002; in addition, for an existing facility:

(a) If located on the Tribe's reservation, the business operations need to be significantly different from and not in any way the continuation of what was undertaken at the facility before its latest acquisition; and

(b) The facility consists only of new investments in new property that enlarged or extended the ability of the business to generate revenue at the facility, as opposed to existing property or the replacement of existing property.

(3) The credit equals:

(a) The total amount of tribal taxes under ORS 285C.300 incurred or paid by the business in or respective to the first income/excise tax year, in which it operates in the RENZ or RPRZ; or

(b) For any other tax year, only the annual property taxes imposed by the Tribe on facility property consistent with section (2) of this rule.

(4) An applicable tribal property tax for purposes of section (3) of this rule shall be:

(a) Levied in an area broader than a single site but rather encompassing an entire district, in which businesses can generally develop and operate, and throughout which the Tribe has authority to impose and collect such a tax on non-Indian businesses, regardless of the area's correspondence to or coverage by the RENZ or RPRZ;

(b) Computed based on a rate or schedule of rates multiplied by the valuation of certain types of tangible property in the area of taxation, even if the methods, definitions and so forth differ from ad valorem taxation under state law; and

(c) Uniformly assessed and imposed on any non-Indian business, as well as Indian enterprises if they too are subject to the same tax, and not exempted in any way due to location in the RENZ or RPRZ.

(5) To claim the tax credit, the business/taxpayer shall fill out the latest revision of the Department of Revenue form 150-102-046, **Reservation Enterprise Zone Tax Credit Worksheet**, but not submit it with the tax return, for each applicable income/excise tax year begun before the date prescribed under section 21, chapter 913, Oregon Laws 2009.

NOTE: Department of Revenue forms referenced in this rule are available from the Department of Revenue, Property Tax Division, 955 Center St NE, PO Box 14380, Salem OR 97309-5075, phone 503-378-4988, 800-356-4222, TTY 800-886-7204, fax 503-945-8737, and web <http://www.oregon.gov/DOR/PTD/enterform.shtml>.
Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.300 - 285C.320
Hist.: OBDD 24-2010, f. & cert. ef. 6-14-10

123-656-2000

Designation Based on Federal Zone

For purposes of an enterprise zone under ORS 285C.085(2):

(1) City, port or county governments may apply for designation of the zone corresponding to the boundary of a single Federal Enterprise Zone located in the government's territory:

(a) Application may occur at any time without regard to deadlines, a Round of Designation or an application form;

(b) Besides a map and legal description of the proposed enterprise zone consistent with OAR 123-650-1500, the application must document the Federal Enterprise Zone's official existence, location and satisfaction of OAR 123-656-0100(2)(a), except to the extent that the Department fully understands such satisfaction;

(c) Information related to local economic hardship, land use/zoning or estimated surface area is not necessary;

(d) The governments must engage in timely communication with local taxing districts in accordance with OAR 123-650-5500;

(e) A cosponsor of a zone terminated by order of the Director under ORS 285C.245(4) or (5) is not excluded from applying;

(f) Zone sponsor may not elect for hotels, motels or destination resorts to be eligible business firms in the zone under ORS 285C.070;

(g) Proposals by a cosponsor for local incentives shall not be binding; and

(h) The designation may not serve as the re-designation of a Preexisting Enterprise Zone.

(2) The designation of the zone may be made without regard to any limitation on the:

(a) Number or location of enterprise zones as authorized by state law; or

(b) Size or dimensions of an enterprise zone described in OAR 123-650-1000 and 123-650-1100.

(3) The zone must still conform to the requirements for:

ADMINISTRATIVE RULES

(a) Being either urban or rural as described in OAR 123-650-0700, except for a special waiver and determination at the Director's discretion; and

(b) Inclusion of all area in each cosponsor that is inside the Federal Enterprise Zone as described in OAR 123-656-0100(1).

(4) The Director's order of designation shall essentially follow OAR 123-650-2600.

(5) A cosponsor of an existing enterprise zone may not seek designation of another zone as described in this rule if:

(a) The Federal Enterprise Zone overlaps with a portion of the existing enterprise zone; or

(b) The cosponsor is a city with less than 100,000 in population.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.050, 285C.080, 285C.085 & 285C.090

Hist.: OBDD 24-2010, f. & cert. ef. 6-14-10

123-656-2100

Boundary Changes

For purposes of a local request to change the boundary of an existing enterprise zone under ORS 285C.085(3):

(1) The request for the boundary change shall be treated like any such request under ORS 285C.115 and described in OAR 123-650, except for appropriate elements of OAR 123-656-2000.

(2) Such a boundary change may add an area to the existing zone, only if the area is located in a county in which the zone is already located or in a contiguous county.

(3) Following the change in the zone boundary, the existing zone shall be Terminated-by-Statute or may be terminated by order of the Director, as normal under ORS 285C.245, irrespective of the boundary change.

(4) If the Federal Enterprise Zone terminates prematurely for nonperformance, violation of federal guidelines or similarly unusual circumstances, then the Director may rescind the order changing the boundary of the zone, as if that boundary change had never occurred. Any business firm located in an area consequently left out of the zone shall enjoy the same protection under the relevant provisions in statute, law and this chapter of administrative rules for location in a terminated enterprise zone.

(5) Once an enterprise zone has been designated or amended as described in OAR 123-656-2000 or this rule, a (further) change in the boundary of the zone may be requested and done under ORS 285C.115, as otherwise allowed, with the following clarifications:

(a) If the total area of the enterprise zone equals or exceeds 12 square miles, additional areas may be included only if those areas are located:

(A) In parts of the Federal Enterprise Zone within a city, port or county requesting to become a cosponsor of the zone with the boundary change;

(B) In new parts of the Federal Enterprise Zone, as amended by authority of the federal government; or

(C) In another Federal Enterprise Zone that is located in a city, port or county that already sponsors the zone.

(b) If the zone exceeds the maximum overall allowed distance applicable to the zone, additional areas may be included in one of the following ways:

(A) Consistent with subsection (a) of this section;

(B) Where such areas do not increase the overall distance within the zone consistent with provisions under ORS 285C.120(1)(b) and (c); or

(C) By virtue of a waiver under ORS 285C.120(2) (see OAR 123-650-1100).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.085 & 285C.115

Hist.: OBDD 24-2010, f. & cert. ef. 6-14-10

123-656-2300

Terminations

For an enterprise zone designated as described in OAR 123-656-2000:

(1) The zone is Terminated-by-Statute as normal under ORS 285C.245(2), subsequent to the effective date of designation by order of the Director, regardless of any intervening termination of the Federal Enterprise Zone due to programmed operation under federal statutes or repeal of the operative federal law.

(2) The zone may terminate prematurely for the reasons under ORS 285C.245(3).

(3) With respect to termination with either section (1) or (2) of this rule, ORS 285C.250 provides for designation of another enterprise zone to replace the terminated zone, such that the designation is simply added to the total number of regular enterprise zones allowed by law.

(4) In addition, the zone may also terminate by order of the Director under ORS 285C.085(5), effectively rescinding the order designating the

zone, as if it had never existed, in the event that the federal government prematurely terminates the Federal Enterprise Zone for nonperformance, violation of federal guidelines or similarly unusual circumstances. In this case, there is no provision for a replacement designation under ORS 285C.250, but any business firm located in the zone shall enjoy the same protection under relevant provisions in statute, law and this chapter of administrative rules for location in a terminated enterprise zone.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.085 & 285C.245

Hist.: OBDD 24-2010, f. & cert. ef. 6-14-10

Rule Caption: These rules relate to electronic commerce enterprise zones.

Adm. Order No.: OBDD 25-2010

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 6-14-10

Notice Publication Date: 5-1-2000

Rules Adopted: 123-662-0001, 123-662-0100, 123-662-1000, 123-662-1200, 123-662-2000, 123-662-2500

Subject: This new division replaces and focuses on a portion of the enterprise zone division (123-065). In this case, this division specifies matters related to areas designated for electronic commerce and the tax incentives especially available in them, including but not limited to the electronic commerce overlay of an enterprise zone.

These rules comply with legislation from the 2009 legislative session through HB 2152 which changed the name of the department to Oregon Business Development Department.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-662-0001

Purpose & Scope

This division of administrative rules specifies matters related to areas designated for electronic commerce and the tax incentives especially available in them, including but not limited to the electronic commerce overlay of an enterprise zone:

(1) In such areas businesses engaged in Electronic Commerce are not only eligible for the standard enterprise zone exemption, but they may also qualify for a state income tax credit based on their Electronic Commerce investment.

(2) These administrative rules:

(a) Have no bearing on any enterprise zone aside from its having electronic commerce status;

(b) Do not control the fiscal parameters for tax abatements by the Department of Revenue; and

(c) Are not intended to supersede applicable administrative rules in OAR chapter 150.

Stat. Auth.: ORS 285A.075, 285C.050(5), 285C.060(1) & 285C.095(2)

Stats. Implemented: ORS 285C.050, 285C.095, 285C.100, 285C.135, 285C.180, 285C.185, 315.507 & 315.508

Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10

123-662-0100

Definition of Electronic Commerce

OAR 123-001 (Procedural Rules) defines terms used in this division of administrative rules, unless the context clearly indicates otherwise; in addition, for purposes of "**Electronic Commerce**" under ORS 285C.050(5):

(1) "**E-commerce zone**" means any of the enterprise zones designated for electronic commerce under ORS 285C.095 or the area so designated under ORS 285C.100, as described in OAR 123-662-1200.

(2) "**Predominantly**" means that more than 50 percent of applicable transactional activity is Internet-based in terms of receipts, number of orders, clients served or like measures, as opposed to activity handled directly or primarily through other means such as by telephone or e-mail.

(3) Applicable business activity and related investments must:

(a) Locate and occur inside the E-commerce zone;

(b) Involve dealings with customers, suppliers, clients or other transactional entities that are external to the eligible business firm, predominantly over the Internet itself or on a computer network that utilizes the Internet as a platform; and

(c) Entail, support or relate to the sale or purchase of goods, property or services, whether conducted on a wholesale, commercial, business-to-business, retail or other basis.

(4) It also includes facilities, equipment, services, networks, software, broadband infrastructure, or the like that are produced or operated inside the E-commerce zone by a third party, who facilitates, fosters or makes pos-

ADMINISTRATIVE RULES

sible business transactions by means consistent with sections (2) and (3) of this rule. Such a third party is eligible for purposes of tax abatement if other businesses or organizations represent 75 percent or more of its customers or gross receipts.

(5) Beyond the initiation or consummation of the sale, purchase or arms-length exchange, it also encompasses elements of the transaction's overall completion or delivery, if that element:

(a) Is conducted in the E-commerce zone by means consistent with sections (2) and (3) of this rule, including but not limited to customer service, technical support, claims processing, client evaluation, performance measurement and so forth, even if the actual sale, purchase or contract originated outside the zone or through other means; or

(b) Naturally serves, underpins or arises from the sale or purchase of goods, property or services inside the E-commerce zone by means consistent with sections (2) and (3) of this rule, including but not limited to distribution, made-to-order assemblage, direct after-sale support, shipping, warehousing, warranty service or any similar operation or order fulfillment-type activity.

(6) One way to understand subsection (5)(b) of this rule is by means of a flowchart representing the totality of Electronic Commerce operations in the zone, such that if a critical node in that flowchart is handled by means consistent with sections (2) and (3) of this rule, then:

(a) Substantially related activities both upstream and downstream of the node are also included for purposes of this rule; and

(b) Associated qualified property or investments in capital assets shall generate their respective tax benefits subject to applicable requirements.

Stat. Auth.: ORS 285A.075, 285C.050(5) & 285C.060(1)

Stats. Implemented: ORS 285C.050, 285C.135, 285C.180, 285C.185 & 315.507

Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10

123-662-1000

Electronic Commerce Status & Application

For purposes of an enterprise zone authorized/designated for electronic commerce under ORS 285C.095:

(1) It may be any enterprise zone in existence, regardless of whether it is urban or rural, but the effective date by which the enterprise zone came into existence as described in OAR 123-650 or 123-656 must precede or coincide with its designation as an E-commerce zone.

(2) Electronic commerce status fully overlays the entire area of an E-commerce zone inclusive of areas added by a subsequent change to the zone's boundary.

(3) The sponsor of an enterprise zone may revoke its status as an E-commerce zone by resolution(s), pursuant to which the Director shall order and set the effective date of revocation, and that enterprise zone may never again be an E-commerce zone.

(4) The Department shall seek applications from zone sponsors respective to such revocation or to termination of an existing E-commerce zone's underlying enterprise zone. Such a preexisting enterprise zone needs to reapply for electronic commerce in order to be re-designated, as described in sections (5) to (11) of this rule.

(5) An application by an enterprise zone in accordance with ORS 285C.095 must consist of at least two items:

(a) Copy of a resolution newly adopted by each governing body of the zone sponsor that requests designation for electronic commerce, consistent with its charter, by-laws or ordinances; and

(b) A completed form as prescribed by and available from the Department and supporting materials.

(6) An applicant zone sponsor shall use the form to respond to the following factors:

(a) Significance associated with the location and attributes of the cities, business sites and so forth that are in the current zone boundary, as well as future boundary change requests (to be considered, any such boundary change must be acknowledged in sponsor resolutions);

(b) Strategic or marketing plans, resources and readiness of the enterprise zone for local development relating to Electronic Commerce, including but not limited to being a result of public investments;

(c) Past success in using the statutory and local incentives of the enterprise zone for inducing business development or comparable programs or tools;

(d) Interest and support among local businesses, community organizations and the general public for having the enterprise zone obtain electronic commerce status; and

(e) Other local assets that support and complement Electronic Commerce activity or investments (for example, training institutions, telecommunication infrastructure, environmental initiatives).

(7) For designation of an applicant enterprise zone for electronic commerce, the Department shall evaluate the factors in section (6) of this rule, especially as necessary to compare multiple applicants.

(8) According to a policy prescribed by and available from the Department, as hereby incorporated and made part of these administrative rules by reference, the Director may accept applications for and make designation for electronic commerce contingent on the readiness of a business firm for authorization under ORS 285C.140 respective to substantial Electronic Commerce investments.

(9) The Director may set aside section (8) of this rule in the case of a zone sponsor reapplying for an enterprise zone to terminate by operation of law and seeking continuation of an electronic commerce designation that will be less than three years old.

(10) The Director shall make a final determination, which is not subject to appeal, about whether to order electronic commerce designation for an applicant zone and shall prescribe an effective date for the designation, which may not be earlier than receipt of a complete application.

(11) The Department shall promptly give written notification to any applicant zone sponsor rejected for electronic commerce designation.

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

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.095(2)

Stats. Implemented: ORS 285C.095

Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10

123-662-1200

Designated Areas

(1) If the Legislature allows additional electronic commerce designations under ORS 285C.095, which are currently limited to 10 enterprise zones, the Department shall seek applications in accordance with OAR 123-662-1000 through the local zone managers of all existing enterprise zones.

(2) Subject to change, the enterprise zones that are currently E-commerce zones are: Bend, Harney County/Burns/Hines, Medford Urban, Greater Redmond Area, Roberts Creek, Rogue, Portland and Salem.

(3) The City of North Plains in Washington County is a city designated for electronic commerce under ORS 285C.100 effective on March 4, 2002, such that

(a) All areas then or later inside the city limits or urban growth boundary of the City of North Plains are equivalent to an "E-commerce zone," as used in this division of administrative rules, but only for purposes of Electronic Commerce and business firms that are eligible on that basis under ORS 285C.050 to 285C.250 and 315.507.

(b) The city shall act as the effective zone sponsor and take responsibility for all duties of a zone sponsor as they apply to an Electronic Commerce business firm seeking to utilize areas of the city for special benefits.

Stat. Auth.: ORS 285A.075, 285C.050(5), 285C.060(1) & 285C.095(2)

Stats. Implemented: ORS 285C.095, 285C.100 & 285C.135

Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10

123-662-2000

Enterprise Zone Business Eligibility

Respective to the standard exemption from property taxes under ORS 285C.175:

(1) A business firm engaged in Electronic Commerce will likely be eligible in other ways under ORS 285C.135, but it shall not be subject to the requirements or restrictions of those other ways once the enterprise zone is effectively an E-commerce zone.

(2) If an eligible business firm that originally sought eligibility based on Electronic Commerce does not satisfy that definition, it may still receive authorization and exemption subject to another way's requirements or restrictions, except in an area described in OAR 123-662-1200(3).

(3) The following may occur only once the enterprise zone is effectively an E-commerce zone:

(a) Authorization and qualification of a firm that is eligible based only on Electronic Commerce; or

(b) Exemption of personal property permissible only under ORS 285C.185(1)(b)(B).

(4) Property that due to section (3) of this rule does not qualify for exemption by January 1 of the first year, for which a business firm may claim the exemption, may not qualify later.

(5) After an area's status as an E-commerce zone effectively ceases, a business firm shall enjoy the following protection for exemption on qualified property respective to Electronic Commerce eligibility, notwithstanding that the firm might be eligible in another way:

(a) Under ORS 285C.245(1)(a), (b) and (c), consistent with applicable elements of OAR 123-674-8100 and 123-674-8200, if for whatever rea-

ADMINISTRATIVE RULES

son the underlying enterprise zone terminates and the location of the qualified property is outside of a subsequent enterprise zone.

(b) Only under ORS 285C.245(1)(a), consistent with OAR 123-674-8100(1)(b) regardless that the firm was already authorized or qualified, upon:

- (A) Revocation of the zone's electronic commerce designation; or
- (B) Termination of the underlying enterprise zone and designation of the location of qualified property in another enterprise zone without electronic commerce status.

Stat. Auth.: ORS 285A.075, 285C.050(5) & 285C.060(1)
Stats. Implemented: ORS 285C.095, 285C.100, 285C.135, 285C.140, 285C.180, 285C.185 & 285C.245
Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10

123-662-2500

State Income Tax Credit for E-commerce

For purposes of a business firm receiving and using the credit under ORS 315.507 to offset state personal or corporate income/excise tax liabilities:

(1) Respective to an enterprise zone's designation as an E-commerce zone, the applicable investments in Electronic Commerce capital assets under ORS 315.507(2) must:

(a) Be made in an income or corporate excise tax year, during or before which the designation took effect.

(b) Not be in use, placed in service or completed in terms of construction or installation before that effective date.

(2) The business firm must make:

(a) Application for authorization before the effective date of either revocation of the zone's electronic commerce designation or termination of the underlying enterprise zone.

(b) The applicable investment on or before the enterprise zone effectively terminates, irrespective of:

- (A) Prior revocation of the zone's electronic commerce status; or
- (B) Any continuing receipt or access to the standard property tax exemption after termination.

(3) The business firm engaged or preparing to engage in Electronic Commerce may make applicable investments only:

(a) During the remainder of the income/excise tax year, after the firm has received authorization by approval of its application from the zone sponsor and county assessor;

(b) In an income/excise tax year that begins while the firm is actively authorized and ends before July 1 of the first property tax year of exemption; or

(c) In an income/excise tax year that begins on or less than a year's time prior to July 1 of a property tax year, in which the business firm remains qualified and qualified property is exempt under ORS 285C.175.

(4) The third year after a credit is claimed as described in subsection (3)(a) or (b) of this rule must be a year described in subsection (3)(c) of this rule, in order for the firm to receive and keep the tax credit.

(5) The capital assets that generate the credit do not necessarily correspond to qualified property exempt under ORS 285C.175, although there will likely be some overlap, and such assets consistent with sections (3) and (4) of this rule must concurrently relate to such qualified property.

(6) The business firm will claim the credit as an amount entered with "other credits" on the taxpayer's state tax return for an income/excise tax year (beginning before the date prescribed under section 3, chapter 913, Oregon Laws 2009), in which it makes the Electronic Commerce investment; there is no prescribed form or worksheet.

(7) The firm shall be responsible for maintaining tax records under ORS 315.508, including but not limited to:

(a) Annual qualification for exemption under ORS 285C.175, such as copies of forms filed with the county assessor and evidence of avoided property taxes, sufficient zone employment, and so forth;

(b) Methods used to determine the basis and extent, by which the firm/taxpayer attributes capital assets to Electronic Commerce for purposes of calculating the credit; and

(c) The actual cost of investments in terms of such calculations, as well as the annual limit under ORS 315.507(4) of effectively up to \$8 million in relevant costs in any one income/excise tax year.

(8) The tax credit is inapplicable in conjunction with the exemption under ORS 285C.409 (Long-Term Rural Tax Incentives).

(9) In terms of capital assets for Electronic Commerce (in contrast to property tax terms, which typically relate to new physical vesting), to "make an investment" means:

(a) As a matter of timing, to incur costs or binding liability in payment for the asset, for example, by entering into a construction contract or by having booked an order to acquire machinery & equipment.

(b) Not only capital that is new to the E-commerce zone, but also the firm's acquisition of assets already existing in the zone.

Stat. Auth.: ORS 285A.075, 285C.050(5) & 285C.060(1)
Stats. Implemented: ORS 285C.095, 285C.100 315.507 & 315.508
Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10

Rule Caption: These rules relate to local enterprise zone sponsorship.

Adm. Order No.: OBDD 26-2010

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 6-14-10

Notice Publication Date: 5-1-2010

Rules Adopted: 123-668-0001, 123-668-0100, 123-668-1000, 123-668-1100, 123-668-1300, 123-668-1400, 123-668-1600, 123-668-1700, 123-668-2000, 123-668-2100, 123-668-2200, 123-668-2300, 123-668-2400, 123-668-2500

Subject: This new division replaces and focuses on a portion of the enterprise zone division (123-065). In this case, this division provides guidance and parameters applicable to selected issues regarding how the local sponsor operates and controls and enterprise zone with respect to business tax incentives.

These rules comply with HB 2152 from the 2009 Legislative Session which changes the name of the department to Oregon Business Development Department.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-668-0001

Purpose & Scope

This division of administrative rules provides guidance and parameters applicable to:

(1) Selected issues regarding how the local sponsor operates and controls an enterprise zone, including with respect to business tax incentives (primarily for the standard property tax exemption as addressed in OAR 123-674); and

(2) Any situation provided by law, under which the local government or governments that sponsor an enterprise zone may (jointly) impose additional requirements on a business firm that is receiving tax benefits associated with an investment in the enterprise zone.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.050 - 285C.250
Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-0100

Sponsor of a Zone

OAR 123-001 (Procedural Rules) contains definitions used in this division of administrative rules unless the context demands otherwise. In addition, as used in ORS 285C.050 to 285C.250:

(1) "Sponsor" or "zone sponsor" includes the single city, port or county, or the city or cities, port or ports, county or counties and/or any combination thereof, collectively, that:

(a) Applied for the most recent designation of the enterprise zone under ORS 285C.050 to 285C.250; or

(b) Joined the zone since designation as part of a change to the zone boundary under ORS 285C.115 (see OAR 123-650).

(2) Sponsor also refers to:

(a) The tribal government and any city, port or county cosponsor of a reservation enterprise zone or a reservation partnership zone under ORS 285C.306 (see OAR 123-656).

(b) The county, multiple counties or city that sought designation of a rural renewable energy development zone under ORS 285C.353 (see OAR 123-680).

(3) Depending on the particular context, "a sponsor" or "a zone sponsor" may refer to a single sponsoring entity or "cosponsor" of the enterprise zone included in section (1) or (2) of this rule. Such reference neither supersedes nor interferes with ORS 285C.105(2), which compels all cosponsors to act jointly in fulfilling the duties of the zone sponsor and in taking any action with respect to the zone, except for:

(a) Restriction on hotel/resort eligibility by a city or county at designation or in joining with boundary change; or

(b) Local incentives as described in OAR 123-668-1300.

ADMINISTRATIVE RULES

(4) The zone sponsor does not include and is not any city, port or county that simply consented to having part of its territory contained in the zone as described in OAR 123-650-0500.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.370
Stats. Implemented: ORS 285C.050 - 285C.250, 285C.320 & 285C.350 to 285C.370
Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-1000

Local Zone Manager

For purposes of ORS 285C.105(1)(a):

(1) The sponsor of an enterprise zone shall appoint the local zone manager through official declaration or action by each cosponsor or by all of them in collective fashion but not necessarily by resolution.

(2) The sponsor or a particular cosponsor may delegate the authority to appoint the local zone manager to a person or body including but not limited to the current local zone manager.

(3) The sponsor may make appointment of a local zone manager by way of an established position at a local agency or organization, whether public or private, as opposed to a named person.

(4) The sponsor may appoint up to but not more than two persons to serve as local co-managers of the zone.

(5) Except as explicitly proscribed by the zone sponsor, the local zone manager shall act as the agent and representative of the enterprise zone in regard to any and all ministerial, intergovernmental, technical or promotional functions of the zone sponsor.

(6) The local zone manager may be empowered by and on behalf of the sponsor or of a cosponsor of the enterprise zone to make discretionary decisions that do not specifically require adoption of a resolution by the governing body or bodies of the sponsor.

(7) Whenever a local zone manager is appointed or a new person fills the appointed position, the sponsor needs to give written notice to the Department, the Department of Revenue and the county assessor soon afterwards.

(8) Anyone may serve as local zone manager, including but not limited to employees of a sponsoring government or local business development organization, but it behooves the sponsor to:

(a) Select a person/position with complementary responsibilities, such as working regularly with eligible business firms; and

(b) Formalize zone manager duties in the person/position's job description or contract.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.105
Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-1100

Reporting by Enterprise Zone Sponsor

(1) Within six months after designation of any enterprise zone, the sponsor of the zone shall provide the following information, even if contained in the application for designation, to the Department, the Department of Revenue, the county assessor, the contact agency for First Source Hiring Agreements, and local organizations involved in marketing the zone:

(a) A description and examples of marketing plans, efforts or materials for the zone;

(b) A final inventory and references to enabling instruments (such as local ordinances) for any local incentive proposed as binding in the application (see OAR 123-668-1300);

(c) A list, map or other information necessary for identifying publicly owned land or buildings that are available for lease or purchase by an eligible business firm within the zone under ORS 285C.110 (see OAR 123-668-1400);

(d) For an urban zone, indices identifying all land within the zone (specific tax lots or street addresses needed only for property at which eligible development may occur);

(e) Description of adopted policies or reasonable requirements that the sponsor will seek to implement under ORS 285C.150, 285C.155 or 285C.160 with respect to authorized business firms;

(f) Documentation of any final arrangement or agreement as indicated in OAR 123-650-5200;

(g) Confirmation/appointment of local zone manager as described in OAR 123-668-1000; and

(h) The final form of any change in the election to allow hotel, motel or destination resorts as eligible business firms in all or certain city or county jurisdictions of the enterprise zones, for which newly adopted resolution(s) are necessary.

(2) Each year by November 1, the zone sponsor shall provide to the Department, the Department of Revenue, the county assessor, the contact

agency for First Source Hiring Agreements, and the local organizations involved in marketing the enterprise zone:

(a) A list of all outstanding investments proposed by business firms that have been and remain actively authorized in the zone, but for which a substantial portion of the proposed investment has yet to qualify for the standard exemption as described in OAR 123-674, along with any updated estimate of expected new jobs or the cost of proposed qualified property;

(b) Commentary on efforts to assist authorized and qualified business firms or the county assessor with new or ongoing enterprise zone exemptions; and

(c) Updated information or recently revised materials pertaining to what is listed in section (1) of this rule and to such matters as the zone boundary, public outreach, available industrial land within the zone, and local training and education resources.

(3) Within six months following the termination of the enterprise zone, the sponsor of the terminated zone and the county assessor shall jointly submit to the Department of Revenue, the Department and the contact agency for First Source Hiring Agreements, a complete list of:

(a) The names of all business firms authorized, certified or qualified in the zone at the time of termination and located outside of any currently designated enterprise zone;

(b) The dates of submission and approval for each authorization or certification application;

(c) The anticipated initial first year of each exemption; and

(d) The status of each investment or exemption of the authorized, certified or qualified business firm (for example, "under construction").

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.065, 285C.070, 285C.105 & 285C.110
Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-1300

Enhanced Public Services & Other Local Incentives

For purposes of ORS 285C.105(1)(b) and local incentives for authorized business firms that qualify under ORS 285C.200 for standard property tax exemption (see OAR 123-674) inside an enterprise zone within the applicable city, port, county or tribal jurisdiction or service territory:

(1) Such local incentives include but are not limited to:

(a) Enhanced availability or efficiency of local public services, such as utilities, transportation access and public safety protection;

(b) Waivers, discounts or credits from local fees, charges, business/license taxes and so forth; or

(c) Regulatory flexibility, expedited/simplified permitting, special zoning designations, exceptions from ordinances, or the like that do not significantly undermine regulations pertaining to health & safety.

(2) Unless described as discretionary, any such incentive is binding on the government sponsoring the zone and must be implemented (for example, by ordinance) and made available no later than six months after the effective date of the designation or boundary change, as proposed in the resolution by which the government:

(a) Applied for designation of the zone; or

(b) Requested to join the zone.

(3) Within six months of the relevant effective date in section (2) of this rule, a cosponsor may formally declare and implement one or more such incentives that are in addition to and, if so indicated in the declaration, are as binding on the cosponsor for the life of the zone as previously proposed incentives.

(4) Any such incentive shall be available or provided to any authorized or qualified business firm under ORS 285C.050 on an equal basis within that portion of the enterprise zone exclusive to the relevant jurisdiction or service territory, and the zone sponsor shall help such firms to access these incentives.

(5) Notwithstanding section (4) of this rule, a city or county cosponsor may formally differentiate the incentives available to authorized business firms operated as a hotel, motel or destination resort.

(6) For purposes of ORS 285C.245(5), in the case where the zone sponsor proposes one or more new incentives to replace an incentive or incentives that are binding according to this rule, in order to avoid termination of the zone:

(a) "Comparable value" means that the new incentives or incentives, as a whole, need to provide not only an equivalent level of direct financial benefit to business firms, but also exhibit similarity in terms of other factors such as convenience.

(b) In determining whether "reasonable corrections of shortcomings in existing local incentives" are being made, the Department may consider and take into account the extent to which an existing incentive significantly impairs or is reasonably expected to jeopardize the ability to provide

ADMINISTRATIVE RULES

services and incentives to eligible business firms in general, because it inordinately:

- (A) Benefits some or all authorized or qualified firms; or
- (B) Burdens local budgetary resources or utility capacity.

(7) That such an incentive is generally available to other business firms within the political or service territory of the cosponsor does not affect its status as binding for purposes of the zone.

(8) A local incentive offered or binding in a cosponsor's jurisdiction or territory has no bearing on the incentives of any other cosponsor in the same zone or in any other zone that it also sponsors.

(9) In accordance with applicable state or local laws, charters, ordinances or conventions, a sponsoring government may offer authorized or qualified business firms other incentives that are not binding, although the Department shall not formally recognize discretionary incentives in the context of:

(a) Benefits customarily associated with the enterprise zone for purposes of generally marketing the zone; and

(b) Competitive criteria that influence designation of a proposed zone (see OAR 123-650-3200).

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.065, 285C.105, 285C.115 & 285C.245
Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-1400

Locally Available, Public Real Estate

For purposes of ORS 285C.105(1)(g) and 285C.110, the zone sponsor shall:

(1) Prepare and maintain a list and map of land, buildings and structures within the zone that are:

(a) Owned by any agency on behalf of the state government or by any municipal corporation;

(b) Not used or designated for some public purpose; and

(c) Suitable for an eligible business firm in terms of land use zoning ordinances.

(2) Undertake reasonable efforts to make the real estate identified in section (1) of this rule available for lease or purchase by authorized or qualified business firms under ORS 285C.050 for purposes of the standard exemption on qualified property under ORS 285C.175 (see OAR 123-674).

(3) Except as otherwise precluded under Oregon or federal law/constitutional provisions, such firms are entitled to acquire the real estate identified in section (1) of this rule at a fair market rate/price, subject to the leasing or purchasing firm's prompt development or redevelopment of the property pursuant to the application of authorization.

(4) As used in ORS 285C.110 and for purposes of this rule, "municipal corporation" has the same meaning as found under ORS 294.311, including but not limited to any special or local service district, a people's utility district or a joint operating agency under ORS 262.005.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.105 & 285C.110
Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-1600

Funds Derived through Enterprise Zone

Moneys received by the sponsor from business firms represent a special but publicly accountable resource for the enterprise zone, which are likely to be substantial in only unusual cases, and include:

(1) As specified in statute or law:

(a) The authorization filing fee under ORS 285C.140(1)(c) (see OAR 123-668-1700);

(b) The payback of one year's tax savings in lieu of disqualification under ORS 285C.240(6) (see OAR 123-674-6600 to 123-674-6630); or

(c) The distribution to the sponsor and other taxing districts of 30 percent of the corporate income or excise taxes paid by a corporation under ORS 317.131 (see OAR 123-690-8500).

(2) Additional requirements imposed by the sponsor on a business firm, in accordance with this division of administrative rules.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.105, 285C.140, 285C.150, 285C.155, 285C.160, 285C.240, 285C.403 & 317.131
Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-1700

Authorization Filing Fee

For purposes of ORS 285C.140(1)(c):

(1) When applying for authorization under ORS 285C.140, an eligible business firm may be required to pay a fee that the sponsor of the enterprise zone has set at:

(a) \$200; or

(b) Any amount not exceeding 0.1 percent of the total estimated cost of the firm's proposed investment in qualified property.

(2) The sponsor shall uniformly implement the requirement of an authorization filing fee according to a policy established before receiving an affected application, though not necessarily through written guidelines.

(3) Written guidelines, however, shall define the factors under which the requirement, waiver or amount of an authorization filing fee may deviate from the usual practice. In this case, the sponsor may vary the fee consistent with section (1) of this rule according to certain criteria or situational factors such as the size or nature of the eligible business firm or its proposed investment.

(4) Failure by an eligible business firm to pay the required filing fee at the time of the firm's submitting an application for authorization may be grounds for the local zone manager's refusal to process it on the sponsor's behalf.

(5) A zone sponsor that requires an authorization filing fee shall collect payment in U.S. funds with the application for authorization and issue a receipt.

(6) If either the zone sponsor or the county assessor deny the application of an eligible business firm for authorization under ORS 285C.140, the sponsor shall refund any payment of an authorization filing fee in full to the eligible business firm.

(7) If both the zone sponsor and the county assessor have approved an eligible business firm's application for authorization under ORS 285C.140, neither the zone sponsor nor the county assessor may later deny the eligible business firm's authorization, qualification or exemption because of failure to receive or collect payment of an authorization filing fee.

(8) If a business firm is denied an exemption under ORS 285C.170 or 285C.175, the zone sponsor is under no obligation to refund any amount of an authorization filing fee that was paid by the business firm, unless the business firm is ineligible under ORS 285C.135 or was otherwise authorized improperly or by mistake.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.140(1)
Stats. Implemented: ORS 285C.140
Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-2000

Applicable Situations

OAR 123-668-2000 to 123-668-2500 govern the following situations of locally imposed requirements in an enterprise zone:

(1) The written agreement with the zone sponsor for the long-term rural tax incentives, under ORS 285C.403(3)(c) (see OAR 123-690).

(2) Standard property tax exemption (see OAR 123-674) involving:

(a) A written agreement for the extended abatement of four or five consecutive years in total under ORS 285C.160;

(b) Adoption of a resolution or resolutions by the zone sponsor waiving the usual requirement of an increase in employment in the zone under ORS 285C.155 and 285C.200(2); or

(c) Local conditions by the sponsor of an urban enterprise zone under ORS 285C.150, for which OAR 123-668-2500 specifically addresses the respective policy and standards.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.105, 285C.150, 285C.155, 285C.160 & 285C.403
Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-2100

Basic Parameters

For purposes of local, additional requirements imposed by an enterprise zone sponsor:

(1) They shall apply to a qualified business firm's direct receipt of the tax abatement only:

(a) With respect to operations inside (or nearby and affected by operations in) the enterprise zone; and

(b) Between the time when:

(A) The firm receives authorization (certification in the case of the long-term rural tax incentives); and

(B) December 31 of the final year when the overall enterprise zone exemption expires. (A zone sponsor, however, might require through contractual agreement, as otherwise permissible by law, that if the business firm were later to shut down its eligible operations in the zone, it would be obligated to pay the sponsor a portion of the tax benefit that the firm had earlier received. For example, this amount might reasonably relate or vary according to how soon permanent stoppage of zone operations occurred after expiration of the exemption.)

(2) Notwithstanding section (1) of this rule, the zone sponsor and the business firm may mutually agree, subject to possibly certain contingen-

ADMINISTRATIVE RULES

cies, to apply current requirements or provisions of an agreement to identified future situations described in OAR 123-668-2000.

(3) They shall not require that the eligible business firm's hiring, recruitment, promotion, training, compensation or treatment of its actual or potential employees, suppliers, contractors or customers be based on:

(a) Those persons' or businesses' explicit residency or geographic location, consistent with OP-8236, Oregon Attorney General (April 20, 1995); or

(b) Other legally impermissible criteria.

(4) The zone sponsor may offer multiple options from which the eligible business firm freely selects, so long as:

(a) Each optional requirement conforms with OAR 123-668-2000 to 123-668-2400; and

(b) There is clear determination of what the firm is required to satisfy or not satisfy among the options in the executed agreement between the firm and the zone sponsor, resolutions or final supporting documentation.

(5) Failure by a qualified business firm to satisfy an additional requirement need not result in disqualification or loss of tax benefits, such that:

(a) It behooves the parties to stipulate in their agreement that such loss does ensue from failure or noncompliance, especially in the case of OAR 123-668-2000(1); or

(b) As specifically allowed and indicated in the agreement, resolution or final supporting documentation:

(A) The firm's continuing qualification does not depend on compliance with that requirement; or

(B) The firm may fulfill an alternative requirement to avoid disqualification. (An alternative requirement shall not preclude the firm's disqualification, if the firm later fails to fulfill the alternative requirement or any other requirement)

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.105, 285C.150, 285C.155, 285C.160 & 285C.403

Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-2200

Additional to Statutory Provisions

A requirement imposed on a business firm by an enterprise zone sponsor is in addition to the provisions under applicable statutes or state laws, and it shall neither alter nor undermine their effect or intent:

(1) With respect to the following, as established by relevant state provisions, a requirement may in no way:

(a) Affect the basic eligibility or ineligibility of certain business activities or uses of relevant property;

(b) Modify any specified minimum level of investment by the firm; or

(c) Alter the coverage, extent, period or any other direct aspect of tax benefits, although:

(A) Alternative types of payment or financial contributions by the firm are possible; and

(B) The sponsor shall set the total period of tax benefit as provided by the relevant law or statute.

(2) The requirements may neither modify nor in any way effectively decrease or increase the stringency of state requirements for hiring, general employment levels or average pay/compensation associated with jobs or persons employed by the firm, and they shall not even address such issues, except for local requirements that:

(a) Govern employees not affected or covered by the relevant state requirement (for example, construction or temporary workers, part-time employment, or employee remuneration in a Portland-area urban zone);

(b) Set an alternative employment level under ORS 285C.155;

(c) Specify extra demands within the context of a First Source Hiring Agreement that the firm is otherwise required to enter into, as described in OAR 123-070; or

(d) Obligate the firm in a reasonable manner with respect to workforce development, hiring/retention from certain sources or groups, the particular nature of employee benefits, or other employment-related matters that are categorically different from requirements under ORS 285C.050 to 285C.250 or 285C.412.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.105, 285C.150, 285C.155, 285C.160 & 285C.403

Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-2300

Reasonableness

This rule offers guidance for evaluating whether local additional enterprise zone requirements are reasonable:

(1) The requirements shall not vary dramatically or erratically over time for business firms interested in investing in the zone and seeking special benefits or waivers.

(2) The requirements shall not be arbitrarily applied, implemented or enforced, in that the sponsor shall be consistent in not only setting conditions, but also in how to handle compliance issues.

(3) The requirements may differentiate among relevant business firms for a given situation as described in OAR 123-668-2000 in terms of investment size, the firm's industry and so forth, but such differentiation must be:

(a) Based on definable characteristics;

(b) Consistently applied; and

(c) Explicated in terms of a public purpose.

(4) The requirements may entail economic costs to the firm because of payments to the sponsor or other entities, or of actions undertaken by the firm, but these costs (less any other consequent benefit to the firm) shall not effectively undermine the tax benefit for the eligible business firm, in that:

(a) Based on equivalent present-value estimations, these costs shall not exceed one-third of the tax savings associated with the property tax abatement.

(b) With a written agreement, however, in the case of OAR 123-668-2000(1) or (2)(a) the firm may accept higher costs based on its own considerations.

(5) The requirements shall not demand procedures, practices or investments in excess of anything undertaken in the firm's industry or related industries throughout the world, such that the sponsor shall be prepared to show that such a demand has been accomplished in the normal course of business elsewhere without apparent, extenuating circumstances.

(6) No requirement may cause or compel actions by the firm that have the potential to pose a significant other legal, financial or business threat to the firm, including but not limited to:

(a) Surrendering significant rights, privileges or immunities under state or federal law;

(b) Labor relations that may compromise practices by the firm in other locations where it operates in the United States; or

(c) The release of information that is proprietary, confidential or otherwise threatening to the firm's market competitiveness or contractual obligations or that of any third party.

(7) The criteria in this rule relate to a zone sponsor's underlying policy, hence the recommendations in OAR 123-668-2400 for deliberate and explicit policy-making to cover certain potentialities.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.105, 285C.150, 285C.155, 285C.160 & 285C.403

Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-2400

Zone Sponsor Policies & Approval of Agreements

(1) In imposing or setting additional requirements on business firms, an enterprise zone sponsor shall consider a policy-making approach to achieve transparency and maintain consistency, especially in view of the following:

(a) Constitutional and other legal protections for business firms; and

(b) General principles of fairness and clarity regarding public purposes and intent.

(2) Such a policy may apply uniformly to the situations as described in OAR 123-668-2000, or it may pertain to only certain situations

(3) Such a policy is relevant to the sponsor's rationale in granting or refusing special benefits or waivers, as well as the additional requirements imposed or sought when granting the benefit or waiver to a business firm.

(4) Except for conditions imposed by an urban enterprise zone under ORS 285C.150, such a policy does not need to be prospectively adopted, nor does it need to be based on formal documentation, and it may reflect the cumulative effect of the sponsor's relevant past actions. A formal, explicit and prospective policy is preferable, however, whenever the following or comparable circumstances arise:

(a) Relevant requests by business firms are common or expected to become increasingly frequent;

(b) Sponsor would differentiate the basic decision to grant or refuse a special benefit or waiver, or to impose additional requirements, in terms of business or investment size or other factors;

(c) The requirements imposed are numerous, complicated or otherwise entail various contingencies or matters of judgment that definite standards would facilitate; or

(d) The sponsor departs from a general pattern in terms of granting a special benefit or waiver or imposing certain corresponding requirements.

ADMINISTRATIVE RULES

(5) In an urban enterprise zone that has adopted a policy under ORS 285C.150, as described in OAR 123-668-2500, any additional requirements imposed for other situations as described in OAR 123-668-2000(2) must:

(a) Formally relate to the policy and standards adopted by the zone sponsor; and

(b) Be in addition to and not replace any condition normally imposed.

(6) A city, port or county government that sponsors two or more enterprise zones is free to have different policies or to seek different local additional requirements among those zones.

(7) In an enterprise zone sponsored by more than one city, port or county, the cosponsors must all jointly:

(a) Adopt the same policy, standards, established local conditions and so forth under equivalent authority or method for purposes of this rule and the enterprise zone; and

(b) Approve the same requisite written agreement in each case.

(8) The sponsoring city, port or county governments of an enterprise zone may authorize the written agreement in the case of OAR 123-668-2000(1) or (2)(a) through a number of approaches, which may differ among the cosponsors, including but not limited to the following examples:

(a) Approval by an official empowered to enter into such an agreement under the laws, charters, ordinances and conventions of the cosponsor;

(b) Approval by the specific person or persons formally recognized to conclude such an agreement with the eligible business firm, pursuant to a previous understanding between the firm and the sponsor;

(c) A specific resolution by the governing body authorizing a preliminary or final written agreement;

(d) A specific resolution by the governing body that authorizes an agent to conclude such an agreement with the eligible business firm; or

(e) A standing policy adopted by the cosponsor that empowers a particular agent to negotiate such an agreement with all or some eligible business firms on behalf of the cosponsor (for example, the local zone manager).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.105, 285C.150, 285C.155, 285C.160 & 285C.403

Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

123-668-2500

Additional Conditions in an Urban Zone

For purposes of additional conditions imposed on eligible business firms by the sponsor of an urban enterprise zone under ORS 285C.150:

(1) The sponsor of the enterprise zone shall abide by OAR 123-668-2000 to 123-668-2400.

(2) "Groups of persons" as used in ORS 285C.150(2) may comprise the general populace or labor force or any lesser number of persons that is not explicitly defined in terms of geography/residency.

(3) In order to effect and enforce compliance, the sponsor of an urban zone must include formal information in approving the application for authorization that concisely lists and explains the specific additional conditions to which the firm is committing, or to which it may be obligated under certain contingencies.

(4) The written information as described in section (3) of this rule shall appear in a standardized format that conforms to the policy that the zone sponsor has adopted for imposition of such additional conditions, and that is used for all eligible business firms authorized in that urban enterprise zone.

(5) Failure by a firm to satisfy such additional local conditions of an urban zone may affect the exemption in the following ways:

(a) Denial of the authorization under ORS 285C.140(2)(e), but only if the firm does not formally "commit" to meet the conditions;

(b) Refusal of initial qualification for exemption under ORS 285C.175; or

(c) Disqualification of an ongoing exemption in accordance with ORS 285C.240(1)(d), except as provided under 285C.240(6).

(6) The county assessor has an obligation to effect actions described in subsection (5)(b) or (c) of this rule only insofar as the zone sponsor has provided timely and written notification of such failure.

(7) An eligible business firm shall have the same rights of appeal as provided elsewhere in ORS 285C.050 to 285C.250 for authorization and receipt of the enterprise zone exemption.

(8) The policy and standards adopted by the sponsor affect only proposed investments for which the eligible business firm applies for authorization after the date of adoption.

(9) The sponsor may impose the additional conditions only pursuant to a policy and standards, such that:

(a) The policy entails the adoption by the zone sponsor of formal documentation outlining the sponsor's purposes, process, factors of consideration and so forth; and

(b) The policy contains standards consisting of established and transparent measures, methods or criteria to implement the policy and define the conditions, as well as specific consequences for the firm's failure to satisfy those conditions.

(10) Any imposed additional condition must relate in some way to employment opportunities for one or more groups of persons, through:

(a) Actions by the eligible business firm;

(b) Use of funds or resources from the firm;

(c) Other efforts supported by the firm; or

(d) Other means, for which the result is employment-related benefits for groups of persons, consistent with 47 OTR 557 (TC 4167, 1999).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.150

Hist.: OBDD 26-2010, f. & cert. ef. 6-14-10

Rule Caption: These rules relate to standard exemption on taxable enterprise zone property.

Adm. Order No.: OBDD 27-2010

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 6-14-10

Notice Publication Date: 5-1-2010

Rules Adopted: 123-674-0001, 123-674-0100, 123-674-0200, 123-674-0500, 123-674-0600, 123-674-0700, 123-674-1000, 123-674-1100, 123-674-1200, 123-674-1300, 123-674-1400, 123-674-1500, 123-674-1600, 123-674-1700, 123-674-2000, 123-674-2100, 123-674-2300, 123-674-2500, 123-674-3000, 123-674-3100, 123-674-3200, 123-674-3500, 123-674-3700, 123-674-4000, 123-674-4100, 123-674-4200, 123-674-4300, 123-674-4600, 123-674-4800, 123-674-5000, 123-674-5100, 123-674-5200, 123-674-5300, 123-674-5400, 123-674-5500, 123-674-6000, 123-674-6100, 123-674-6200, 123-674-6300, 123-674-6400, 123-674-6600, 123-674-6610, 123-674-6620, 123-674-6630, 123-674-6880, 123-674-7200, 123-674-7210, 123-674-7220, 123-674-7230, 123-674-7240, 123-674-7250, 123-674-8000, 123-674-8100, 123-674-8200, 123-674-8300

Subject: This new division replaces and focuses on a portion of the enterprise zone division (123-065). In this case, this division clarifies, specifies and establishes elements of the Oregon Enterprise Zone Act for the determinations, procedures and requirements relevant to the three to five year exemption from property taxes on qualified property of eligible business firms in any enterprise zone.

These rules comply with legislation from 2009 through HB 2152 which changes the name of the department and legislation from the 2010 Special Session through HB 3609.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-674-0001

Purpose, Scope & General Process for Businesses Seeking Exemption

(1) This division of administrative rules clarifies, specifies and establishes elements of ORS 285C.050 to 285C.250 (Oregon Enterprise Zone Act) for the determinations, procedures and requirements relevant to the three- to five-year exemption from property taxes under ORS 285C.175 on qualified property of eligible business firms in any enterprise zone.

(2) The outline of these rules, regarding a business firm's receipt of this exemption, is that:

(a) The sponsor of the enterprise zone may extend the usually three-year period to four or five consecutive years in total by executing a written agreement with the firm before approval of application in subsection (c) of this section.

(b) The firm must be engaged in eligible activities as primarily determined with authorization.

(c) The firm must apply for authorization, generally before any work begins on the new investment, and the local zone manager and the county assessor need to authorize the firm.

(d) The firm must initially satisfy certain hiring criteria and then maintain corresponding employment minimums during the entire exemption period in order to first become and then stay qualified.

(e) The exemption is primarily on certain new property and only for an authorized firm that timely claims the exemption with the assessor after it has placed the property in service; before that, it may be exempt under ORS 285C.170.

ADMINISTRATIVE RULES

(3) These administrative rules are not meant to interfere with the fiscal parameters or the direct administration of property taxes by county assessors, and they do not supersede administrative rules of the Department of Revenue in OAR chapter 150, as adopted or amended in the future, for purposes necessary under the statutory sections listed in ORS 285C.125(1).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.045 & 285C.050 – 285C.250

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-0100

Definitions

OAR 123-001 (Procedural Rules) contains definitions in addition to the following, as used in this division of administrative rules along with terms under ORS 285C.050, unless the context clearly indicates otherwise:

(1) “Annual Employment” means the number of employees as averaged over the course of a year of exemption under ORS 285C.175 based on OAR 123-674-4000.

(2) “Application” means the latest revision of the Department of Revenue form 150-303-029, Oregon Enterprise Zone Authorization Application (inclusive of attachments), as filled out and submitted by a business firm.

(3) “Approval Form” means the latest revision of the Department of Revenue form 150-303-082, Oregon Enterprise Zone Authorization Approval that documents authorization of the Firm/applicant.

(4) “Claim Employment” means the total number of employees on the date when an authorized business firm files its exemption claim under ORS 285C.220, or on the corresponding April 1, whichever is earlier.

(5) “County Wage” is the average annual figure under ORS 285C.050(4) for all industries in the county, as published at the time when one of the following effectively occurs (whichever is latest), according to the transition from one year’s figure to the next as established by the Department:

(a) Application is approved (Firm/applicant is authorized) under ORS 285C.140(6);

(b) Statement of authorization renewal is submitted under ORS 285C.165(1) for purposes of 285C.160(4); or

(c) Exemption claim is initially filed under ORS 285C.220 and 285C.225 by an inactively authorized business firm under ORS 285C.165(4).

(6) “Estimate” and “estimated,” as used in ORS 285C.140(2), mean current expectations of the owners, managers and executives of an eligible business firm, based on the best information available at the time, and shall not be construed as binding.

(7) “Existing Employment” means the number of employees averaged over the entire 12-month period preceding the date on which the Application is submitted under ORS 285C.140 based on OAR 123-674-4000.

(8) “Firm/applicant” means a business firm that is seeking to have an Application approved in order to be authorized in an enterprise zone, or that has received approval but not yet begun exemption under ORS 285C.175.

(9) “Preauthorization Conference” refers to consultation between a Firm/applicant and enterprise zone sponsor/local zone manager, to which the county assessor is invited, and the associated written summary under ORS 285C.140(4) to (6), as required to take place after submission of the Application and before completion of the Approval Form. The Department shall set forth further guidelines for the Preauthorization Conference, which are hereby incorporated into and made part of these administrative rules by reference.

(10) “Year” means a calendar year or assessment year from January 1 to December 31 (and not a property tax or government fiscal year) consistent with the definitions under ORS 285C.050(1), (20) and (22).

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

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: 285C.050 – 285C.250

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-0200

“Employment” Terminology

As used in OAR 123-674-0100, with respect to counting the “number of employees” for purposes of this division of administrative rules, especially OAR 123-674-4000 to 123-674-4800:

(1) It does not involve averaging based on hours worked, such as full-time equivalency, but rather relies on counting full-time, year-round jobs associated with relevant business operations throughout the enterprise zone, either at a particular time or on average over a year or 12-month period.

(2) It relates primarily to “employees of the firm” or “employment of the firm,” as used in ORS 285C.200 and 285C.210, which:

(a) Includes positions or persons who are:

(A) Employed directly by the business firm, or retained by lease or contract with the person or a third party, but the firm selected and directly manages them;

(B) Engaged a majority of their time in eligible operations under ORS 285C.135, including but not limited to persons who perform eligible activities as described in OAR 123-674-1100 or 123-674-1200(3) or (4); and

(C) Located anywhere inside the enterprise zone in terms of where they spend at least 75 percent of their time on the job, as well as official work site.

(b) Excludes positions or persons who are employed or performing work:

(A) At temporary or seasonal jobs;

(B) For 32 or fewer hours per week;

(C) Solely in the construction, modification or installation of qualified property;

(D) Regularly outside the zone boundary;

(E) The majority of their time in ineligible operations; or

(F) With any other business firm, including but not limited to affiliates or commonly owned companies.

(3) Consistent with subsection (2) of this rule, only full-time jobs with the firm that are filled indefinitely and exist year-round at the firm’s eligible operations inside the zone are normally counted. The following are exceptions:

(a) Only employees who work at the particular headquarter-type facility (see OAR 123-674-1700) matter, irrespective of paragraph (2)(b)(F) of this rule and of other eligible employees inside the zone;

(b) For the transfer of eligible operations within 30 miles of zone boundary, further requirements described in OAR 123-674-4100(4) and 123-674-4600(2) also cover employees at affected sites.

(c) The prohibition on jobs losses more than 30 miles outside the zone comprises persons employed with any business operations in Oregon, not only the eligible kind (see 123-674-4200).

(d) Jointly owned firms may combine their employment throughout the zone subject to section (4) of this rule.

(e) Temporary workers filling permanent positions are acceptable if the county assessor and the local zone manager conclude that:

(A) The qualified business firm is making every reasonable effort to fill such positions with permanent, regular hires; and

(B) The temporary workers and other potentially available job applicants do not meet reasonable, minimum standards of the firm for permanent hire, such as a high school diploma or equivalency.

(4) Under ORS 285C.135(4), two or more business firms with 100-percent common ownership may elect to be treated as a single firm for combining zone employment, if authorized representative(s) of the firms or a parent company formally notify the local zone manager and county assessor to that effect before the initial exemption claim under ORS 285C.220. Such an election affects all applicable provisions under ORS 285C.050 to 285C.250 and this division of administrative rules, including but not limited to rendering moot any inter-firm lease of qualified property (which would then all be simply owned by the Firm/applicant), but it does not carry over to any subsequent authorization except in a terminated zone.

(5) Only newly created jobs may satisfy required increases in employment levels, as opposed to any employee associated with the merger or acquisition of another business firm or its existing operations or property, except positions inside the zone that were vacant for 60 or more days at the time of Application, and for which reemployment was unlikely.

(6) As used in this rule and under ORS 285C.050:

(a) “Person” may mean two or more part-time employees who together perform a single job involving more than 32 hours of work per week by virtue of an established (job-sharing) arrangement.

(b) “32 hours per week” is computed by taking the total number of hours over the course of a year, for which the person is reimbursed in the form of wage or salary, including but not limited to paid holidays, vacation and so forth, and dividing by 52.

(c) “Temporary or seasonal jobs” are nonpermanent positions, including but not limited to persons acquired and receiving compensation through the firm or an outside agency on a short-term, ad hoc or as-needed basis, or where the firm hires, leases or contractually employs a persons for any anticipated period of less than 12 consecutive months during the course of the year.

(7) It does not relate to the method or means, by which the business firms identifies or considers persons for hire, including but not limited to there being no necessary relationship between minimum employment

ADMINISTRATIVE RULES

requirements and the requisite First Source Hiring Agreement in OAR 123-070 and 123-674-7700 to 123-674-7730.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.050, 285C.135, 285C.200 & 285C.210
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-0500

General Points

With respect to an extended period of property tax abatement longer than three years under ORS 285C.160 and 285C.175(2)(b):

(1) The extended period effectively exposes a qualified business firm to needing to comply for one or two more years with all regular enterprise zone requirements, and to pay back all four or five years of exemption as a consequence of noncompliance and regular disqualification.

(2) The exemption shall revert to the basic three-year period upon failure to satisfy applicable requirements described in OAR 123-674-0600 or 123-674-0700 during any of the four or five years, as well as repayment of taxes abated (only) in the fourth or fifth year.

(3) An eligible business firm has the same rights of appeal as provided elsewhere in ORS 285C.050 to 285C.250 for the enterprise zone exemption, and no part of this division of administrative rules shall interfere with those rights, subject to the determination of appellate authorities.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.050, 285C.160 & 285C.165
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-0600

Compensation Standard

For purposes of ORS 285C.160:

(1) To qualify for the additional one or two years of exemption on qualified property in a rural enterprise zone or an urban enterprise zone outside the Metro/Portland-area regional urban growth boundary:

(a) All of an eligible business firm's Affected Employees must on average receive Compensation of not less than 150 percent of the County Wage; and

(b) This requirement must be satisfied for and during each year throughout the exemption's first three years and the additional one or two years in order to receive any additional year.

(2) The County Wage is fixed during the entire enterprise zone exemption period consistent with OAR 123-674-0100(5) and 123-674-3700.

(3) For purposes of this rule, the regular yearly Compensation (excluding bonuses and so forth) of any applicable position temporarily vacant due to unforeseen circumstances at any time during the year may be used in computing the annual average Compensation for all such Affected Employees.

(4) As used in this rule "Affected Employees" means persons, positions or jobs under ORS 285C.050(13) that satisfy the following criteria:

(a) Included as "employment of the firm" in accordance with OAR 123-065-0200; and

(b) New jobs filled for the first time:

(A) After the date of Application under ORS 285C.140(1), even if an individual filling the job is already employed by the eligible business firm in another position that is refilled within the zone; and

(B) On or before December 31 at the end of the initial exemption year.

(5) As used in ORS 285C.160 and in this rule, "Compensation":

(a) Includes all remuneration in the form of wages, salary, overtime pay, shift differential, profit-sharing, bonuses, paid vacation or financial benefits such as life insurance, medical coverage and retirement plans; but

(b) Excludes free meals, club membership, workplace amenities, any benefit mandated by federal, state or local law (employer's share of social security, unemployment insurance, etc.), or the like, as well as:

(A) Commissions (except at eligible call center or electronic commerce operations); or

(B) Gratuities and tips (except in association with eligible hotel, motel or destination resort operations).

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.160, 285C.165 & 285C.240
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-0700

Written Agreement between Sponsor and Eligible Business Firm

For purposes of the written agreement that is required between the sponsor of an enterprise zone and an eligible business firm under ORS 285C.160:

(1) To receive additional one or two years of exemption, the written agreement must be finalized no later than completion of the Approval Form.

(2) Both the Firm/applicant seeking an extended abatement and the sponsor of the zone (see OAR 123-668-2400) must formally authorize the written agreement.

(3) The written agreement shall specify whether:

(a) The total period of abatement is four or five consecutive years; and
(b) The Firm/applicant needs to fulfill additional requirements, as well as what they are exactly, in accordance with OAR 123-668.

(4) Adherence to or satisfaction of such additional requirements shall in no way condition the first three years of an eligible business firm's enterprise zone exemption under ORS 285C.175(2)(a).

(5) Notwithstanding section (1) of this rule, if the zone sponsor rejected a Firm/applicant's request for an extended tax abatement, and the Application was subsequently approved, but commencement of construction, modification or installation of qualified property has not yet occurred, then the sponsor may reverse its decision and enter into a written agreement based on a resubmitted Application

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.140, 285C.160 & 285C.175
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-1000

Special Business Distinctions

(1) As used in ORS 285C.050 to 285C.250, "hotel, motel or destination resort," consistent with ORS 699.005 and OAR 150-285C.180, means a facility that:

(a) Offers rooms, suites of rooms, cabins, houses or other such units for transient lodging to persons typically from beyond the local area through direct overnight rental, time-share arrangements or other types of limited transactions;

(b) May include one or more visitor-oriented services, facilities or recreational activities, including but not limited to restaurants, laundry, conference rooms, golf course, swimming pool, tennis courts, ski runs, marinas or bicycle paths; and

(c) May be commonly described or labeled as an inn, resort, convention center or by other such names.

(2) As used in ORS 285C.050(3):

(a) "Municipal corporation" has the same meaning as found under ORS 294.311, including but not limited to any special or local service district, but excluding a people's utility district or a joint operating agency under ORS 262.005.

(b) "Operating or conducting one or more trades or businesses" means to manage or undertake commercial affairs, as evidenced by the following:

(A) Establishment of a place of business and acquisition of property that is necessary to perform business operations through ownership, renting or leasing;

(B) Approval to do business from the appropriate regulatory authorities, as documented by required licenses or permits;

(C) Capital investment or financing, including self-financing, and procurement of supplies or services from other businesses or operations within the firm;

(D) Maintenance of business records such as those related to sales, shipments, personnel or payroll; and

(E) Ultimate pursuit is producing or furthering the production of income.

(3) "Separate" as used in ORS 285C.135(3) means a definitive and physical demarcation, including but not limited to a wall between eligible and ineligible activities sufficient to distinguish the employees and qualified property pertaining to either one.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.070 & 285C.135
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-1100

Basic Eligibility of Firms & Operations

For purposes of determining the business eligibility under ORS 285C.135(1) in an enterprise zone:

(1) The Firm/applicant (when qualified) must:

(a) Be a "business firm" consistent with OAR 123-674-1000; and
(b) Produce, sell or provide goods, commodities, products, merchandise, work or services to other businesses or business operations, or be capable of doing so, through eligible activities.

(2) A business firm's relevant operations will indicate such eligibility if they are:

(a) Performed for internal purposes of the firm;

(b) Reimbursed through sales to another business firm;

ADMINISTRATIVE RULES

(c) Equivalent to what is done for other business firms, even if the actual customer is a government agency or a public or nonprofit corporation/organization; or

(d) Undertaken to create or add value to goods, products or services for ultimate exchange with persons or entities residing beyond the local economy.

(3) Besides manufacturing, assembly, fabrication, processing, shipping or storage, eligible activities include:

(a) Industrial processes or services such as cleaning, coating, curing, kiting, labeling, laminating, packaging, refining, smelting, sorting or treating;

(b) Generation or co-generation of electricity, steam or heat;

(c) Recycling of post-consumer or post-production materials or wastes;

(d) Nonretail, in-shop refurbishment or restoration of equipment or machinery;

(e) Maintenance service or repair work on vehicles, products, parts or devices, performed on a nonretail basis at a permanent location, facility or shop, including but not limited to warranty service contracted or paid for by the manufacturer;

(f) Technical/customer support performed for internal purposes of the firm, or for which a nonretail third party such as the product's distributor or manufacturer contracts or pays;

(g) Standardized product testing, quality control or laboratory work;

(h) Bulk clerical processing;

(i) Development of standardized computer software products or customized products for business users;

(j) Printing or mass document production;

(k) Distribution;

(l) Wholesaling, which may include complex transactions for single-item purchases by other businesses of large equipment involving contracts, factory-ordered specifications or other attributes distinguishing the sale from retail;

(m) Production of agricultural, mineral, timber or other primary goods or commodities; or

(n) Similar types of business operations.

(4) As a matter of principle, eligibility and ineligibility are mutually exclusive for purposes of ORS 285C.135.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.135

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-1200

Ineligible Activities

For purposes of ORS 285C.135(2):

(1) The following activities are ineligible, and property used in these activities may not qualify for an enterprise zone exemption, regardless that it serves other businesses:

(a) Retail sales of goods or services;

(b) Retail food service or serving of meals;

(c) Tourism attractions or similar services;

(d) Entertainment or recreation provided directly to the patron or user;

(e) Child care or similar services;

(f) Provision of health care, medical services or similar services to patients;

(g) Professional services, such as accounting, communications, design, engineering, legal advice or management;

(h) Actuary, appraisal, banking, brokerage, extension of credit, insurance, investment, money lending or similar financial services;

(i) Leasing or management of real estate;

(j) Provision of residential housing for purchase or lease;

(k) Construction or modification of real property;

(l) Installation of fixtures, machinery or equipment;

(m) Recreational vehicle parks; or

(n) Other similar types of business operations.

(2) A business firm is eligible, regardless of the presence within the enterprise zone of one or more activities listed in section (1) of this rule, if the requirements of OAR 123-674-1300 or 123-674-1400 are satisfied.

(3) Activities described in or comparable to subsections (1)(b) through (i) of this rule, as well as associated employees and property, are eligible if performed by business firm:

(a) In direct support of its eligible operations or as amenities for associated employees/personnel;

(b) Within the same enterprise zone; and

(c) To support or benefit operations/personnel located mostly inside the zone, such that if more than 25 percent of the activity supports or ben-

efits the firm's operations outside the zone in terms of person-time or costs, then the requirements of OAR 123-674-1700 for headquarter-type facilities must be fulfilled.

(4) Notwithstanding OAR 123-674-1100, an activity is eligible in the following cases notwithstanding:

(a) Subsection (1)(a) to (i) of this rule or similar activities with electronic commerce operations located in an area designated as such, in accordance with OAR 123-662.

(b) Subsection (1)(a) to (e) of this rule with a hotel, motel or destination resort in an enterprise zone identified by OAR 123-674-1500, if the activity is at the same location, and owned and operated in common with the hotel, motel or destination resort, and 50 percent or more of its receipts are derived from guests staying overnight there.

(c) Subsection (1)(a), (d), (g), (h) or (i) of this rule or similar activities with operations described in OAR 123-674-1600 (Call Centers).

(d) Subsection (1)(d) to (i) of this rule or similar activities with a facility described in OAR 123-674-1700 (Headquarter Facilities).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.135 & 285C.185

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-1300

Eligible Business Firm with Ineligible Activities

For purposes of ORS 285C.135(3):

(1) A Firm/applicant is eligible:

(a) If when qualified, it engages in an eligible activity in the enterprise zone;

(b) Provided that any ineligible activity of the Firm/applicant is at a separate business operation; and

(c) Regardless of the degree to which an ineligible activity represents the Firm/applicant's main commercial pursuit.

(2) Any requirement to hire, maintain or compensate employees under ORS 285C.050 to 285C.250 applies only to "eligible employees," as used in ORS 285C.140(1)(a), consistent with OAR 123-674-0200.

(3) Firm/applicant and the local zone manager shall see that the Preauthorization Conference addresses distinctions relevant to this rule, and the local zone manager shall assist the firm and the county assessor in determining such portions of the firm's property that will qualify.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.135, 285C.200 & 285C.210

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-1400

Gross Receipts Test

(1) A gross receipts test shall determine the eligibility of a business firm or business operation that partially involves an ineligible activity only when:

(a) There are Applicable Gross Receipts;

(b) The firm is not eligible as described in OAR 123-674-1200(4); and

(c) For lack of definitive or physical separation, the ineligible activity cannot be effectively isolated from eligible activities for purposes of OAR 123-674-1300.

(2) The Firm/applicant or operation passes the gross receipts test and is otherwise eligible for authorization and qualification in the enterprise zone, if the ratio of Applicable Gross Receipts to Ineligible Receipts equals or exceeds 4.0.

(3) For purposes of this rule, the local zone manager shall see as part of the Preauthorization Conference that the authorization includes:

(a) An explanation of the eligibility of the firm or operation consistent with this rule; and

(b) Arrangements to substantiate this for the firm's future qualification, as appropriate.

(4) "Applicable Gross Receipts" as used in this rule are based on:

(a) Sales revenue derived directly from a party external to the firm in exchange for goods, products, commodities, merchandise, work or services;

(b) Operations located entirely inside the enterprise zone;

(c) All activities of the firm within the enterprise zone;

(d) An annual total for the most recent fiscal year or calendar year; and

(e) The commercial state of affairs, as realized when the firm is qualified for the property tax exemption being sought, which is estimated for purposes of the Application or Preauthorization Conference.

(5) "Ineligible Receipts" as used in this rule are that subset of the same Applicable Gross Receipts that arise from an ineligible activity described in OAR 123-674-1200(1), including but not limited to receipts that entail:

ADMINISTRATIVE RULES

- (a) Consumption by an end-user among the public;
- (b) Sales directly to a household or individual that is neither another business firm nor operating as such; or
- (c) No subsequent resale of the applicable goods or products by the firm's customer.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.135 & 285C.140
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-1500

Local Option for Hotels, Motels & Destination Resorts

(1) For purposes of eligibility under ORS 285C.135(5)(c) for an exemption under ORS 285C.175 (but not ORS 285C.170) on qualified property owned or leased and operated by a Firm/applicant as a hotel, motel or destination resort inside an enterprise zone, the firm and the property must:

- (a) Satisfy all applicable requirements; and
- (b) Locate in a zone or portion of a zone where such firms are eligible under ORS 285C.070 as described in section (2) of this rule.

(2) For subsection (1)(b) of this rule, allowable zones include:

(a) Any future enterprise zone that is acknowledged by the Director in the order of designation as having opted to exempt such qualified property under ORS 285C.070 (see OAR 123-650-2200); and

(b) Subject to change, the following 42 current enterprise zones:

(A) The entire area of the Baker City/County, Bay Area, Cascade Locks/Hood River, Columbia Cascade, Columbia River, CTUIR Tribal, Coquille Valley, Cottage Grove/Southern Lane County, Estacada, Florence, Forest Grove/Cornelius, Fossil, Grande Ronde, Grant County, Greater Umatilla, Harney County/Burns/Hines, Harrisburg, Jackson County, Klamath Falls/Klamath County, Lake County/Lakeview, Lower Umpqua, Malheur County, Medford Urban, Molalla, Port Orford, Prineville/Crook County, Roberts Creek, Rogue, Sandy, Sherman County, South Douglas County, St. Helens/Columbia City, Sutherlin/Oakland, Sweet Home, The Dalles/Wasco County, Tillamook or Woodburn Enterprise Zone;

(B) The Dallas/Independence/Monmouth Enterprise Zone, except for any area of Polk County outside city limits;

(C) The Deschutes Rural Enterprise Zone, except for any area of Deschutes County outside city limits;

(D) The Jefferson County Enterprise Zone, except for the incorporated territory of the City of Madras;

(E) The Lower Columbia Maritime Enterprise Zone, except for the incorporated territory of the City of Rainier; and

(F) The South Santiam Enterprise Zone, except for the incorporated territory of the cities of Albany, Millersburg and Tangent.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.070, 285C.135 & 285C.185
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-1600

Call Centers

For purposes of ORS 285C.135(5)(a):

(1) A Firm/applicant and its operations are eligible, regardless of retail or financial services, if:

(a) They serve the firm or its clients exclusively through computer, electronic, telephony or other telecommunication methods;

(b) No more than 10 percent of the customers or business transactions come from inside the local calling area, in which telephone calls are normally made to and from the firm's location in the enterprise zone without long distance telephone charges or service; and

(c) Not engaged in telemarketing, but rather the firm is taking unsolicited orders or responding to prior instruction, including but not limited to:

(A) Following-up on pledges or expressions of interest to the firm or its client;

(B) Checking with users of client-supplied goods or services, for example, to continue or renew recently expired membership, contract, etc.; or

(C) Collection of voluntarily incurred dues, fees or other charges payable to the client.

(2) The percentage in subsection (1)(b) of this rule is:

(a) First substantiated by the Firm/applicant or local zone manager with the Application or Preauthorization Conference;

(b) Not predicated on the actual transaction or customer communication through a landline telephone call, but only on relative location as if it were;

(c) Calculated by dividing the number of customers or transactions in the local calling area by the firm's total, arising from the operations in the zone; and

(d) Not dependent on precise calculation or verification, if the generally regional or national extent of the firm's activities allow for a reasonable assumption of compliance.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.135
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-1700

Headquarter Facilities

For purposes of ORS 285C.135(5)(b):

(1) A Firm/applicant and its operations are eligible, regardless of retail, financial, professional or other such ineligible activities, if:

(a) The business is operating at two or more sites in significant ways outside of the enterprise zone;

(b) The operations in the zone support or serve the firm's other operations throughout this state or throughout a multiple-state or larger region; and

(c) In approving the Application, the local zone manager includes a formal finding by the sponsor pursuant to the Preauthorization Conference under ORS 285C.140(7).

(2) The formal finding for subsection (1)(c) of this rule shall:

(a) Describe how the proposed investment and the business firm will satisfy subsections (1)(a) and (b) of this rule, including indications of applicable services, relevant region and the relationship among intra-firm operations;

(b) State that the proposed investment is significant for the enterprise zone and the local economy; and

(c) Succinctly explain the reasons for this significance, such as size of anticipated operations relative to local measures of commerce, special job opportunities, diversification, strategic, marketing or visibility objectives of the zone, or other impacts.

(3) As required under ORS 285C.180(2)(g), the business firm may not qualify for the exemption under ORS 285C.175, if the proposed investment as described in section (2) of this rule does not essentially conform to the actual investment in qualified property.

(4) The local zone manager may modify the formal finding prior to an authorized business firm qualifying for the exemption.

(5) For purposes of OAR 123-674-4000 to 123-674-4800, as provided under ORS 285C.200(7)(b)(B), only the employees working at a facility described in this rule are counted consistent with OAR 123-674-0200(3)(a).

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.135, 285C.140, 285C.180 & 285C.200
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-2000

Timely Submission

For purposes of ORS 285C.140(1):

(1) In applying for authorization with the sponsor of an enterprise zone and the county assessor, the Firm/applicant shall:

(a) Fill out the Application as completely as the Firm/applicant is capable of doing;

(b) Have the Application signed and dated by an owner, executive officer or legally authorized representative of such an owner or officer of the Firm/applicant; and

(c) Submit the Application by mail or otherwise to the local zone manager.

(2) In order for the sponsor to accept the Application from the Firm/applicant for potential approval, all of the actions described in section (1) of this rule must happen before:

(a) The Firm/applicant's hiring of any eligible employee to qualify under ORS 285C.200; and

(b) Any physical work or vesting in the project, such as construction or reconstruction of a building or structure, construction of an addition or modifications to an existing building or structure, or installation of machinery & equipment, comprising all or part of the qualified property, on which the Firm/applicant will claim exemption under ORS 285C.175.

(3) Physical work for purposes of subsection (2)(b) of this rule includes site preparation that leads directly to construction, modification or installation of qualified property, such as fill, grading or leveling on raw land or the installation of underground utilities and utility connections, except the following:

(a) Offsite development; or

ADMINISTRATIVE RULES

(b) On-site preparations that are incidental or unrelated to subsequent work on qualified property, such as improvements to prepare land for sale or for another project that did not go forward, to prevent erosion or otherwise maintain the land in good condition, or to accommodate or comply with government regulations or public improvements for roadways, trunk lines or the like.

(4) A faxed, e-mailed or similarly furnished copy of the Application is acceptable, if the copy is:

(a) Received by the zone sponsor before the time described in section (2) of this rule; and

(b) Promptly followed up by signed original to the local zone manager.

(5) Zone officials may verify conformity with this rule, as necessary, through:

(a) Final documents for transfer of ownership, sale closing or execution of a lease;

(b) Building permit or contract;

(c) Written statement/affidavit from someone other than an owner or employee of the Firm/applicant; or

(d) Similar forms of written and independently substantiated proof.

(6) The Firm/applicant shall pay an authorization filing fee, if directed to do so by the local zone manager, as described in OAR 123-668-1700.

(7) In the event that the local zone manager does not timely receive an Application as described in this rule, the manager may still accept it if the Firm/applicant produces dated evidence to the satisfaction of the zone manager and assessor that the Application was sent in a timely manner.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.140(1) & (12)

Stats. Implemented: ORS 285C.140 & 285C.145

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-2100

Allowably Late Applications

Notwithstanding OAR 123-674-2000(2), the zone manager may accept an Application after:

(1) Certain physical work that consists only of:

(a) Demolition, cleanup, environmental remediation, removal of hazardous materials, and so forth;

(b) Any delivery, storage or upkeep of materials or elements of qualified property on site prior to construction/installation; or

(c) Construction or the like that occurred and completely ceased six months or longer before Application, consistent with paragraph (3)(b) of OAR 150-258C.180, insofar as the property is never placed in service and the Application precedes the resumption of work.

(2) The commencement of hiring or physical work, if the Application wholly replaces a previously submitted Application by December 31 immediately before the initial year of exemption consistent with OAR 123-674-3200; in this case, the originally submission date is used.

(3) The commencement of hiring or physical work pursuant to a waiver issued by the Department of Revenue, or as otherwise allowed under ORS 285C.140(11) and (12).

(4) The commencement of physical work on a qualified building or structure (aside from associated machinery & equipment) under 285C.145(2), if the following are true:

(a) Firm/applicant did not own or lease any such building or structure, or have a right or obligation to do so, at any time before the commencement of construction, reconstruction or modifications;

(b) Firm/applicant includes a copy of an executed lease or purchase agreement for the qualified building or structure with the Application;

(c) Firm/applicant does not have any familial, employment, corporate or other such entity relationship with the owner or previous owner of the building or structure; and

(d) Approval of the Application occurs before the Firm/applicant begins to use or occupy the building or structure for commercial operations.

(5) Even the completion of construction, modifications or installations as otherwise allowed in sections (2) to (4) of this rule.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.140(12)

Stats. Implemented: ORS 285C.140 & 285C.145

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-2300

Initial Processing by Local Zone Manager

Following submission of an Application:

(1) The local zone manager may collect an authorization filing fee as described in OAR 123-668-1700.

(2) The local zone manager shall deny the Application if finding:

(a) The Firm/applicant does not fulfill any basis for eligibility under ORS 285C.135;

(b) The Firm/applicant is unwilling or unable to unambiguously commit to an action/obligation as required under ORS 285C.140(2);

(c) The Application was submitted too late as described in OAR 123-674-2000 and 123-674-2100;

(d) The location of proposed qualified property is outside the enterprise zone boundary and no relevant boundary change is pending (or possible); or

(e) Other reason precludes authorization.

(3) Within 15 business days of denial per section (2) of this rule, the local zone manager shall:

(a) Refund any authorization filing fee that was paid;

(b) Write a letter to the Firm/applicant that justifies the denial;

(c) Send copies of the letter to the county assessor, Department of Revenue and the Department; and

(d) Ensure that the letter:

(A) Is sent to the Firm/applicant through certified mail or in such a way that the date of receipt can be verified; and

(B) Contains information on the Firm/applicant's rights of appeal under ORS 305.404 to 305.560 to the Magistrate Division of the Oregon Tax Court.

(4) If there is no apparent reason to deny authorization, per section (2) of this rule, then the local zone manager shall undertake the Preauthorization Conference, inviting the county assessor, to explore eligibility questions, extended abatement criteria, matters related to OAR 123-674-4000 through 123-674-4600, and so forth.

(5) With respect to a sponsor's failing to authorize under ORS 285C.140(9), a Firm/applicant may proceed with an appeal after 30 days following the submission of the Application, if no formal action is yet to be taken as described in this rule or in response to special circumstances in OAR 123-674-2500(4).

(6) After the Preauthorization Conference, the local zone manager shall approve the Application in order to authorize the Firm/applicant under ORS 285C.140(6), unless determining to deny it as described in sections (2) and (3) of this rule.

(7) If the Firm/applicant's will locate in an urban enterprise zone that imposes additional conditions under ORS 285C.150 in effect at the time of authorization, the local zone manager shall:

(a) Approve the Firm/applicant for authorization only if the Firm/applicant has made acceptable commitments to satisfy such conditions; and

(b) Include a standardized attachment to the Application documenting the commitments of the Firm/applicant consistent with OAR 123-668-2500.

(8) In five or fewer business days after approval, the local zone manager shall:

(a) Fill out and sign the Approval Form except for the section pertaining to the county assessor;

(b) See that the county assessor has the Approval Form and a copy of the Application (with all current attachments);

(c) Notify the Firm/applicant of the status of the Application, as appropriate; and

(d) Inform the local contact agency for the First Source Hiring Agreement (see OAR 123-070 and 123-674-7000 to 123-674-7730).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.140

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-2500

Final Processing

(1) The county assessor or county assessment staff to whom the assessor delegates enterprise zone duties:

(a) Shall accept any requisite invitation to a Preauthorization Conference, as feasible and warranted.

(b) Shall approve or deny the Application within a reasonable time after receiving the Approval Form from the local zone manager.

(c) Shall in five or fewer business days after making a decision in subsection (b) of this section, respective to the Approval Form: Enter signature and date, verify the information as it pertains to future steps for the Firm/applicant, retain copy for assessor's records, and return the remainder to the local zone manager.

(d) Shall include a written explanation with the materials returned to the local zone manager if denying authorization for any reason in OAR 123-674-4300(2).

(e) May refuse to approve the Application on condition of receiving a finalized item in section (4) of this rule, or other reasonably critical information from the Firm/applicant or zone sponsor, including but not limited

ADMINISTRATIVE RULES

to resolving a concern raised with the Preauthorization Conference, or an additional meeting if not properly notified of prior meeting.

(2) In completing the Approval Form, the local zone manager shall have a photocopy made of the Approval Form (with original signatures) for the zone sponsor's records.

(3) If the county assessor denies the Firm/applicant's authorization, the local zone manager or county assessor shall in 15 or fewer business days after denial:

(a) Refund any authorization filing fee that was paid.

(b) Have the respective top and colored copies of the Approval Form and the county assessor's written explanation sent to the Firm/applicant through certified mail or in such a way that the date of receipt can be verified and distributed to the other entities listed in subsection (5)(a) of this rule.

(4) Pending the completion and inclusion of the following documents as part of the Application, to which they shall be attached, the local zone manager and county assessor may delay final processing of the Approval Form:

(a) Written agreement described in OAR 123-674-0700 for an extended abatement;

(b) Resolution or resolutions of the governing body or bodies of the zone sponsor for a local waiver of the employment increase requirement described in OAR 123-674-4300; or

(c) Executed lease or purchase agreement as necessary for OAR 123-674-2100(4).

(5) Subject to both the local zone manager and county assessor approving the Application, as well as wrapping up special circumstances related to section (4) of this rule, the local zone manager or county assessor shall have the respective copies of the Approval Form promptly distributed to:

(a) The following (with copies of the approved Application and attachments, as appropriate or requested):

- (A) Firm/applicant;
- (B) Department of Revenue; and
- (C) Department; and

(b) Local contact agency for the First Source Hiring Agreement without Application attachments.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.140, 285C.145, 285C.155 & 285C.160
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-3000

Being an Authorized Business Firm

(1) For purposes of ORS 285C.050 to 285C.250 and this division of administrative rules, the Firm/applicant becomes "authorized" only upon fulfillment of OAR 123-674-2500(5). (As applicable, County Wage is primarily established at that point)

(2) Authorization serves to establish and address critical issues related to a Firm/applicant's knowledge of the enterprise zone, the eligibility of its business activity, Existing Employment, clarity in the unlikely event of concurrent Applications, and so forth.

(3) Authorization does not as such govern the qualified property subject to exemption under ORS 285C.170 or 285C.175, other than the basic, general parameters described in OAR 123-674-3100, in that:

(a) The anticipated timing, estimates and descriptions of the investment in qualified property in the Application are not in and of themselves binding and do not serve a regulatory function.

(b) The two exceptions to this section are qualified property of a head-quarter-type facility (see OAR 123-674-1700) or in a rural renewable energy development zone (see OAR 123-680), in that the actual, completed project or facility must conform substantially to representations in the Application (aside from anticipated timing) to enjoy the standard exemption under ORS 285C.175.

(4) Such authorization must already be in effect for the Firm/applicant to use the exemption on qualified property under ORS 285C.170 for work in progress, as described in OAR 123-674-6000, although the Firm/applicant may apply for and receive exemption on property as otherwise allowed under ORS 307.330.

(5) In order to receive exemption under ORS 285C.175 on qualified property that is in service:

(a) The zone sponsor/county assessor shall authorize the Firm/applicant, at the absolute latest, before it files its initial claim for exemption with property schedule under ORS 285C.220 and 285C.225.

(b) Such an exemption claim may be provisionally filed pending authorization delayed for extenuating circumstances through no fault of the

Firm/applicant, but authorization must occur before the firm may qualify for the exemption.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.140, 285C.170, 285C.175, 285C.220 & 285C.225
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-3100

Limitations on Exemption Relative to Authorization

The Application and the information in it restrict what qualified property may receive exemption under ORS 285C.170 or 285C.175 in only the following four ways under ORS 285C.180(1)(d) to (f) and 285C.225(3), in that any qualified property must be:

(1) Possessed for use by the Firm/applicant or qualified business firm:

(a) In that the firm must either own the property or lease it as described in OAR 123-674-5500.

(b) Except as allowably transferred to another eligible business firm acquiring the authorized firm or the property, including but not limited to OAR 123-674-4800.

(2) At the same general location:

(a) That encompasses a single, coherent area of business operations;

(b) Which may consist of a complex of lots or parcels of land or of a comparably proximate set of multiple sites, such that each lot, parcel or site is separated one from the other by commonly owned land, and not otherwise broken up except by roads, easements and so forth; and

(c) Which the Firm/applicant need not describe in whole, such that inclusion in the Application of a street address or tax lot within the overall area is sufficient.

(3) Generically identified in submissions or other Application materials in terms of:

(a) Buildings or structures, each of which has construction, reconstruction or modification costs of \$50,000 or more; reference with the Application to a particular project, for which associated improvements are implicit, may be treated as adequate for this subsection.

(b) The basic category of property, regardless of cost, as represented by some such indication of:

(A) Newly constructed buildings/structures;

(B) Additions to or modifications to existing buildings, structures or portions thereof;

(C) Newly installed real property machinery & equipment;

(D) Modifications to real property machinery & equipment under ORS 285C.190; or

(E) Newly installed personal property.

(4) Placed in service over not more than three successive years:

(a) Once the business firm successfully claims any exemption pursuant to the Application (whether later or earlier than anticipated), subsequent exemptions may be claimed based on the same Application only in one or both of the next two years. This is true regardless of an extended abatement or the length of the underlying periods of exemption.

(b) Additional qualified property covered by each subsequent exemption necessitates its being:

(A) Placed in service during the first or second year of the initial exemption; and

(B) Listed in a new property schedule under ORS 285C.225, as filed with the same exemption claim for that and prior property (see OAR 123-674-6100 and 123-674-6200).

(c) Each exemption as described in this section shall enjoy its own three to five-year exemption period, which will overlap.

(d) All overlapping exemptions for purposes of this section are subject to disqualification for noncompliance of the business firm based on only the requirements arising from the Application.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.140, 285C.170, 285C.175, 285C.180, 285C.185, 285C.190, 285C.220 & 285C.225

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-3200

Amending the Application/Authorization

For purposes of amending an application before or after its approval:

(1) To substantively modify the Application, such that it reestablishes what might be exempt as described in OAR 123-674-3100, the Firm/applicant must formally deliver the amendment on or before December 31 preceding the initial year of exemption under ORS 285C.140(3), including but not limited to:

(a) Changing the Firm/applicant to that of another eligible business firm that has or is purchasing or leasing the qualified property of an active-ly authorized business firm;

ADMINISTRATIVE RULES

(b) Revising the location of the property inside the same enterprise zone; or

(c) Adding a basic type of property absent from the Application, or distinct projects or operations entailing substantial new development.

(2) The Firm/applicant may do so through written explanation delivered to the local zone manager and county assessor that is identified as an amendment, addendum, correction or the like in reference to the Application, without directly altering previously submitted materials, or for example, a Firm/applicant may submit a new, replacement Application per OAR 123-674-2100(2).

(3) Amendment is strongly encouraged at any time, even if unnecessary to secure exemption on any property, whenever information in the submitted Application is significantly inaccurate due to:

(a) An error or omission;

(b) A change in plans; or

(c) New name or mailing address of the Firm/application, because of the company's restructuring or its ownership changing hands, in which case the relevant rights and requirements of authorization automatically transfer along with ownership of the firm; or

(d) Similar reasons.

(4) An authorization renewal statement under ORS 285C.165 shall revise all information in the Application that is no longer accurate, especially with respect to anticipated timing for the investment (see 123-674-3700).

(5) Once the Firm/applicant is authorized, an amendment may not be used to make or alter a determination, waiver, extension or the like under ORS 285C.150, 285C.155, 285C.160, 285C.200(2) or 285C.205.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.140, 285C.145, 285C.165, 285C.180 & 285C.220

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-3500

Additional, Concurrent Authorizations

While amendment to an outstanding Application as described in OAR 123-674-3200 is generally preferable for reasons of simplicity, approval of two or more outstanding Applications for the same Firm/applicant in the same enterprise zone is allowable, and in some cases, desirable or necessary:

(1) The Firm/applicant must make another Application for any case that goes beyond what a single Application may cover, according to OAR 123-674-3100, such as investments in qualified property:

(a) At more than one general location inside the zone;

(b) Inadequately indicated in terms of a basic type of property or major improvements in the Application, which may not be amended once the first year of the initial exemption has already begun; or

(c) That will not be in service until the third or later year following the first exemption year of initial property covered by a current authorization.

(2) For any additional Application even if for proposed qualified property at the same site:

(a) It must be timely submitted according to OAR 123-674-2000 and 123-674-2100 in terms of the commencement of work on newly proposed property; and

(b) It establishes unique Existing Employment and resulting criteria under ORS 285C.200 and 285C.210.

(3) In the event of concurrent exemptions under ORS 285C.175 on qualified property covered by two or more Applications, the authorized business firm shall file separate exemption claims and property schedules, as described in OAR 123-674-6100 and 123-674-6200, corresponding to each Application and associated qualified property, such that qualification depends on satisfying:

(a) Criteria arising from the Application most clearly associated with the particular property (including but not limited to consideration of when work on such property actually commenced).

(b) The effectively most stringent requirement among outstanding Applications for any qualified property that does not definitively relate to any particular Application.

(c) The effectively least stringent requirement among the outstanding Applications for qualified property specifically described by two or more Applications.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.140, 285C.170, 285C.175, 285C.180, 285C.185, 285C.190, 285C.220 & 285C.225

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-3700

Renewal of Active Status & Inactive Authorization

Under ORS 285C.165 an eligible business firm's authorization in an enterprise zone becomes 'inactive' after more than two years:

(1) The authorization remains active over:

(a) The remainder of the year after approval of the Application;

(b) The two-year period immediately following; and

(c) Each two-year period directly thereafter, subject to a statement of renewal as described in subsection (2)(b) of this rule.

(2) Authorization is still 'active' if immediately after any period described in section (1) of this rule, the firm:

(a) Files under ORS 285C.220 and 285C.225 to initially claim exemption on qualified property placed in service during such timeframe; or

(b) Submits a written statement between January 1 and April 1 (as presently received by both the local zone manager and the county assessor's office) that:

(A) Comes from the firm consistent with authority required for Application;

(B) Affirms that the firm still intends to complete its proposed investment in qualified property inside the zone and to claim the exemption;

(C) Revises or amends any relevant information in the Application; and

(D) Formally accepts resetting/updating of the County Wage applicable to any compensation standard.

(3) An inactively authorized business firm retains its right to claim the exemption after the timeframe described in section (1) of this rule, but letting active status lapse has the following consequences with the initial exemption claim:

(a) Filing fee under ORS 285C.165(3); and

(b) Updated/revised County Wage with any compensation standard.

(4) Moreover, an inactively authorized business firm may not receive exemption under ORS 285C.170, while qualified property is in the process of construction, modification or installation, but it may still seek exemption under applicably comparable provisions of ORS 307.330 and 307.340.

(5) This rule no longer applies once exemption is granted under ORS 285C.175, or the zone terminates under ORS 285C.245 (see OAR 123-674-8100).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.140, 285C.170, 285C.175, 285C.180, 285C.185, 285C.190, 285C.220 & 285C.225

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-4000

Computation of Average Employment

(1) Annual Employment or Existing Employment is calculated such that:

(a) The actual employment of the firm at the end of each period (such as pay periods or calendar months) that concludes during any exemption year or the entire 12 months before Application shall be summed and then divided by the total number of periods.

(b) Periods are not longer than a quarter of a year, and such quarters shall begin on January 1, April 1, July 1 and October 1.

(c) Results are rounded to a whole number equal to one or more.

(2) For purposes of determining Existing Employment relative to the submission of the Application:

(a) The time when applicable physical work began shall be used instead of the submission date, whenever appropriate or necessary for special situations that completely waive the requirement for timely submission.

(b) If such physical work has not yet begun, an authorized business firm may submit a replacement Application to establish a lower level of Existing Employment; otherwise, the number from the original submission date stands.

(c) The Firm/applicant may correct for a miscalculation by amending the Application under ORS 285C.140(3) (see OAR 123-674-3200), including but not limited to erroneous counting of part-time, temporary, seasonal or ineligible employees.

(d) After the first (January-1) assessment date for exemption under ORS 285C.175, Existing Employment may be altered only to correct for a gross error, subject to a formal finding of good cause by the Department.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.140(12)

Stats. Implemented: ORS 285C.140, 285C.200 & 285C.210

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

ADMINISTRATIVE RULES

123-674-4100

Employment Requirement to Qualify Initially

To receive and begin an enterprise zone exemption under ORS 285C.175, an authorized business firm must qualify by filing under ORS 285C.220 and 285C.225 (as described in OAR 123-674-6100):

(1) The first Claim Employment must equal or exceed the greater of one plus, or 1.1 times, Existing Employment. (If the actual Claim Employment is insufficient, the requirement under ORS 285C.200(1)(c) is still met if a sufficiently high level of employment was achieved at any time prior to April 1 but after Application, as explained by the business firm in an attachment to the claim form)

(2) For a subsequent exemption on additional qualified property pursuant to the same Application, as described in OAR 123-674-3100(4), the requirement of section (1) of this rule has effectively already been satisfied.

(3) If section (1) of this rule is not satisfied, then the county assessor shall deny the exemption claim and not grant any exemption under ORS 285C.175 on qualified property, except with a waiver by the zone sponsor and qualification as described in OAR 123-674-4300. Such denial does not directly affect the firm's authorization status and its ability to qualify other (later) property under ORS 285C.170 or 285C.175.

(4) Under ORS 285C.200(5), the transfer of eligible employees, jobs or positions into the zone from a site within 30 miles outside its boundary triggers an additional requirement in terms of section (1) of this rule, unless the transfer occurred entirely before Application or after the initial year of exemption. For purposes of this section's additional requirement, Claim Employment and Existing Employment broaden to include employees located at any such site, as well as those inside the zone.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.050, 285C.175, 285C.200, 285C.220 & 285C.225

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-4200

Diminishing Employment Well beyond the Zone

Under ORS 285C.200(1)(d) and (4), an authorized business firm seeking an exemption in any enterprise zone may not qualify or remain qualified, if the firm transfers operations into the zone involving the closure or curtailment of operations and any drop in employment or job losses elsewhere in this state:

(1) Unless the originating location is 30 miles or less from the boundary of the zone, and the firm meets the requirements under ORS 285C.200(5) and 285C.210(2)(c) described in OAR 123-674-4100(4) and 123-674-4600(2).

(2) Except if the firm demonstrates, with or without the assistance of the zone sponsor, to the satisfaction of the county assessor or the Department that the curtailment/job losses:

(a) Occurred entirely before Application;

(b) Occur entirely after the initial year of exemption on qualified property;

(c) Will not be permanent, such that restoration of the jobs is reasonably likely and does in fact happen on or before December 31 of the initial year of exemption;

(d) Pertain to business operations that the firm does not control in any way through common ownership, corporate affiliation, contracts governing relevant operations, or the like;

(e) Are completely unrelated to investments in the zone, such that there is effectively no transfer of curtailed operations or jobs into the zone; or

(f) Have only de minimis impact, which the Department may deem true if job losses will amount to less than one hundredth of 1 percent (0.01%) of the most recently available figure from the State Employment Department for annual average total nonfarm, private employment in the county experiencing curtailed operations.

(3) For purposes of this rule, transferred operations and curtailed employment relate to any type of business activity, including but not limited to what would be ineligible in an enterprise zone.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.200, 285C.210 & 285C.240

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-4300

Local Waiver of Employment Increase inside Zone

For purposes of ORS 285C.155, 285C.200(2) and 285C.205, in which the local enterprise zone sponsor waives the required increase in the employment of the firm:

(1) The requirements as described in OAR 123-674-4100(1) or 123-674-4600(1) do not apply, but those related to not decreasing employment

outside the zone still do, consistent with OAR 123-674-4100(4), 123-674-4200 and 123-674-4600(2), if relevant.

(2) To use the provisions of either ORS 285C.200(2)(b)(A) or (B), each governing body of the sponsor must adopt a resolution:

(a) Before authorization of the eligible business firm;

(b) Stipulating the minimum employment level to be maintained during the exemption as described in section (4) of this rule; and

(c) Identifying any other reasonable condition in accordance with OAR 123-668.

(3) The resolution(s) described in section (2) of this rule shall incorporate:

(a) The minimum investment under ORS 285C.200(2)(b)(A), which the firm may satisfy based on the cost of qualified property placed in service and contained in property schedules over as many as three successive years. [Multiple authorizations, consistent with subsection (2)(a) of this rule, may be used for concurrent investment activity at one or more locations inside the same zone]; or

(b) Specifications and methods for managing, measuring and enforcing the requirements under ORS 285C.205, to increase productivity by 10 percent, and to dedicate 25 percent of the property tax savings to employee training under ORS 285C.200(2)(b)(B).

(4) The minimum employment as stipulated in the resolution(s):

(a) Is a single, stated number of employees;

(b) May be determined, as indicated in the resolution(s), by way of either Annual Employment or Claim Employment; and

(c) Relative to Existing Employment, it:

(A) May be lower for purposes of ORS 285C.200(2)(b)(A); or

(B) Shall be at least the same under ORS 285C.200(2)(b)(B).

(5) Prior to July 1 of the initial exemption year, the sponsor may (jointly) modify its resolution in accordance with sections (2) to (4) of this rule, but only if so requested by the firm.

(6) Failure to satisfy the minimums, requirements or conditions, as described in this rule, shall result in the exemption's denial or disqualification consistent with OAR 123-674-4100(3) and 123-674-6400, although the county assessor is in no way obligated to consider compliance with any requirement arising under ORS 285C.155 or 285C.205 without formal communication from the zone sponsor.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.155, 285C.200, 285C.205, 285C.230 & 285C.240

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-4600

Maintaining Sufficient Employment

For purposes ORS 285C.200(1)(e) and 285C.210:

(1) Failure occurs (unless waived under ORS 285C.155 and 285C.200) if:

(a) The latest Annual Employment is less than the greater of one plus, or 1.1 times, Existing Employment;

(b) The current Claim Employment is less than 15 percent of any previous Claim Employment; or

(c) Both the current Claim Employment and the one from the prior year are less than 50 percent of any previous Claim Employment.

(2) Subject to OAR 123-674-4100(4)'s being effective, a qualified business firm must likewise meet an additional requirement in terms of section (1) of this rule but only for the initial year of exemption. For purposes of this section's additional requirement, Annual Employment, Claim Employment and Existing Employment broaden to include employees located at any relevant site outside but within 30 miles of the zone boundary, as well as jobs inside the zone.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.200, 285C.210, 285C.220, 285C.230 & 285C.240

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-4800

Sale or Leasing of Property while Exempt

For purposes of ORS 285C.175(2)(c), a qualified business firm may sell or lease qualified property without triggering disqualification on such property under 285C.240, such that the exemption continues for the remainder of its normal period. This rule depends on all of the following:

(1) The qualified property continues to be located and eligibly used inside the enterprise zone.

(2) The purchaser or lessee is an eligible business firm.

(3) Effective satisfaction of requirements under ORS 285C.210 as described in OAR 123-674-4600 continues, such that:

(a) The Annual Employment of the purchaser/lessee and of the originally qualified business firm equal or exceed the sum of:

ADMINISTRATIVE RULES

(A) The minimum Annual Employment required of the firm per OAR 123-674-4600(1)(a); and

(B) The annual average employment of the purchaser/lessee in the zone immediately prior to the change in ownership/lease; and

(b) The combined Claim Employment sufficiently compares to previous Claim Employment, plus the total employment of the purchaser/lessee in the zone at the time of the change in ownership/lease.

(4) That the purchaser/lessee and the qualified property comply with all other applicable requirements.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.050, 285C.175, 285C.210 & 285C.240

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-5000

Critical Property Terms

As used in 285C.050 to 285C.250, consistent with relevant definitions in ORS Chapter 307 and OAR 150-285C.180, and in this division of administrative rules unless the context dictates otherwise:

(1) "Addition" includes one or both of the following as indicated by the context:

(a) The re-construction of an existing building or structure to expand or enlarge its area, volume, dimensions or structural capacity; or

(b) The newly erected or created space, enclosure or annex of the building or structure, per the re/construction described in subsection (a) of this section.

(2) "Building" includes a real property improvement erected on the land, mostly enclosed by walls and roofing, and designed for human use, occupancy or shelter, along with structural components necessary to make the building usable and habitable such as wiring, plumbing, foundation, fixtures, lighting and heating and cooling system.

(3) "Commercial" relates to the principal undertaking by a qualified business firm in the direct furtherance of the production of income through the handling, making or provision of goods, products or services for ultimate (though not typically direct) sale.

(4) "Completion of construction, addition, modification or installation" has the same meaning as placing property 'in service' under ORS 285C.050, in that it is legally and practically ready, following installation, testing or proving of safety, information and other systems essential to produce commercially viable output, as well as necessary use & occupancy permits. Excluded are training of personnel and other similarly intangible activities, however critical they might be for business operations in general.

(5) "Cost" means expenses documentable through existing records or retrospective compilation of evidence as incurred for:

(a) Construction, reconstruction, modification or installation of qualified property, including but not limited to materials, supplies, labor, paint, contractor charges, equipment usage, engineering, architectural fees and physical connections to utilities and other property, but excluding the costs associated with maintenance, financing, legal fees, off-site improvements, the authorized business firm's own management and so forth; or

(b) Purchase of real or personal property machinery & equipment or of ready-made buildings or structures directly prior to installation or occupancy. Estimated fair market value shall substitute for purchase price in the case of existing property, for which there has not been a recent sale (for example, leasing of used property).

(6) "Installation" is the actual placement, affixing, connection or integration of machinery & equipment or personal property in or with a building, structure or other machinery & equipment for purposes of being used and does not mean the purchase, onsite delivery or storage of such property.

(7) "Item," subject to further definition in OAR chapter 150 under ORS 285C.185(6)(b), includes any personal property that may be effectively appraised or assessed as a unit, including but not limited to an entire conveyance, information or other system, the various components of which are mechanically, electrically or similarly integrated.

(8) "Land" includes raw undeveloped land and any improvements to the land for site development.

(9) "Located in/inside the enterprise zone" means the use or operation of qualified property for trade or business operations within the current boundary of the enterprise zone, from which it is not removed during the standard exemption period other than incidental reasons of repair, maintenance and so forth.

(10) "Modification" under ORS 285C.050 comprises:

(a) Reconditioning, refurbishment, retrofitting or upgrading of real property machinery & equipment for purposes of ORS 285C.190; or

(b) The alteration or reconstruction of all or part of an existing building or structure, as distinct from an addition to the building or structure.

(11) "Personal property" includes any tangible property (readily movable as opposed to effectively fixed or very heavy) that is used in the business process or activity and is otherwise subject to ad valorem taxation, including but not limited to devices, tools and (former) spare parts that are put to use (see OAR 123-674-5200).

(12) "Production of tangible goods" means any physical process or manipulation of materials, commodities or products, including but not limited to manufacturing, assembly, sorting, cooking, heating, freezing, mixing, sorting, wrapping, onsite conveyance, packaging or bulk printing.

(13) "Real property machinery & equipment" include real property (fixed or stationary and immovable due to weight, size or attachment to or integration with other real property) used in business activity and not otherwise described in this rule, including but not limited to devices, specialized pipes, air filtration systems, wiring, electrical panels or switches, or other non-structural, assembled apparatus. (This type of property may be classified as 'personal property' for income tax or other purposes)

(14) "Structure" includes a real property improvement on or under the land other than buildings, machinery or equipment, including but not limited to ramps, docks, parking lots, outdoor freestanding signs, subterranean compartments and outdoor lighting, as well as associated fixtures, paving, wiring, pipes, foundations and so forth.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.050 - 285C.250

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-5100

Eligible Utilization

For purposes of property to be exempt in an enterprise zone under ORS 285C.170 or 285C.175:

(1) It must be exclusively for use in one or more eligible activities described in OAR 123-674-1100 and not an activity listed in OAR 123-674-1200(1).

(2) Consistent with section (1) of this rule, some property will typically not qualify for the exemption, including but not limited to the following examples:

(a) Commercial fixtures and space in a retail setting;

(b) A commercially operated kitchen and associated fixtures and appliances for retail food service;

(c) Entertainment, recreational and exercise facilities or equipment;

(d) Medical devices; or

(e) Construction equipment.

(3) Sections (1) and (2) of this rule are excepted in the case of otherwise qualified property that is used for operations and at facilities described in OAR 123-674-1200(3) or (4), including but not limited to electronic commerce operations in a so-designated area as described in OAR 123-662.

(4) Any such property must also:

(a) Relate to the Application consistent with OAR 123-674-3000 through 123-674-3500; and

(b) Be constructed, added to, modified or installed in the zone to serve essentially only commercial/non-personal purposes.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.135, 285C.180, 285C.185 & 285C.240

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-5200

Mechanical, Personal & Unqualified Property

For purposes of enterprise zone property to be exempt under ORS 285C.170 or 285C.175:

(1) Real property machinery & equipment or personal property may qualify, despite prior usage outside the zone (or as allowed under ORS 285C.190), such that the exempt value is based on the usual factors of appraisal, such as age, deterioration and obsolescence, as well as any reconditioning, refurbishment or restoration.

(2) More than three months before submission of the Application, any real property machinery & equipment (except under ORS 285C.190) or personal property must not be both:

(a) Owned or leased by the business firm; and

(b) Located in the county containing the site of the property inside the zone.

(3) An item of personal property machinery & equipment with a cost of less than \$50,000 qualifies for the exemption only if used:

(a) Exclusively in the production of tangible goods, which by itself will usually preclude furniture and most simple, ordinary communication, design, information, office or video machines; or

ADMINISTRATIVE RULES

(b) In electronic commerce at a location in a so-designated area as described in OAR 123-662.

(4) Subsection (3)(a) of this rule also covers personal property items of machinery & equipment:

(a) Even if the tangible good in question is not actually created or manufactured from raw inputs, but is instead modified, processed, restored, repaired, measured, sized, imprinted, packaged, conveyed, shipped or comparably affected in a physical manner.

(b) That maintain, calibrate, adjust, monitor, test or fix qualified property directly involved with tangible output or production, or that assure quality control of tangible output or production, including but not limited to research and development equipment incorporated into production activities.

(5) Regardless of any other provision of this division of administrative rules, the following property does not qualify for the exemption:

(a) Land and improvements "to" raw land, such as site preparation.

(b) Any item of personal property with a cost of less than \$1,000.

(c) Fuel, lubricants and other 'non-inventory' supplies.

(d) Any machinery, equipment or device that can roam freely by its own motive power under the control of an operator/driver, including but not limited to forklifts.

(e) Any self-propelled motorized vehicle.

(f) Any device or item that is pulled, pushed or carried by a vehicle and designed to hold and transport people, goods or property on highways, waterways or railways beyond the zone boundaries, including but not limited to trailers, rolling stock, barges, carriages or railroad cars.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.180, 285C.185 & 285C.190

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-5300

Buildings, Structures & Other Real Property

For purposes of enterprise zone property to be exempt under ORS 285C.170 or 285C.175:

(1) A building, structure or newly installed real property machinery & equipment does not qualify, unless the cost of all such property in a single property schedule under ORS 285C.225 equals or exceeds \$50,000 in total.

(2) Qualified property, including but not limited to a building or structure, is severable under ORS 285C.180(5), such that:

(a) A part of the building or structure may be exempt, even if another part of the same building or structure is owned or leased by a different business firm, used for ineligible activities, or otherwise not subject to the same exemption; and

(b) The amount of property value that is exempt shall be determined through pro rata calculation based on floor area or other reasonable method, as preferably considered with the Preauthorization Conference, and verified by the zone sponsor, as necessary.

(3) The county assessor may classify elements of a golf course as a structure or structures in the case of a hotel, motel or destination resort under ORS 285C.185(4).

(4) The exemption on qualified additions, modifications, reconditioning, refurbishment, retrofits or upgrades under ORS 285C.175(3)(b) is measured in each year by:

(a) Computing the assessed value of such taxable property (lesser of real market value or maximum assessed value in each case):

(A) With such qualified improvements or changes; and

(B) Without such qualified improvements or changes (that is, the assessed value that would have been subject to taxation) accounting for other concurrent changes to property.

(b) Taking the difference between the values described in paragraphs (a)(A) and (a)(B) of this section, such that any negative difference equates to zero.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.175, 285C.180, 285C.185 & 285C.190

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-5400

Property Already Entered on Rolls

Qualified property already entered on the assessment roll of the county — but only after the effective date of the zone's designation or the area's amendment into the zone — may under certain circumstances receive exemption under ORS 285C.170 and 285C.175, including but not limited to the following examples:

(1) Assessment occurred while in the process of construction, modification or installation, even if the taxpayer did not apply in a timely or acceptable fashion under ORS 285C.170 or 307.330 and 307.340.

(2) Acquisition of machinery & equipment located elsewhere in the county by the Firm/applicant but subsequently installed in the enterprise zone.

(3) While an administrative or judicial appeal is pending.

(4) The authorized business firm misses the first-year filing deadline but receives the remaining years of the exemption as described in OAR 123-674-6100(5)(b).

(5) A building or structure acquired from an unrelated third party and authorized as described in OAR 123-674-2100(4) (provided the building, structure, or the applicable portion of or improvement to it was not in service for more than a year preceding the first year of exemption).

(6) Other circumstances that do not necessarily nullify the exemption under ORS 285C.175.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.170, 285C.175, 285C.180 & 285C.220

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-5500

Obligations for All Leases, Lessors & Lessees

(1) Qualified property that is not owned by the authorized business firm is exempt in an enterprise zone under ORS 285C.185(3) subject to all other applicable requirements, if used, occupied or operated by the firm under a lease agreement executed no later than July 1 of the first year of exemption on the leased property under ORS 285C.175.

(2) The term of the lease must also extend until at least the end of the tax year that begins in the last exemption year, unless the qualified business firm will or does assume ownership of the property by such time.

(3) The owner of leased qualified property may be any person or corporation, including but not limited to a public body or an owner of the firm.

(4) The lease agreement must effectively operate as a net lease, inasmuch as:

(a) The firm/lessee directly pays all ad valorem taxes assessed against any property covered by the lease agreement; or

(b) The firm/lessee will compensate the owner of the property in full for such property taxes in addition to rent or other costs throughout the period of the lease.

(5) The stipulation of a net lease is irrelevant if the owner and lessee have common ownership and are subject to treatment as a single eligible business firm according to OAR 123-674-0200(4).

(6) The owner of any such qualified property (even machinery & equipment) must join the firm in filing the property schedule as an attachment to the exemption claim form under ORS 285C.225(4)(d) for the first exemption year, such that the owner or the owner's authorized legal agent signs one of the following:

(a) The same property schedule that has the original signature of the firm's representative; or

(b) An attachment to the schedule that provides for equivalent acknowledgment by the owner.

(7) For purposes of this rule, a lessee that sub-leases property to the firm may substitute for the "owner."

(8) The owner has the same right as the firm to timely notify the county assessor and the zone sponsor under ORS 285C.240(1) if a requirement is not met, in order to avoid penalties under ORS 285C.240(4).

(9) A copy of the lease agreement is not required with Application or with the exemption claim, except as described in OAR 123-674-2100(4) or as requested by the county assessor.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.170, 285C.175, 285C.180 & 285C.220

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-6000

Exemption Prior to Property Being 'In Service'

Under ORS 285C.170 qualified property of an actively authorized business firm in the enterprise zone is exempt from ad valorem taxation for up to two years, such that:

(1) Consistent with OAR 123-674-6100(4), this exemption precedes and complements the one under ORS 285C.175, in that

(a) It applies only to property that is not yet placed in service before the (January-1) assessment date; and

(b) The property is thus not qualified to start the three- to five-year exemption period in the present assessment year.

(2) This exemption is largely interchangeable with the one under ORS 307.330 and 307.340 (Commercial Facilities Under Construction); common elements are that:

(a) The firm must file with the county assessor, as described in section (3) of this rule, no later than April 1 of each assessment year when the property exists in the zone/county;

ADMINISTRATIVE RULES

(b) Any (utility) property subject to central assessment by the Department of Revenue is disallowed;

(c) Exemption is permissible for not more than two consecutive years; and

(d) The relationship to ORS 285C.175 as described in section (1) of this rule is the same in terms of the property being in service or not.

(3) The firm shall file the latest revision of the Department of Revenue form 150-310-021, Application for Construction-in-Process Enterprise Zone Exemption. An eligible business firm that instead files form 150-310-020, Application for Cancellation Of Assessment On Commercial Facilities Under Construction, will:

(a) Receive only the treatment allowed under ORS 307.330; but

(b) It needs to do so in any case for situations described in section (5) and (6) of this rule.

(4) The following may be exempt in the zone, but would not be under ORS 307.330:

(a) Property at a project site where there is no construction of or additions to a building or structure;

(b) Mere modifications to a building or structure;

(c) A nonmanufacturing facility with re/construction taking less than a year's time to complete and to put the facility in service;

(d) Additional property that is not yet placed in service, even though a portion or element of the project, facility or structure has been completed, consistent with OAR 123-674-5300(2); or

(e) Machinery & equipment, even if it will:

(A) Not be installed in or affixed to a building, structure or addition thereto; or

(B) Remain personal property after installation.

(5) Irrespective that property might qualify under ORS 285C.175, the following situations may not use this exemption, although exemption under ORS 307.330 is possible:

(a) Property had been exempt already at the same site in the zone under ORS 307.330 even if for only one year;

(b) The business firm is a hotel, motel or destination resort, regardless of the zone;

(c) The authorized business firm does not or will not necessarily own or lease the property;

(d) The business firm has applied but is not yet authorized, consistent with OAR 123-674-3000 by the April-1 filing deadline in this rule; or

(e) As of the January 1 assessment date:

(A) Authorization is inactive under ORS 285C.165 unless also renewed by April 1;

(B) Property is not yet located inside the boundary of the designated zone; or

(C) The zone has terminated.

(6) Pending approval of the Application, the firm may file and have property exempted as allowed under ORS 307.330, such that:

(a) After approval/authorization, the assessor may extend exemption under ORS 285C.170 to other qualified property subject to this rule; but

(b) The ongoing exemption of property may continue only under ORS 307.330.

(7) The county assessor shall not exempt property specifically under ORS 285C.170, if the assessor has a reasonable and definitive reason to believe that:

(a) The property is or will not be qualified property when placed in service;

(b) The authorized business firm will not qualify under ORS 285C.200; or

(c) Other applicable requirements under ORS 285C.175 will not be met.

(8) In the face of significant doubts about conformance with the requirements of ORS 285C.170, the assessor may depend on reasonably requested information or confirmation from the firm or zone sponsor, before determining to the grant the exemption.

(9) Consistent with subsection (2)(c) of this rule, property exempted under ORS 285C.170 may not receive further exemption under ORS 307.330 beyond the cumulative two-year period.

(10) In the event that the anticipated exemption under ORS 285C.175 is unclaimed under ORS 285C.220, denied, or disqualified under ORS 285C.240, the exemption as described in this rule is not necessarily jeopardized in any way, even for such property that would not normally be exempt under ORS 307.330.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.165, 285C.170 & 307.330

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-6100

Mandatory First-year Claim with Property Schedule

For purposes of an enterprise zone exemption on qualified property under ORS 285C.175:

(1) The authorized business firm:

(a) Must file the latest revision of the following Department of Revenue forms with the county assessor under ORS 285C.220 and 285C.225 to begin the exemption period:

(A) 150-310-075, Oregon Enterprise Zone Exemption Claim; and

(B) 150-310-076, Oregon Enterprise Zone Property Schedule (as an attachment that lists and identifies the property to be exempt);

(b) May do so only after December 31 of the year, in which the re/construction, modification or installation of qualified property is completed; and

(c) Shall send copies of the forms to the zone sponsor.

(2) The property must not have been in service at a location inside the zone before January 1 of the year directly prior to claiming the exemption as described in section (1) of this rule.

(3) Subsection (1)(b) of this rule is synonymous with qualified property having been 'placed in service' during that year, which:

(a) May be only a portion of the entire investment proposed with authorization; and

(b) Does not include property (even if physically operable or finished) that pending completion of the overall facility or investment is still:

(A) Incapable of effective use or occupancy for commercial or regulatory purposes; or

(B) Not yet intended for use or operation, subject to testing, shake-down or other general startup steps.

(4) Sections (1) to (3) of this rule dovetail and are mutually exclusive with criteria for exemption under ORS 285C.170, as described in OAR 123-674-6000.

(5) The filing as described in section (1) of this rule shall be due no later than the corresponding April 1, but:

(a) By June 1, the authorized business firm may submit it with a late fee under ORS 285C.220(7) or amend a timely filed property schedule form under ORS 285C.225(5); or

(b) On or before April 1 of the next year, the authorized business firm may file very late under ORS 285C.220(10) without a fee to receive the remainder of an exemption minus the first year, provided the firm was in compliance with all applicable requirements in order for the exemption to have been in effect during that first year.

(6) The county assessor may deny the exemption under ORS 285C.175(6) if unable to obtain critical and reasonably requested clarification, confirmation or substantiation of information missing from or supplemental to the filed forms from the:

(a) Firm under ORS 285C.220(3); or

(b) Zone sponsor under ORS 285C.230, or as arranged with the Preauthorization Conference.

(7) The county assessor shall deny the exemption:

(a) To any authorized business firm with inactive status, as described in OAR 123-674-3700, if the filing does not include the fee under ORS 285C.165(3) (in addition to subsection (5)(a) of this rule if applicable).

(b) On any property that is not actually in use or occupancy between January 1 and June 30 of the first year that the exemption is claimed, notwithstanding its being in service by January 1 or even in use or occupancy during the preceding year.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.165, 285C.170, 285C.175, 285C.220, 285C.225 & 285C.230

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-6200

Filing Latter-year Claims

For qualified property to continue to be exempt in an enterprise zone throughout the entire period under ORS 285C.175:

(1) The qualified business firm must file annually under ORS 285C.220:

(a) Using the latest revision of Department of Revenue form 150-310-075, Oregon Enterprise Zone Exemption Claim;

(b) With the county assessor and a copy to the zone sponsor;

(c) On or before April 1 directly after every assessment year of exemption; and

(d) In addition to the first-year filing described in OAR 123-674-6100.

(2) The claim form also covers other property pursuant to the same authorization, consistent with OAR 123-674-3100(4), including but not

ADMINISTRATIVE RULES

limited to the attachment of another property schedule for any new, additional qualified property.

(3) For a claim form filed by itself for purposes of compliance in maintaining an ongoing exemption or exemptions, the assessor's office may accept it late until August 31 under ORS 285C.220(8) but only if:

- (a) Furnished to the zone sponsor, as well; and
- (b) Accompanied with the progressively larger late filing fee.

(4) The assessor may henceforth deny the exemption for the remainder of the period, subject to notice under ORS 285C.175(6) without further procedure, if the claim form is not received (at the latest on August 31) or it lacks for the late filing fee.

(5) Besides arrangements from the Preauthorization Conference, the zone sponsor and the county assessor shall consider and rely on the duties and options under ORS 285C.230, as well as exercise the procedure under ORS 285C.235 to demand corroborating evidence of the firm by time/receipt-verified mail whenever warranted, which:

(a) Would be the only recourse if the firm refuses to submit a claim form after the final year of exemption;

(b) Is always available if the submitted information and the compliance of the firm with employment/other requirements is suspect; and

(c) Causes disqualification:

(A) Automatically, if the firm does not satisfactorily respond within 60 days, but without extra penalty; or

(B) With the 20-percent penalty on back taxes under ORS 285C.240(4), in the event that any provided evidence shows that the qualified business was required to have given notice under ORS 285C.240(1).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.175, 285C.220, 285C.225, 285C.230, 285C.235 & 285C.240
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-6300

Disqualification of Particular Property

A qualified business firm does not lose its ongoing enterprise zone exemption under ORS 285C.175 on all qualified property if only certain property fails to satisfy a relevant requirement:

(1) Disqualification (including back taxes) shall ensue under ORS 285C.240 only on such property, and the one-year payback of tax savings under ORS 285C.240(6) does not apply

(2) Such disqualification pertains when the exempt property no longer satisfies a relevant criterion under ORS 285C.175, 285C.180, 285C.185 or 285C.190, including but not limited to property during an exemption year that is:

(a) Removed from the enterprise zone;

(b) Sold, exchanged or leased to another business firm, except as described in OAR 123-674-4800;

(c) Used ineligibly or by an ineligible business firm in violation of OAR 123-674-5100; or

(d) Not actually in use or occupancy (notwithstanding its being in service) for at least 180 consecutive days concluding in the preceding exemption year.

(3) In order for the qualified business firm to avoid the 20-percent penalty on the back taxes associated with such property-specific disqualification, notice under ORS 285C.240(1)(a), (e) or (f) is due by July 1 after the year in which failure occurred. The owner of leased, exempt property may give such notice, and the firm may do so through a timely exemption claim as described in 123-674-6200.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.175, 285C.220, 285C.225, 285C.230, 285C.235 & 285C.240
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-6400

General Firm Disqualification

(1) Loss of exemption under ORS 285C.175 applies to all qualified property of a firm in a year when an event occurs, for which notice is due under ORS 285C.245(1)(b), (c) or (d), including but not limited to:

(a) Substantial curtailment, consistent with OAR 123-674-4600;

(b) Failure to satisfy an applicable local additional requirement, according to OAR 123-668, and pursuant to written notification to the assessor from the zone sponsor;

(c) Noncompliance with any general law in accordance with OAR 123-674-7200 to 123-674-7250; or

(d) What is described in OAR 123-674-0500(2) for the requirements specific to an extended abatement.

(2) If an event occurs relative to section (1) of this rule, then the qualified business firm shall notify both the local zone manager and the county assessor in writing at the latest by July 1 of the next year, which may be done:

(a) Through timely filing of the exemption claim described in 123-674-6200.

(b) By the owner of any qualified property that the qualified business firm leases.

(3) Notice as described in section (2) of this rule shall result in either:

(a) The firm reimbursing the enterprise zone sponsor for an amount equal to all associated property taxes abated in that year under ORS 285C.240(6), as described in OAR 123-674-6600 to 123-674-6630; or

(b) The assessor disqualifying the firm under ORS 285C.240, including loss of future years of the exemption and retroactive payment of applicable back taxes with the next tax bill.

(4) If the assessor or zone sponsor discovers a failure, for which there was not timely notice as described in section (2) of this rule, then subsection (3)(a) of this rule is inapplicable, and disqualification as described in subsection (3)(b) of this rule shall include the 20-percent penalty on back taxes.

(5) Disqualification for purposes of this rule does not affect property covered by any other Application, for which the particular requirements are still satisfied, consistent with OAR 123-674-3500, except for another Application made after the zone terminated as described in OAR 123-674-8200, in which case the other such Application is nullified, and associated property, disqualified.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.200, 285C.220, 285C.225, 285C.230, 285C.235 & 285C.240
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-6600

Applicability of Payback Provisions

For purposes of ORS 285C.240(6) and OAR 123-674-6600 to 123-674-6630, a qualified business firm's avoidance of disqualification through payment to the zone sponsor of the firm's tax savings for one year is allowed, only if:

(1) The firm fails to meet an employment, compensation, waiver, locally established condition or other requirement affecting an overall exemption on qualified property, pursuant to ORS 285C.240(1)(b), (c) or (d), and not for any requirement pertaining to particular qualified property (see OAR 123-674-6300) or to the firm's eligibility under ORS 285C.135;

(2) The firm provides written notice under ORS 285C.240 to the zone sponsor or the county assessor by not later than July 1 of the year following the year that failure as described in section (1) of this rule occurred;

(3) The firm maintains the business operations pertaining to the qualified property, unless the firm can demonstrate that any discontinuation (shutdown) is only temporary;

(4) The firm has not previously used ORS 285C.240(6) for any failure covered by section (1) of this rule to avoid disqualification of the 'same exemption,' respective to property actually first qualifying in the same year, but not in other years even if covered by the same authorization; and

(5) The firm provides written proof to the county assessor that it has paid the full amount of the year's tax savings to the zone sponsor, not later than August 31 of the year following:

(a) The year in which the failure occurred; or

(b) The fourth year of exemption, in the case of failure to meet a requirement for an additional two years of exemption under ORS 285C.160, during (only) one of the first four exemption years.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.240
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-6610

Payment of Tax Savings

For purposes of the payment by a qualified business firm described in OAR 123-674-6600(5):

(1) The firm shall pay to the sponsor of the enterprise zone an amount equal to the additional taxes due, as the county assessor computed under ORS 285C.175(7), on all of the qualified property receiving the exemption.

(2) The sponsor of the enterprise zone is responsible for enabling the firm to make the payment, by doing the following in a timely manner:

(a) Issuing an invoice for such payment to the firm (as necessary);

(b) Receiving such moneys; and

(c) Issuing a receipt or equivalent evidence of the amount paid by the firm.

(3) In collecting, invoicing, holding or spending any money paid by the firm, the zone sponsor shall establish the necessary accounts, special funds, procedures or documentation in accordance with ORS chapter 294 and applicable local laws.

(4) If the county assessor does not receive proof that sufficient and timely payment has been made by the firm, the assessor shall disqualify the

ADMINISTRATIVE RULES

exemption or exemptions covered by the requirement consistent with OAR 123-674-6400(3)(b).

(5) If the assessor later disqualifies the firm respective to the same exemption, the assessor shall reduce the back taxes by any amount previously paid in accordance with this rule.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.240
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-6620

Distribution of Payment among Cosponsors

In the case of an enterprise zone sponsor comprising two or more city or county governments or port districts:

(1) Any cosponsor may act as the initial depository for collecting the qualified business firm's payment as described in OAR 123-674-6610 and providing the firm with the requisite proof of payment, but at least one cosponsor must do so.

(2) The cosponsors may create joint mechanisms and arrangements to receive, hold or use such payments.

(3) The cosponsors may distribute the amount of any such payment among themselves through any mutually agreed method or formula, including but not limited to proportional receipt only by cosponsors that levy taxes where the property is located.

(4) If distribution does not happen within six months of receipt of payment, unless pending a joint effort among the cosponsors as described in OAR 123-674-6630, the government or entity holding the funds shall distribute the full amount in equal portions to each city, port or county government that sponsors the zone without assessing any administrative fee. If more than one county sponsors the zone, then the cosponsors in the county containing the qualified property shall receive and divide among themselves not less than half of the total payment.

(5) There is no obligation to maintain or repeat for future payments any of the sponsor's elections and methods utilized in accordance with this rule for a given payment.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.240
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-6630

Utilization of Payments

In accordance with ORS 285C.240(6)(b), the expenditure of moneys collected from a qualified business firm shall benefit residents of the enterprise zone and its immediate vicinity, such that:

(1) For a rural zone, the immediate vicinity will generally encompass (but is not necessarily limited to) the entire incorporated and urban growth area of any city sponsoring the zone, unless the city is relatively large, and only some parts of the zone boundary are in or near the city.

(2) Public, public/private or community-based activities, efforts or programs that acceptably serve residents of the zone and its local area include but are not limited to:

(a) Job training, placement, skill development, career counseling and similar programs predominately involving such residents;

(b) Better educational opportunities, facilities and so forth that serve such residents;

(c) Planning, analyses or support for infrastructure, public safety or other public/community services or facilities that have the potential to stimulate commerce and employment growth in association with the zone;

(d) Programs that assist with financing or other matters for businesses largely started by or employing such residents;

(e) Improvements to environmental conditions, recreational resources or other qualities of the community; or

(f) Reasonable contributions to the management, marketing or other needs of the enterprise zone itself.

(3) Combining these moneys with funds obtained from authorization filing fees or from other resources associated with the enterprise zone (see 123-668), or otherwise belonging to the local community is allowable.

(4) If the payment per cosponsor is less than \$5,000, the zone sponsor may:

(a) Delay spending the moneys for an indefinite period of time, pending complementary opportunities or resources; and

(b) Allocate the moneys to existing programs and projects that are likely to benefit such residents, even if not exclusively.

(5) If the payment per cosponsor is between \$5,000 and \$25,000, the zone sponsor may:

(a) Postpone spending the moneys for up to two years; and

(b) Allocate the moneys to existing programs and projects, but the sponsor shall make reasonable efforts to ensure that relevant residents in particular are beneficiaries of additional expenditures.

(6) If the payment per cosponsor exceeds \$25,000, the zone sponsor shall see that the moneys go to ongoing programs, special projects and so forth, but only if such expenditures have a direct and particular impact on relevant residents.

(7) There is no obligation to maintain or repeat for future payments any of the elections and methods utilized in accordance with this rule for a given payment.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.240
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-6880

Deferral during Recession

For purposes of section 2, chapter 39, Oregon Laws 2010, and deferring the standard enterprise zone exemption, during which time the qualified business firm shall pay taxes on qualified property:

(1) It pertains to a firm facing disqualification for substantial curtailment or other noncompliance (see OAR 123-674-4600, 123-674-6300 and 123-674-6400). Nevertheless, the firm must have had sufficient employment at one point to qualify initially as described in OAR 123-674-4100, such that with a sufficient employment level since Application, the firm may seek, and the zone sponsor may apply this deferral to the first year of exemption.

(2) The total cost of the investment covered by the authorization (over one to three years) must equal or exceed the amounts under ORS 285C.200(3)(c) (2010) for the respective type of enterprise zone.

(3) The zone sponsor must take an action to grant the deferral, such as formal notification from the local zone manager to the firm, that:

(a) Indicates whether the deferral is for one year or two consecutive years;

(b) Sets a minimum level of employment of the firm (below which the firm may not fall even during a year of deferral) that is a single, stated number of employees equal to or less than the latest Annual and Claim Employment figures, and possibly less than the Existing Employment; and

(c) Occurs at a time when under section 2(2), chapter 39, Oregon Laws 2009, as determined by the Department:

(A) Seasonally adjusted state employment has declined over at least two successive quarters during the prior 12 months; and

(B) The unemployment rate for any county containing the zone is two percentage points greater than the state on average for:

(i) The entire previous year (annual average unemployment rates); or

(ii) Any of the three most recent three-month periods, including the latest calendar quarter, based on the most recently available seasonally adjusted data.

(4) On or after May 27, 2010, but no later than 60 days after the action in section (3) of this rule or August 31 of the first year of deferral, the sponsor must adopt resolution(s) confirming the grant of deferral.

(5) Any exemption claim filed in a year of deferral may be withdrawn or ignored, and regardless, the county assessor shall deny the exemption under ORS 285C.175 (without necessarily giving notice) and all qualified property covered by the authorization is subject to normal taxation for that year.

(6) At the conclusion of the deferral period:

(a) The firm shall reclaim and resume the remainder of exemption under ORS 285C.175 on any qualified property, provided that the firm's employment in reclaiming the exemption does not constitute substantial curtailment, and it is otherwise qualified.

(b) If the firm continues to have substantially curtailed its operations or fell below the minimum level in this rule, or the sponsor has revoked the resolution, then the property is subject to disqualification under ORS 285C.240, including but not limited to repayment for every year of exemption before the deferral period.

(7) The one-year payment in lieu of disqualification under ORS 285C.240(6) may occur with respect to a year before or after the deferral period as described in this rule (see OAR 123-674-6600 to 123-674-6630).

(8) The noncompliance and the year(s) of deferral shall closely correspond in time, but the exact relationship is subject to the determination of the local zone sponsor in consultation with the county assessor with the resolution. If the tax year beginning July 1, 2009, (2009-2010) is the final tax year of the exemption, the sponsor may grant the deferral respective to that year by August 31, 2010, to prevent retroactive disqualification.

(9) The sponsor may:

ADMINISTRATIVE RULES

(a) Modify the resolution(s) on or before the next August 31 to retract or insert the second consecutive year of deferral.

(b) Grant two one-year deferrals, if separately done in complete conformance with sections (3) and (4) of this rule.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: OL 2010, Ch. 39
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-7200

Special Terminology

For purposes of OAR 123-674-7200 to 123-674-7250, with respect to an eligible business firm compliance with other laws under ORS 285C.200(1)(f):

(1) "Determination" means either of the following:

(a) A rightfully available written admission by the firm of a Noncompliance; or

(b) The issuance of an order, ruling or similar action by a duly empowered court, regulatory authority or similar entity that is:

(A) An official finding of Noncompliance that has the force of law under the jurisdiction of the court, regulatory authority or similar entity; and

(B) The final action by the particular regulatory or judicial process, even if prior to potential appeals.

(2) "Event of Noncompliance" means a Determination corresponding to an Illegal Act, for which the underlying Noncompliance is both:

(a) Material, as described in OAR 123-674-7230; and

(b) Not cured in accordance with OAR 123-674-7240.

(3) "Illegal Act" means an action, omission, chain of occurrences or similar failings by the firm or by an officer or agent in the conduct of the firm's operations and activities, effectively occurring after the Application but before January 1 of the last year of exemption, that cause the Noncompliance corresponding to the relevant Determination. (An Illegal Act may also result from Noncompliance with a Determination related to an earlier act)

(4) "Noncompliance" means a violation of a law, as enacted by one of the following, or the violation of any of the rules or regulations duly promulgated under such law:

(a) The United States Congress;

(b) The Oregon Legislative Assembly; or

(c) The governing body of a city or county that sponsors the enterprise zone.

(5) "Substantial Falsification" means that information in an enterprise zone form, filing or associated documentation by the firm, subject to declaration under penalties of false swearing, does one or both of the following:

(a) Misreports or omits required information, such that the enterprise zone exemption would have been denied or disqualified had the information been correctly or completely reported, which by itself shall be considered an Illegal Act in addition to any penalties resulting from false swearing under ORS 305.990; or

(b) Contradicts OAR 123-674-7210(1), in that at the time of the relevant declaration, the firm failed to disclose an Illegal Act, of which it should reasonably have been aware, including but not limited to one that is pending a Determination at the time of authorization.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(6)

Stats. Implemented: ORS 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-7210

Declarations & Responsibilities

(1) Any Department of Revenue form for an enterprise zone tax abatement shall also have the firm declare that it is in compliance with applicable laws described in OAR 123-674-7200(4), as part of the declaration made under penalties of false swearing (as to the truth and correctness of the form or document under ORS 305.810 and 305.815).

(2) Without clear evidence of a Determination:

(a) The county assessor is under no obligation to undertake any effort for purposes of ORS 285C.200(1)(f); and

(b) The exemption on qualified property of an otherwise qualified business firm is unaffected.

(3) Regardless of expertise or jurisdiction, any entity or person may present evidence of a Determination to the county assessor.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(6)

Stats. Implemented: ORS 285C.125 & 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-7220

Effect of Event of Noncompliance

Upon an Event of Noncompliance:

(1) In the case where an authorized business firm is not yet qualified, the county assessor shall deny exemption under ORS 285C.170 or 285C.175.

(2) In the case where the firm is receiving or has received the exemption, the Event of Noncompliance shall cause retroactive disqualification (see OAR 123-674-6400).

(3) In response to or in anticipation of such denial or disqualification, the assessor shall give notice that:

(a) Is sent to the firm and is copied to the zone sponsor, the Department of Revenue and the Department;

(b) Provides the firm with an explanation of the action and includes copies or descriptions of the evidence for the Determination; and

(c) Explains how the firm may appeal the action or anticipated action to the Tax Court under ORS 305.404 to 305.560.

(4) The county assessor may reverse a decision or action in section (1) or (2) of this rule, for reconsideration of an issue listed in OAR 123-674-7250(1) or a successful appeal that negates the Determination. As necessary to effect a reversal for this section, the assessor may reinstate the exemption and refund taxes paid on qualified property to the firm consistent with provisions of ORS Chapter 311.

(5) If the Determination is appealed by the business firm through administrative or judicial channels under the law in question, then the assessor may indefinitely suspend the action as described in section (2) of this rule, such that:

(a) If the business firm prevails in the appeal, then the exemption is unaffected; or

(b) If the business exhausts, withdraws or effectively fails in its pursuit of such appeal, then the action takes effect. In such a case, the assessor may add interest to any back taxes during the intervening period for the appeals process, until the next general property tax roll, as provided under ORS 311.206.

(6) The business firm's right to appeal actions or tax collections directly to the Oregon Tax Court is in no way infringed by this or any administrative rule, nor is it prevented by ORS 285C.200(6).

(7) Section (5) and (6) of this rule operate only in lieu of using ORS 285C.240(6), as described in OAR 123-674-6600 to 123-674-6630.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(6)

Stats. Implemented: ORS 285C.125 & 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-7230

Materiality

An eligible business firm's Noncompliance is material for purposes of ORS 285C.200(1)(f), only if all of the following are true:

(1) Zone-Applicable. It is related to or part of actual operations of and by the business firm within the enterprise zone boundary, including firm-wide activities that actually influence affairs in the zone, as well as elsewhere that the firm operates, such that:

(a) The Illegal Act(s) might still occur outside the zone and be material if derivable from or directly beneficial to operations of the firm in the zone; but

(b) Even if the Determination circumstantially indicates illicit intent associated with firm personnel or decisions, it is still be immaterial, if lacking evident effect on tangible activities or behavior at zone locations.

(2) Significant. It has or could conceivably harm, threaten, disrupt or undermine any of the following: An individual person, fair and honest commerce, government revenue collection, others' property rights, environmental protection, public health and safety, the general welfare and so forth, in contrast to a Noncompliance that results only in inconveniences (e.g., parking violations), aesthetical problems (e.g., poor landscape maintenance), etc.

(3) Substantive. It relates to the actual behavior or effects that the law in question is intended to control or prevent, as opposed to failings or missteps in terms of procedural matters, data reporting or similar technicalities, unless such failings or missteps exhibit willfulness, perniciousness or a history of repetition.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(6)

Stats. Implemented: ORS 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

ADMINISTRATIVE RULES

123-674-7240

Cure

As a consequence of actions taken by an eligible business firm in response to a Determination, it may still comply with the law and, in effect, cure the Noncompliance for purposes of ORS 285C.200(1)(f), such that:

(1) A Noncompliance is not curable if, in the presence of clear and convincing evidence, the Illegal Act in question is:

(a) Heinous, reckless or knowingly perpetrated or allowed to happen as a matter of firm policy; or

(b) Committed within five years of a previous determination relating to the same or similar violation of the law, regardless if the prior violation occurred:

(A) Before authorization;

(B) At a location outside the enterprise zone; or

(C) Under another U.S. state's or locality's laws or regulations.

(2) A Noncompliance is also incurable if the total monetary penalty as described in subsection (3)(a) of this rule exceeds a level publicly declared for purposes of this rule and established by the zone sponsor before the Determination became final. According to stipulations in the sponsor's declaration, this level or levels shall be equal to or greater than:

(a) For a fine or fines levied by a regulatory agency under a single citation or for closely related violations, \$50,000; and

(b) Overall, including but not limited to court-imposed damages, \$200,000.

(3) A Noncompliance, except as precluded by section (1) or (2) of this rule, may be cured insofar as the firm fully and clearly documents or demonstrates for the county assessor that:

(a) All fines, damages and so forth arising from the Determination in OAR 123-674-7200(1) have been paid in full, according to the final regulatory or judicial assessment imposed;

(b) The firm promptly submitted to and fulfilled all other applicable penalties and has taken or has demonstrable plans to take all other actions, as required by the court, regulatory authority or similar entity;

(c) The circumstances that led to the Noncompliance have been completely eliminated and resolved, such that further Noncompliance by the firm of a comparable or more serious nature is not expected to occur; and

(d) It or associated entities have undertaken reasonable efforts to compensate other substantially harmed parties uninvolved with any court action.

(4) The decision to consider a Noncompliance cured happens on a one-time basis and shall be subject to neither ongoing action by the firm nor continual verification.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(6)

Stats. Implemented: ORS 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-7250

Interpretation

With respect to the interpretation of OAR 123-674-7200 to 123-674-7250 for purposes of ORS 285C.200(1)(f):

(1) There are five primary issues related to the conclusion that there is an Event of Noncompliance:

(a) Is there a Determination as defined?

(b) Did the Illegal Act occur as defined? ..., after Application?

(c) Is the Noncompliance of a material nature?

(d) Is the Noncompliance curable ..., and if so, has it been cured?; or

(e) Has there been Substantial Falsification, and what are the implications of it?

(2) In deciding whether there is an Event of Noncompliance, the county assessor may do as follows at the assessor's initiative or in response to issues raised by a business firm's response to notice in OAR 123-674-7220(3):

(a) The assessor may submit the question at issue to the sponsor of the enterprise zone whether through the local zone manager or otherwise, such that:

(A) The submission is made in writing with a summary of the matter and copies sent to the affected business firm, the Department of Revenue and the Department; and

(B) The assessor may consider a written decision from the zone sponsor only within a prescribed period not exceeding 60 days after the submission.

(b) Either in lieu of or subsequent to the request of the zone sponsor, the assessor may submit the question or questions to the Director, such that:

(A) The submission is in writing with a summary of the matter, and the affected business firm, the Department of Revenue and the zone sponsor receive copies;

(B) The assessor certifies whether a conclusive response by the Director shall bind the assessor's action in OAR 123-674-7220;

(C) The Director may request additional information from the assessor, the firm, the sponsor, the Department of Revenue or the Department of Justice; and

(D) The Director shall respond in writing to the question or questions submitted by the assessor, who shall treat it as official state interpretation of this division of administrative rules.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(6)

Stats. Implemented: ORS 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-8000

Designation/Amendment of an Enterprise Zone

Respective to an enterprise zone exemption on qualified property under ORS 285C.170 or 285C.175:

(1) Property may not be exempt if prior to the effective date of the zone's designation or the location's inclusion through a change in the zone boundary, it is:

(a) On the assessment rolls of the county respective to the same location or ownership/lease; or

(b) Located in the zone or in the process of actual construction, improvement, modification or installation there, excluding what is described in:

(A) OAR 123-674-2000(3) such as site preparation; or

(B) OAR 123-674-2100(1) including but not limited to demolition.

(2) A Firm/applicant may make Application and even have it approved before but pending an effective date in section (1) of this rule.

(3) Notwithstanding section (1) of this rule, property may qualify as would otherwise be allowed for an actively authorized business firm in a terminated zone under ORS 285C.245(1), consistent with OAR 123-674-8100 or 123-674-8200. Accordingly, the authorization automatically belongs to the newly designated or amended zone, if:

(a) The zone encompasses the site of the authorized business firm's proposed investment; and

(b) The authorization is:

(A) Active under ORS 285C.165 (see OAR 123-674-3700); and

(B) Not expired as described in OAR 123-674-8100(2)(c).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.175

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-8100

Authorization & Zone Termination

(1) For purposes of exemption under ORS 285C.175 in a terminated enterprise zone, an eligible business firm may be effectively 'authorized' and claim the exemption, subject to OAR 123-674-8300, if:

(a) Its outstanding authorization was still active at termination, in which case it may avail itself of OAR 123-674-8200 and grandfathering in the zone; or

(b) The local zone manager received the Application before the effective date of termination, and the zone sponsor and the county assessor subsequently approved the Application under ORS 285C.140 after termination, which may not happen after the date prescribed in OAR 285C.255(1)(b).

(2) For an authorized business firm described in section (1) of this rule:

(a) ORS 285C.165 (active status of authorization) is irrelevant for qualified property remaining outside of a current enterprise zone;

(b) The firm may not effectively reapply for authorization for a proposed investment under ORS 285C.245(1)(b) at the same site, unless it is also qualified in the terminated zone in addition to satisfaction of OAR 123-674-8200; and

(c) Authorization expires on January 1 directly after the 30th month of the zone's termination, such that only if qualified property proposed pursuant to the Application is in service before that date does the firm remain authorized under ORS 285C.245(1)(a)(B)(ii) and may it receive the exemption.

(3) An authorized business firm described in subsection (1)(b) of this rule may not apply for authorization at any site in the terminated zone under ORS 285C.245(1)(b) or otherwise grandfather in accordance with OAR 123-674-8200, unless it was also qualified at the time of termination.

(4) For purposes of this rule and OAR 123-674-8200, an eligible business that has its site in the zone (inadvertently) removed by a boundary change, notwithstanding ORS 285C.115(2)(b), has the same rights and privileges as if the zone had terminated.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.140, 285C.175 & 285C.245

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

ADMINISTRATIVE RULES

123-674-8200

Grandfathering in a Terminated Zone

Under ORS 285C.245(1)(b) and (c) after termination of an enterprise zone:

(1) Qualified property outside any current zone and owned or leased by an eligible business firm is exempt, if all of the following requirements are true:

(a) Within 10 years after the effective date of the termination of the zone, the eligible business firm submits a complete Application under ORS 285C.140, in accordance with OAR 123-674-2000 and 123-674-2100;

(b) The qualified property is to be located entirely within the boundaries of the terminated zone, as they existed at the time of termination;

(c) On the effective date of termination, the firm was an actively authorized or qualified business firm in that same zone, having had an Application approved before termination;

(d) The eligible business firm has not been disqualified under ORS 285C.245(1)(c) in the terminated zone consistent with section (2) of this rule;

(e) Construction, modification or installation of the qualified property commences on or before June 30 immediately following the last year of the firm's final outstanding exemption in the zone;

(f) The eligible business firm's Application receives approval:

(A) From the county assessor and the local manager of the terminated zone or the manager's successor;

(B) Lacking a local zone manager, from the county assessor and either the Department or a formal action of the zone sponsor; or

(C) On appeal;

(g) Completion of construction, additions, modification or installation occurs in accordance with OAR 123-674-8300;

(h) Timely exemption claim is made to the county assessor under ORS 285C.220 and 285C.225; and

(i) The authorized business firm complies with all applicable requirements of ORS 285C.050 to 285C.250 in effect when the zone terminated, including but not limited to any requirement arising from or associated with authorization.

(2) Disqualification for purposes of ORS 285C.245(1)(c) does not include:

(a) Loss of an extended abatement under ORS 285C.240(3)(b) consistent with OAR 123-674-0500(2);

(b) Payment to the zone sponsor of the equivalent of one year's tax savings under ORS 285C.240(6); or

(c) Failure to meet a requirement pertaining to particular property as described in OAR 123-674-6300.

(3) The sponsor of a terminated enterprise zone may consider, approve and enter into a written agreement with an eligible business firm for an extended abatement under ORS 285C.160, prior to final action for subsection (1)(f) of this rule.

(4) An authorized or qualified business firm may not make Application, if since termination, another business or corporation has bought or absorbed the firm, except if the firm remains essentially intact as a corporate entity, such as becoming a subsidiary to the purchasing corporation and continuing to operate substantially as it had.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.140, 285C.175 & 285C.245

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

123-674-8300

Timely Completion of Construction

For purposes of a proposed investment in qualified property by a business firm that is or becomes authorized in a terminated enterprise zone under ORS 285C.245(1)(a)(B)(iii) and (b):

(1) Completion of "construction, addition modification or installation within a reasonable time" means the property is in service no later than 18 months after the date on which any relevant construction, reconstruction, modification or installation activity commenced.

(2) "Without interruption" means that the property does not remain in an unfinished state for more than six months without significant progress toward the completion of activities as described in section (1) of this rule.

(3) The property may not qualify and receive the exemption under ORS 285C.175, if section (1) or (2) of this rule is violated, except if the Department issues a written finding to the county assessor that the violation is reasonable and not excessive, given the nature and extent of the authorized business firm's investment or of inadvertent circumstances.

(4) Nothing in this rule shall influence or restrict the qualification of an exemption in an enterprise zone that still exists and has not terminated.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.175 & 285C.245

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10

Rule Caption: These rules relate to rural renewable energy development zones.

Adm. Order No.: OBDD 28-2010

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 6-14-10

Notice Publication Date: 5-1-2010

Rules Adopted: 123-680-0001, 123-680-1000, 123-680-1200, 123-680-1400, 123-680-1600

Subject: This new division replaces and focuses on a portion of the enterprise zone division (123-065). In this case, this division specifies matters related to the creation of a Rural Renewable Energy Development Zone ("RREDZ").

These rules comply with legislation in the 2009 session through HB 2152 which changes the name of the department to Oregon Business Development Department.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-680-0001

Purpose & Scope

This division of administrative rules specifies matters related to the creation and operation of an "RREDZ," which as used in these administrative rules means a rural renewable energy development zone under ORS 285C.350 to 285C.370:

(1) For an eligible business firm in an RREDZ, the standard (3–5 year) enterprise zone exemption and associated provisions under ORS 285C.050 to 285C.250 apply as they would inside an enterprise zone, as addressed in OAR 123-674:

(a) The firm and the firm's property qualify, however, only insofar as they relate to "renewable energy" facilities and activities under ORS 285C.350; and

(b) The sponsor of the RREDZ is equivalently responsible for the same applicable duties as a local enterprise zone sponsor, including but not limited to those covered in OAR 123-668.

(2) The primary purpose of RREDZs is the extension of this enterprise zone incentive to renewable energy projects, especially those that are far-flung or widely dispersed, in lieu of potentially infeasible or physically complex amendment to the boundary of an existing enterprise zone.

(3) These administrative rules:

(a) Have no bearing on true enterprise zones, including but not limited to an enterprise zone or an eligible business firm or qualified property in an enterprise zone encompassed by an RREDZ;

(b) Do not necessarily control the fiscal parameters for tax abatements by the county assessor or Department of Revenue;

(c) Are not intended to supersede any applicable administrative rule in OAR chapter 150; and

(d) Utilize definitions found in OAR 123-001 (Procedural Rules), except where the context dictates otherwise.

Stat. Auth.: ORS 285A.075 & 285C.370

Stats. Implemented: ORS 285C.350 - 285C.370

Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10

123-680-1000

Basic Points about RREDZs

(1) Like an enterprise zone, an RREDZ does terminate by operation of law as otherwise provided under ORS 285C.245, with equivalent protection and allowances for relevant business firms in the RREDZ, but not by statutory sunset under ORS 285C.255.

(2) An RREDZ covers the entire territory of the designated:

(a) City including subsequent annexations; or

(b) County or counties whether outside corporate limits or not, excluding any area inside the urban growth boundary of a city with a population of 30,000 or more.

(3) An RREDZ is permitted anywhere in this state, except within the urban growth boundary of a city with a population of 30,000 or more.

(4) RREDZs come in one of only the following three types:

(a) City RREDZ, in that the governing body of a single city applies to the Department for designation, and the city is the sponsor of the RREDZ;

(b) County RREDZ, in that the governing body of a single county applies to the Department for designation, and the county is the sponsor of the RREDZ; or

(c) Multi-county RREDZ, in that each governing body of two or more counties jointly apply to the Department for designation, for which:

ADMINISTRATIVE RULES

(A) The counties are contiguous one to another, but do not necessarily all share a single common border in the case of three or more counties; and

(B) Only one of the counties serves as the zone sponsor.

(5) In appointing the local RREDZ manager, the sponsor is encouraged to select someone, who also serves as local zone manager for an enterprise zone whenever possible.

(6) There is no particular limit on the number of RREDZs statewide, although a city or county may not have two or more concurrent designations, with the following distinctions:

(a) A city may have a designation, even if inside a county designated as an RREDZ; or

(b) A county may itself be designated an RREDZ and be part of an RREDZ with one or more other counties, but it may not concurrently belong to two or more different, multi-county RREDZs.

(7) The RREDZ exemption under ORS 285C.362 on the qualified property of a qualified business firm may not be derived from more than one overlapping RREDZ designation, except if there are two or more authorizations covering property in different tax lots.

Stat. Auth.: ORS 285A.075 & 285C.370

Stats. Implemented: ORS 285C.350 - 285C.370

Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10

123-680-1200

Designation of a RRED Zone

(1) To apply for designation of an RREDZ under ORS 285C.353, the city, county or multiple counties shall furnish the Department with the following:

(a) Copy of the resolution(s) requesting designation, as duly adopted by each jurisdiction within the past 90 days;

(b) The documentation of communication with local taxing districts consistent with OAR 123-650-5500; and

(c) A formal statement that specifies the following:

(A) The jurisdiction(s) to be so designated, and in the case of a multi-county RREDZ, the county that would act as the sponsor; and

(B) The status of any previous RREDZ designation in the jurisdiction(s), including but not limited to the unused portion of the exemption limitation under ORS 285C.353(4).

(2) Subject to the accuracy and completeness of the materials provided consistent with this rule and any other information as the Department may request, as well as applicable laws and these administrative rules:

(a) The Director shall order the designation;

(b) The Director may make the date of designation effective as early as when the Department received a complete application, if so requested by the applicant; and

(c) The Director's order shall state the exemption limitation for the RREDZ described in OAR 123-680-1400.

(3) With respect to premature termination of the RREDZ under ORS 285C.245(4):

(a) For a multi-county RREDZ, all counties must adopt a resolution requesting termination, not only the sponsor.

(b) The Director shall not re-designate any RREDZ that corresponds to one so terminated.

(4) If the application is for a subsequent additional designation corresponding to an existing RREDZ, then the existing RREDZ ceases, and the new designation replaces it effective on January 1 directly following the last date on which a resolution of application was adopted, so that:

(a) Any authorized business firm in the previously existing RREDZ belongs to the newly designated RREDZ for qualification of property first placed in service in an assessment year immediately preceding the January-1 date, on which the new RREDZ takes effect (regardless of the application of authorization's date of submission or approval); and

(b) Any unused portion of the previous RREDZ's exemption limitation under ORS 285C.353(4) ceases to exist, and only the new RREDZ's exemption limitation is available for exemptions beginning in subsequent tax years, consistent with OAR 123-680-1400(3)(b).

Stat. Auth.: ORS 285A.075 & 285C.370

Stats. Implemented: ORS 285C.350 - 285C.370

Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10

123-680-1400

Limitation of Exempt Real Market Value

Under ORS 285C.353(4), each RREDZ designation has a cap for the total value in qualified property that is cumulatively exhausted with every exempt project over the life of the RREDZ:

(1) Such value is the property's real market value (RMV) on the assessment date of the first year that the authorized business firm claims the

exemption, not the amount exempted each year (see OAR 123-680-1200(4) in the case of a subsequent additional RREDZ).

(2) The sponsor shall coordinate with the county assessor to track the amount of this limitation that former/ongoing exemptions have used and the remaining, unused portion. (If the assessor later disqualifies affected property and collects the property taxes back, then the RMV of the disqualified property increases the unused portion for future use in the same RREDZ)

(3) The exemption limitation described in this rule equals the amount specified in the resolution(s) adopted by the city, county or counties in applying for the RREDZ and any such specified amount must be:

(a) Less than or equal to the maximum under ORS 285C.353(4)(d); and

(b) In the event of a subsequent additional RREDZ, greater than the unused portion of the previous RREDZ's exemption limitation.

(4) If any such resolution fails to specify an exemption limitation for the RREDZ or two or more such resolutions comprising a joint application disagree as to the amount, then the limitation for that RREDZ defaults to the maximum allowed by law.

(5)(a) If new qualified property first subject to exemption in a single year will exhaust the exemption limitation, then the exemption or exemptions are allowed only up to the point at which the property's RMV equals the unused portion; and

(b) In the case of two or more qualified firms, the assessor shall prorate the unused portion among them commensurate with the total value of each one's property.

Stat. Auth.: ORS 285A.075 & 285C.370

Stats. Implemented: ORS 285C.350 - 285C.370

Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10

123-680-1600

Further Distinctions from an Enterprise Zone Exemption

For an RREDZ exemption relative to OAR 123-674 and the provisions under ORS 285C.050 to 285C.250:

(1) The application for authorization needs to give special attention to characterizing the proposed investment in qualified property, clarifying how it relates to renewable energy, and estimating its real market value by January 1 of the first full calendar year of operations.

(2) To be exempt, the qualified property must essentially correspond to the description in the application.

(3) For purposes of a business firm's receiving authorization and then qualifying:

(a) An "eligible business firm" under ORS 285C.135 relates only to such operations or business activities that are engaged in renewable energy.

(b) The "employment of the firm" under ORS 285C.200 and 285C.210:

(A) Relates only to employees engaged a majority of their time in eligible renewable energy operations within the RREDZ.

(B) Satisfies requirements for the addition of one or more employees based on the number of employees, who work throughout the entire city, county or counties, as applicable.

(4) For purposes of an additional one or two years of exemption on qualified property (following the standard three-year period) inside a county that is a contiguous part of the RREDZ, but that is not the sponsor of the RREDZ:

(a) At least 21 calendar days before execution of the requisite written agreement between the sponsor and the eligible business firm (prior to authorization), the sponsor shall give the county's governing body formal notice of the potential extension to the tax abatement period; and

(b) If on or before the date, on which the firm and sponsor would execute the written agreement, the county's governing body adopts a resolution electing not to participate, then there is no extended abatement for the proposed investment in qualified property in that county.

(5) For purposes of the first clause under ORS 285C.350(2), qualified property must generate electricity to a significant degree from the combustion, harnessing or utilization of the renewable energy resource, but it may also produce (even for the most part) other energy forms, including but not limited to steam, heat or mechanical power.

Stat. Auth.: ORS 285A.075 & 285C.370

Stats. Implemented: ORS 285C.350 - 285C.370

Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10

Rule Caption: These rules relate to long-term rural enterprise zone incentives.

Adm. Order No.: OBDD 29-2010

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 6-14-10

ADMINISTRATIVE RULES

Notice Publication Date: 5-1-2010

Rules Adopted: 123-690-0001, 123-690-0100, 123-690-0500, 123-690-2000, 123-690-2100, 123-690-2300, 123-690-2400, 123-690-4000, 123-690-4200, 123-690-4400, 123-690-4600, 123-690-5000, 123-690-5200, 123-690-6000, 123-690-6200, 123-690-8000, 123-690-8100, 123-690-8500

Subject: This new division replaces and focuses on a portion of the enterprise zone division (123-065). In this case, this division addresses determinations, procedures and requirements of the up to 15 years of exemption from property taxes and corporate excise tax credits on a qualifying investment inside a rural enterprise zone in a county experiencing particular economic hardship.

These rules comply with legislation in the 2009 session through HB 2152 which changes the name of the department to Oregon Business Development Department.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-690-0001

Purpose & Scope

This division of administrative rules specifies the effect of provisions under ORS 285C.400 to 285C.420 and 317.124 to 317.131. As such, these administrative rules:

(1) Address determinations, procedures and requirements of the up to 15 years of exemption from property taxes and of corporate excise tax credits on a qualifying investment inside a rural enterprise zone in a county experiencing particular economic hardship.

(2) Do not control fiscal parameters of the county assessor or the Department of Revenue, and they do not supersede administrative rules in OAR chapter 150 for any such purpose.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.400 - 285C.420 & 317.124 - 317.131

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-0100

Terminology

OAR 123-001 (Procedural Rules) contains definitions that are used in this division of administrative rules, unless the context dictates otherwise. In addition, as used in ORS 285C.400 to 285C.420 and 317.124 to 317.131:

(1) "Facility" or "facility site" encompasses the following:

(a) A building or structure, or group of two or more associated buildings and/or structures newly constructed beginning after the application for certification, and located at a common site or proximately adjacent sites entirely inside the boundary of a single rural enterprise zone.

(b) New additions or modifications occurring entirely after the application for certification to any previously constructed or occupied building or structure as otherwise described in subsection (a) of this section.

(c) All of the real or personal property located at the site, whether or not it is inside or on a building or structure, as described in subsection (a) or (b) of this section, if newly installed after the application for certification. (Excluded is any vehicle, as well as device pulled, pushed or carried by a vehicle, that is designed to hold and transport people, goods or property on highways, waterways or railways beyond the zone boundary, including but not limited to aircraft, barges, carriages, railcars, trailers, trucks or ships)

(d) Any property leased by the business firm certified to receive the exemption under ORS 285C.409 and otherwise described in this section, but only if the firm is fully responsible for and pays all applicable *ad valorem* taxes potentially levied on such leased property through explicit provisions of the lease agreement.

(e) The entire category of property in subsection (a), (b), (c) or (d) of this section, unless in first claiming the exemption under ORS 285C.409(1)(a) or (c), the certified business firm formally and irreversibly excludes all property in any such category, as might be agreed to under ORS 285C.403(3)(c) with the zone sponsor.

(2) "In service" has the meaning described in OAR 150-285C.409, based on issuance of a final certificate of occupancy for the facility by local permitting authority (regardless of the definition under ORS 285C.050 as used for the exemption under ORS 285C.175).

(3) "Sponsor" or "zone sponsor" has the same meaning as described in OAR 123-668, in that all cosponsors of the zone shall jointly approve or exercise any and all actions under ORS 285C.400 to 285C.420 and 317.124 to 317.131, except for the particular adoption of a resolution as required under ORS 285C.403(3)(a).

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.400 - 285C.420 & 317.124 - 317.131

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-0500

Eligible Rural Enterprise Zones

In determining annually if a county conforms to the definition under ORS 285C.400(3) of a 'county with chronically low income or chronic unemployment':

(1) With formal release, publication and availability of benchmarked annual unemployment rates for the previous year and other relevant data, the Department shall analyze these data, along with the most recently revised data available for other relevant prior years, and ascertain which counties in the state satisfy the definition.

(2) The Department shall identify any existing rural enterprise zone in those counties, preparing maps or other such information as feasible and appropriate for use by the public and business firms, as well as respective local zone managers and county assessors.

(3) The official determination as described in this rule shall first take effect on July 1 next following formal availability of the latest relevant annual data and shall apply until and including June 30 of the next calendar year, excepting for section (5) of this rule.

(4) Fulfillment of subsection (d), (e) or (f) of this section achieve conformance, such that as used in ORS 285C.400(3):

(a) "Most recently revised annual average unemployment rate . . . available" means the estimated percent of the civilian labor force that is unemployed on average for the entire previous calendar year and other relevant prior years, as benchmarked and published by the Employment Department in cooperation with the United States Bureau of Labor Statistics.

(b) "Most recently revised . . . annual per capita income levels available" means the average annual per capita personal income level as published and revised by the Bureau of Economic Analysis of the United States Department of Commerce for the most recent calendar years available.

(c) "Median ratio . . . of the county to the equivalent of the entire United States for each year" means the average for the two middlemost quotients that result from dividing the county figures described in subsection (a) or (b) of this section by each year's corresponding national figure over 10 or 20 years.

(d) "Equal to or less than 0.75 over the last 10 years" means the median derived per subsection (c) of this section for the most recent 10 consecutive years, based on figures described in subsection (b) of this section, is equal to or less than 0.75 rounded to the nearest hundredth.

(e) "At least 1.3 over the last 20 years or over the last 10 years" means the median derived per subsection (c) of this section for the most recent 20 or 10 consecutive years, based on figures described in subsection (a) of this section, is not less than 1.3 rounded to the nearest tenth in one or both cases.

(f) "Negative net migration" means the county's change in total population minus natural population change is equal to or less than negative one (-1), based on the most recent estimates available from the Portland State University Population Research Center, in comparison to the latest official decennial population count by the U.S. Census Bureau at least three years prior.

(5) During the course of the year from July 1 to June 30, if the Department learns of an official revision or correction to relevant annual data, the Department shall review such revised data to determine whether it would alter the status of any county. For any consequent change to the counties currently identified by this rule:

(a) The effective date of any such change shall be the first day of the second month following the month in which the revised or corrected data were formally released or published; and

(b) The Department shall notify affected county assessors and local zone managers and may revise and reissue relevant lists, maps and other materials, as appropriate.

(6) A correct, prior determination in accordance with this rule is not subject to retroactive change due to revisions in future years.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.400 & 285C.403

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-2000

Written Agreement

For purposes of the written agreement between a business firm and the sponsor of the rural enterprise zone under ORS 285C.403(3)(c) and (d):

(1) The agreement shall consist of a minimum of the following:

(a) Acknowledgment of the planned or pending application for certification under ORS 285C.403(1) and (2);

(b) Concise description of the firm's proposed investments, facility and workforce;

ADMINISTRATIVE RULES

(c) Specification of the obligations that the proposed investments, facility and workforce must satisfy under ORS 285C.412, which the agreement in no way supersedes;

(d) Identification of all the parties to the agreement and their representatives;

(e) Zone sponsor's explicit approval for the firm to receive the exemption under ORS 285C.409 on its qualifying facility;

(f) The sponsor's statement as to the number of consecutive tax years that will comprise the period of exemption beginning after the facility is placed in service, such that this period is only seven such years, if the agreement says nothing to the contrary about it being eight or more years up to the 15-year maximum; and

(g) With respect to additional conditions or requirements by the zone sponsor under ORS 285C.403(2)(e) and (3)(c), either:

(A) Indication that the sponsor is not imposing or requesting any such condition or requirement; or

(B) Specification of any such condition or requirement, in accordance with OAR 123-668, including but not limited to standards and methods for demonstrating satisfaction of the condition or requirement.

(2) The agreement may be:

(a) Part of a broader accord involving parties other than the firm and the sponsor, insofar as such an accord contains and cites the elements listed in section (1) of this rule.

(b) Preapproved, directly sanctioned by resolution or approved by other means of the zone sponsor, or of each cosponsor, consistent with OAR 123-668-2400.

(3) An authorized representative or representatives of the firm and of the zone sponsor or of each cosponsor must execute the agreement:

(a) On or after the effective date on which:

(A) The zone is designated or the facility site is amended into the zone through a change in the boundary of the zone; and

(B) The county containing the facility site is officially determined to conform with ORS 285C.400(3) consistent with OAR 123-690-0500; and

(b) Effectively before:

(A) The zone has terminated; and

(B) The county is not subject to a positive official determination as described in paragraph (a)(B) of this section.

(4) The sponsor shall provide a copy of the signed and dated written agreement to the Department, which shall review the agreement, and if the following are accurate, the Department shall issue a letter for attachment to the written agreement confirming that:

(a) On the date of its execution it effectively satisfied section (3) of this rule, and one party to the agreement is the sponsor of the rural enterprise zone; and

(b) The agreement appears to satisfy section (1) of this rule.

(5) Following the certification of the business firm as described in OAR 123-690-2400 or an effective date in subsection (3)(b) of this rule, the agreement may not be substantially modified, replaced, amended, supplemented or terminated, except as describe in section (7) of this rule.

(6) The agreement shall explicitly provide for the repercussions of failure to satisfy any additional condition or requirement, such that the business firm expressly acknowledges that the particular noncompliance would result in either retroactive disqualification of the exemption, termination of the remaining exemption period, or an alternative consequence.

(7) In relation to subsection (1)(f) of this rule, the agreement may provide based on the business firm's fulfillment of a local additional condition or criteria that:

(a) It terminates or expires prematurely, causing the exemption period to terminate before the time specified, such that the firm does not henceforth need to further comply with any statutory or local additional requirement.

(b) The exemption period extends a certain number of years beyond the time specified, but not more than 15 years in total.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.403, 285C.406 & 285C.409

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-2100

Resolutions

For purposes of resolutions adopted by sponsoring or other local governments:

(1) A criterion for certification is adoption of a resolution approving the exemption for the facility by the county and by any city in which the facility is located under ORS 285C.403(3)(a), such that:

(a) Both the county and the city must adopt the resolution if any part of the facility is located in incorporated territory, but only the county, if the facility is located entirely in unincorporated territory;

(b) If the county or city is the sponsor or a cosponsor of the zone, any authorization or approval of a written agreement described in OAR 123-690-2000 by formal resolution of its governing body automatically fulfills this criterion for that city/county; and

(c) If such a county or city is neither the sponsor nor a cosponsor, it may nevertheless be a party to the written agreement in accordance with OAR 123-690-2000(2), but this criterion necessitating adoption of a formal resolution remains in effect.

(2) Adoption may occur at any time respective to execution of the agreement or an effective date in OAR 123-690-2000(3). If, however, the resolution substantially implements or provides for all or part of the agreement by the zone sponsor, as opposed to merely authorizing an otherwise operable agreement, then in order to certify the business firm, adoption of the resolution must occur after the agreement's execution and before the zone's termination.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.403

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-2300

Applying for Certification

For purposes of the application for certification under ORS 285C.403(1) and (2):

(1) In order for a business firm to receive the exemption on its facility under ORS 285C.409:

(a) The firm must do the following before hiring new employees at the proposed facility and before commencing any physical work on the facility, such as construction, reconstruction, additions, modifications or installations of any qualifying property or improvements:

(A) Fill out the latest revision of the Department of Revenue form 150-310-073, **Certification Application: Long-Term Rural Oregon Tax Incentive**, as completely as the firm is capable of doing;

(B) Have the form signed and dated by the owner or authorized representative of the firm;

(C) Submit a signed original of the form to either the local zone manager representing the sponsor of the enterprise zone or the county assessor of the county in which the facility is located; and

(D) Submit an executed copy of the form to either the local zone manager or the county assessor, whichever one does not receive the signed original.

(b) Submission of the application form as described in subsection (a) of this section must occur, with respect to the rural enterprise zone:

(A) On or after the effective date of the zone's designation or of a change to the zone boundary adding the facility site; and

(B) Before the effective date of the zone's termination.

(2) Submission of the application form may occur before or after any relevant resolution, commitment, written agreement or effective date of official determination for the zone's eligibility.

(3) Estimated numbers, anticipated dates or other expectations as indicated in the application form are not binding. The business firm shall base them on the best and most current information available to it at the time and shall inform the local zone manager and county assessor in writing of any significant changes to such expectations.

(4) The commitments made by the business firm (as required in the application form or otherwise during the certification process) shall be accepted at face value for purposes of certifying the firm, but such a commitment shall not relieve the firm of actually needing to meet any applicable requirement under ORS 285C.400 to 285C.420 and 307.124 to 307.131.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.403

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-2400

Certification

For purposes of ORS 285C.403(3) to (6), following submission of the application for certification as described in OAR 123-690-2300:

(1) The signatures of the local zone manager and county assessor approving the certification application are not valid if either one occurs:

(a) After any part of the facility is in service;

(b) After the operational sunset date prescribed under ORS 285C.406(2)(a); or

(c) Before any of the following (unless formally reaffirmed afterwards):

ADMINISTRATIVE RULES

(A) The commitments by the firm in the application to meet requirements under ORS 285C.412;

(B) The relevant written agreement and the corresponding letter of confirmation by the Department as described in OAR 123-690-2000;

(C) Any resolution by the sponsor or a cosponsor of the zone that authorizes or effects the written agreement in paragraph (B) of this subsection; or

(D) The requisite resolution or resolutions under ORS 285C.403(3)(a) by the county/city in which the facility is located.

(2) Approval of the certification application may occur after:

(a) The effective date of the termination of the enterprise zone; or

(b) Commencement of applicable hiring or physical work at or for the facility.

(3) Except as qualified in this rule and OAR 123-690-5200(2), the local zone manager and the county assessor shall approve the certification application upon satisfaction of the criteria under ORS 285C.403(3), at which point:

(a) The business firm is "certified," such that it is eligible for the exemption under ORS 285C.409(1)(a); and

(b) The zone manager and assessor shall send copies of the signed original certification application form with all relevant attachments to the firm, the Department and the Department of Revenue.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.403, 285C.406, 285C.409 & 285C.412

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-4000

Minimum Size of Investment

For purposes of the minimum investment in the facility under ORS 285C.412(1)(a), (2)(a), (3)(a), (4)(b) or (5)(a) to be made by a certified business firm:

(1) Relevant investment costs for meeting the minimum shall include only expenses documentable through existing records or retrospective compilation of evidence and incurred in association with property owned or leased by the firm that is part of the facility, for the following:

(a) Construction, reconstruction, modification or installation of such property, including but not limited to materials, supplies, labor, building contractors, engineering, physical connections to utilities, on-site development, and so forth; or

(b) Purchase of any such property. (Current fair market value substitutes for purchase price in the case of property not subject to a recent sales transaction, such as items newly moved or transferred to the facility site and already owned or leased by the firm)

(2) Regardless of association with the facility or property, relevant investment costs do not include:

(a) Cost of financing, public permits or service charges, legal fees, the value of the firm's own management, expenses to maintain finished property, and so forth;

(b) Cost or value of property that at the time of certification is already owned or leased by the firm and located at the facility site; or

(c) Expenses associated with purchases or with construction, reconstruction, modifications or installations of property that are incurred after December 31 of the year when the facility is placed in service.

(3) The firm shall provide evidence to the assessor in writing when this requirement is satisfied as soon as possible after such satisfaction is verifiable.

(4) Property excluded by this rule does not necessarily affect what property may be exempt under ORS 285C.409, which depends on its being part of the qualifying facility as defined in OAR 123-690-0100.

(5) In determining "real market value of all nonexempt taxable property in the county," the figure for the most recently available fiscal year shall be used, as printed in the latest edition of "Oregon Property Tax Statistics" (150-303-405) that is available from the Department of Revenue at the time of certification.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.412 & 285C.415

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-4200

Minimum Hiring

For purposes of the minimum hiring and employment to be met and maintained at an exempt facility under ORS 285C.412(1)(b), (2)(c), (3)(d), (4)(d) or (5)(c) by a certified business firm:

(1) Employees are persons each working directly or indirectly for the firm:

(a) More than 32 hours per week in an established, year-round position (as opposed to any form of averaging hours worked, such as full-time equivalency);

(b) Only in newly created jobs (as opposed to those associated with a merger or acquisition of another firm or existing facility operations); and

(c) Who are selected and directly managed by the business firm, an affiliated company, or a third party fully charged with general facility operations (as opposed to workers with independent contractors or vendors providing discrete services to the facility).

(2) Twelve months prior to when the facility is placed in service, the firm shall establish and make available information as regards the total number of employees as described in section (1) of this rule, each of whose job is located and performed:

(a) At the facility site; and

(b) Within the state as a whole other than at the facility site.

(3) The following satisfies minimum requirements:

(a) The number of employees located and performing their jobs at the facility site, less the corresponding number of employees per subsection (2)(a), equals or exceeds the respective minimum; and

(b) The number of employees of the firm in the state as a whole other than at the facility site is the same or greater than the corresponding number of employees per subsection (2)(b) of this rule, except for any decrease documented as entirely unrelated to new facility operations.

(4) The firm shall provide evidence to the assessor in writing when section (3) of this rule is satisfied, as soon as possible after such satisfaction is achieved, which:

(a) For subsection (3)(a) of this rule, must occur on or before December 31 not more than the following number of years after December 31 of the year in which the facility is first in service:

(A) Five years for ORS 285C.412(1) or (4); or

(B) Three years for ORS 285C.412(2), (3) or (5).

(b) For subsection (3)(b) of this rule, must occur at the same time when the assessor is notified that the applicable requirement in subsection (a) is met.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.412 & 285C.415

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-4400

Minimum Distance from I-5

For purposes of the minimum distance from the facility of a certified business firm to Interstate Highway 5 (I-5) under ORS 285C.412(3)(b) or (5)(b):

(1) Measure the distance as:

(a) A straight line; and

(b) The shortest possible gap between any part of the facility site and a point along the median of the highway, regardless if that point is in this state or offers access on/off the highway.

(2) Exclude any spur or bypass such as I-105 or I-205.

(3) Round distances to the nearest whole number, such that an eligible location must be effectively farther than 10.4 miles from I-5.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.412 & 285C.415

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-4600

Minimum Average Annual Compensation

For purposes of the minimum average annual compensation to be met and maintained at an exempt facility under ORS 285C.412(1)(c), (2)(b), (3)(c), (4)(c) or (5)(d) by a certified business firm:

(1) The firm shall include total calendar-year remuneration that is:

(a) In the form of wages, salary, bonuses, commissions, shift differential, overtime pay, profit-sharing, paid vacation, or financial benefits such as life insurance, medical coverage or retirement plans, but excluding free meals, club membership, workplace amenities and so forth, or any benefit mandated by federal, state or local law; and

(b) Paid to any employee located and performing work directly or indirectly for the firm at the facility site, regardless of hours worked per week or the permanence of the employee's position.

(2) For each job at the facility in which the employee works less than 40 hours per week or for less than the entire calendar year, the firm shall annualize the actual annual compensation described in section (1) of this rule, based on 1820 hours per year of actual time working on the job (see Department policy OBDD 112).

(3) The firm shall sum all employees' total annual compensation under section (1) or (2) of this rule and divide the total by the number of applicable employees or positions to derive an average.

ADMINISTRATIVE RULES

(4) On or before December 31 five years after the year, in which the facility is first in service, this computed average must equal or exceed 1.5 times the most recent average annual covered payroll per employee for all industries in the county containing the facility site, as then most recently published by the Employment Department.

(5) The firm shall provide evidence to the assessor in writing when section (4) of this rule is satisfied as soon as possible after such satisfaction is achieved.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.412 & 285C.415
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-5000

Maintaining Employment & Compensation

(1) After initial satisfaction of the minimum requirement for total employment or average annual compensation, the facility's applicable employment or compensation may never be less than the mandatory minimum level, until after December 31 of the final year of the exemption period. Otherwise, the exemption is disqualified consistent with OAR 150-285C.420, including back taxes during construction under ORS 285C.409(1)(a) and (b).

(2) The mandatory minimum level for average annual compensation at the facility remains fixed, regardless of how much:

(a) The facility's annual average compensation initially exceeded the county's the applicable average annual wage level; or

(b) The county's average annual wage subsequently changes during the exemption period.

(3) Notwithstanding section (1) of this rule, the facility's applicable employment or compensation may fall below the mandatory minimum level under certain extenuating circumstances, including but not limited to the following:

(a) A natural disaster substantially disrupting the facility's operations;

(b) Six or more months of severe economic troubles or military conflict significantly affecting the United States, other major foreign economies and the firm's industry;

(c) Unforeseen coincidence of vacant positions at the facility, such as the case in which previously hired persons have died, voluntarily quit or been fired for cause; or

(d) Temporary curtailment in the operation of the facility lasting no longer than twelve months to undertake major repairs in response to mechanical breakdowns that are unusual and unexpected within normal engineering parameters and maintenance programming.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.412, 285C.415 & 285C.420
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-5200

Post-Certification Verification

Pursuant to certification as described in OAR 123-690-2400 for purposes of qualifying for and continuing to receive exemption under ORS 285C.409(1)(c):

(1) In order for a certified business firm's facility to qualify, the firm shall submit written information to the county assessor (and to the zone sponsor, Department or Department of Revenue) as requested, including but not limited to easily understood documentation on the following:

(a) All property comprising the facility and its adherence to OAR 123-690-0100, as well as the ownership of any leased property at the facility and corresponding lease agreements;

(b) When and by what measures the facility is first in service; and

(c) When and how each applicable requirement under ORS 285C.412 is initially satisfied, including but not limited to notice required under ORS 285C.415.

(2) To verify compliance with section (1) of this rule and the applicable requirements under ORS 285C.412:

(a) The county assessor may arrange with the business firm in writing for certain methods and mechanisms, as a condition of the county assessor's approval of the certification application.

(b) The written agreement under ORS 285C.403(3)(c) may contain such arrangements.

(3) Any lack of the arrangements described in section (2) of this rule does not relieve the business firm of the obligation to demonstrate its compliance with and satisfaction of any applicable requirement, as the assessor or Department of Revenue may demand.

(4) The Department shall prepare a worksheet, which is hereby incorporated and made part of these administrative rules by reference, in order for business firms to readily report recent facility employment and compensation for purposes of ongoing compliance under ORS 285C.412.

(5) The zone sponsor may annually request that all relevant business firms in its enterprise zone fill out and return the worksheet, in the absence of, in addition to or in lieu of arrangements in section (2) of this rule, such that:

(a) The sponsor shall specify a due date for its receipt at some point from April 1 through June 1 each year but never less than 60 days after sending the (annual) request;

(b) The sponsor shall also request corroborating evidence that it commits to keep in confidence and not release publicly, if the firm indicates that any such evidence is confidential, sensitive or the like;

(c) The sponsor shall share copies of returned worksheets with the Department and the county assessor, and with other relevant officials as appropriate; and

(d) The sponsor shall report the failure by any business firm to fulfill such a request to the Department and the county assessor, who under such circumstances may terminate the exemption with the immediately subsequent tax year.

(6) Pursuant to subsection (5)(d) of this rule, or if reasons exist to doubt reported information, the sponsor and county assessor may jointly send the business firm a further request by registered/certified mail. As clearly stated in this request, if the firm does not respond within 60 day with substantiation of its employment, compensation or other compliance issue under ORS 285C.412, then retroactive disqualification automatically takes effect under ORS 285C.420 based on the presumption of noncompliance.

(7) This rule does not pertain to any local additional condition or requirement, for which verification of compliance is solely the responsibility of the zone sponsor, based on arrangements under ORS 285C.403(3)(c) consistent with OAR 123-690-2000(1)(g).

[Publications: Publications referenced are available from the agency]
Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.409, 285C.412, 285C.415 & 285C.420
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-6000

Other Enterprise Zone or Construction Exemptions

For purposes of the exemption under ORS 285C.409:

(1) An eligible business firm may seek and receive approval for authorization under ORS 285C.140 according to OAR 123-674, while applying for and being certified under ORS 285C.403, although the zone sponsor and business firm shall clarify and resolve the situation as soon as possible.

(2) However, any property exempted under ORS 285C.170 or 285C.175, whether in the same or another enterprise zone, may not concurrently or subsequently be exempt under any paragraph of ORS 285C.409(1).

(3) Property that is exempt under ORS 285C.409(1)(a) or (b) may not receive an exemption under ORS 285C.175, unless it is qualified property for which exemption would otherwise be allowed under ORS 285C.170 as described in OAR 123-674-6000.

(4) Property may be subject to exemption as otherwise allowed under ORS 307.330, without necessarily jeopardizing the exemption under ORS 285C.409(1)(c).

(5) This rule does not relieve a taxpayer of any requirement to timely file forms, evidence or notice with the county assessor for purposes of (or to reserve the taxpayer's right to) an exemption on property under ORS 285C.170 or 307.330 and 307.340, as well as 285C.409.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.403, 285C.409 & 285C.420
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-6200

Subsequent Facility Investments

For real or personal property described in OAR 123-690-0100 but newly located, completed and placed in service at the facility site on or after the January 1 "assessment date" cited in ORS 285C.409(1)(c):

(1) Any such property is subject to the exemption but only for the remainder of the 7 to 15 tax years available, and neither additional operations nor the introduction of such property at the facility shall lengthen or add to the period of exemption on that or any property.

(2) A certified business firm may receive another (potentially overlapping) period of exemption affecting additional property at the same location, but only if independent of the respective actions and investments pertaining to the certification or qualification of a previously granted exemption, the firm again:

(a) Applies and receives approval for certification;

(b) Meets relevant criteria;

ADMINISTRATIVE RULES

(c) Satisfies the applicable requirements to qualify for the exemption under ORS 285C.412; and

(d) Undertakes additional operations at the facility.

(3)(a) Additional property of a business firm certified for purposes of section (2) of this rule may be subject to exemption in accordance with section (1) of this rule until the earlier of:

(A) Final notice under ORS 285C.415 to the county assessor that all applicable requirements under ORS 285C.412 have been met for the new/additional facility investments; or

(B) The underlying/preexisting exemption expires (on June 30), and the certified business firm has not requested in writing that the assessor treat the additional property as a part of the exemption that is expiring.

(b) Upon fulfillment of either paragraph (a)(A) or (B) of this section, the additional property stays exempt until the end of its own period of exemption, but it is subject to the operation of ORS 285C.420 (retroactive disqualification for failure to meet or maintain an applicable requirement).

(c) The property is subject to (only) the original, remaining period of exemption if there is:

(A) No notice in paragraph (a)(A) of this section; and

(B) A timely formal request in paragraph (a)(B) of this section.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.403, 285C.409 & 285C.412

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-8000

Request for State Tax Credit

For purposes of approval for a business firm to receive the credit under ORS 317.124(3), to offset state corporate excise tax liabilities, unless otherwise directed by the Governor or by the Director:

(1) A request for the credit shall be formally submitted to the Director from an authorized executive of the corporation, preferably pursuant to relevant local approval and certification under ORS 285C.403.

(2) Official consideration of the request shall happen only after certification.

(3) The request must explicitly indicate:

(a) That the corporation is seeking gubernatorial approval;

(b) When it would expect to begin claiming such credits; and

(c) Any preferred length of time during for which credits may be claimable.

(4) The request shall contain the best possible information about the corporation's future income and plans to use the credit, as necessary to estimate the value and applicability of the tax credit.

(5) The Director will forward the request to the Governor, which may be accompanied by a recommendation, and as warranted, by the following:

(a) Background information and analysis about the corporation, the proposed facility, tax impacts, the local community and so forth; and

(b) Summary of consultations with other state agencies including but not limited to the Department of Revenue.

(6) Approval of the request may be conditioned on additional commitments by the corporation as contained in any form of agreement or arrangement between the State and the business firm.

(7) The following is exempt from public release under ORS 192.502 and other laws:

(a) Any information received through the corporation as described in section (4) of this rule; and

(b) The request and any other information associated with it, whether drafted by the Department or otherwise generated, unless and until the Governor has approved the request, thereby deeming such information final.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 317.124

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-8100

Excise/income Tax Credit

(1) To be effective, the Governor's approval of a corporate excise or income tax credit under ORS 317.124 may take the form of a letter, memo or similarly official document that:

(a) Names the corporation and refers to its qualifying facility;

(b) Simply grants the tax credit, approves the corporation's request or directs necessary action by State officials;

(c) Defines the length of the period during which the tax credits may be claimed; and

(d) Is done and effective by the ultimate due date (including normal extensions) to file a tax return for the corporation's fourth income/excise tax year, in which the facility is in service.

(2) To claim the tax credit, certification must occur on or before the operational sunset date prescribed under ORS 285C.406(2)(b), and the certified business firm:

(a) Must generally own the facility and not lease it from other than a commonly owned company; and

(b) Shall fill out the latest revision of the Department of Revenue form 150-102-043, **Long-Term Enterprise Zone Facilities Credit**, and submit it with the tax return for each applicable income/excise tax year of the corporation, starting no later than the final year prescribed under ORS 317.124(3)(a).

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 317.124

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

123-690-8500

Revenue Distribution to Local Zone Sponsor

(1) As noted in OAR 123-668-1600, the sponsor of an enterprise zone containing the facility of a corporation that claims the tax credit under ORS 317.124 might receive funds through the Department of Revenue from the Long Term Enterprise Zone Fund established under ORS 317.127.

(2) The sponsor's receipt of such funds depends on:

(a) The qualifying taxpayer's having claimed the credit;

(b) The taxpayer's making applicable tax payments; and

(c) The depositing of amounts from such payments for distribution under ORS 317.129 and 317.131.

(3) As to the amounts for distribution and the current state fiscal year:

(a) If they exceed the property taxes that relevant taxing districts would otherwise have received in the corresponding property tax year, but for exemption under ORS 285C.409, then that excess goes to the zone sponsor.

(b) If there is no relevant exemption under ORS 285C.409 in the corresponding property tax year, then the entire amount goes to the zone sponsor.

(4) For purposes of section (3) of this rule, the zone sponsor is responsible for making timely arrangements, so that it:

(a) Can receive distributed funds in a way that effectively ensures the Department of Revenue of having made payment to the zone sponsor (including but not limited to a joint mechanism for all cosponsors, or through a deposit account administered by a single cosponsor on behalf of the entire zone sponsorship); and

(b) Satisfies applicable provisions of ORS Chapter 294 and other state or local laws with regard to collecting, holding and using such funds.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 317.131

Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10

Oregon Department of Aviation Chapter 738

Rule Caption: Leases of State-owned airports, including lease valuation and lease application.

Adm. Order No.: AVIA 2-2010

Filed with Sec. of State: 6-9-2010

Certified to be Effective: 7-7-10

Notice Publication Date: 3-1-2010

Rules Amended: 738-010-0025, 738-010-0035, 738-015-0005

Subject: These rules describe the types of rates, charges and fees the Department may charge a user (lessee) of State-owned airports, how the Department determines the lease value, and the leasing application process. The Department depends on lease revenues to fund its operations. Proposed amendments to describe current methodology used to determine lease value, authorize a user (lessee) to enter into a payment-in-kind agreement to satisfy partial or complete lease payment, allow the Department flexibility needed to address appraised property value, and streamline the leasing application process. The amendments are needed on a permanent basis to update rules to align with current business practices.

These proposed amendments are substantively the same as temporary rules filed and effective January 1, 2010.

Rules Coordinator: Cindy M. Pease—(503) 378-4881

ADMINISTRATIVE RULES

738-010-0025

Types of Rates, Charges and Fees

Each user of an Oregon State-owned airport shall be charged one or more of the following types of rates, charges and fees for the use of the premises and the rights granted by the Department:

(1) All leases of improved or unimproved state-owned land at state-owned airports shall include rent assessed at an annual rate per square foot. All rents and other charges for a lease of Department property shall reflect fair market rent as determined by first considering the fair market value established by the most recent appraisal of the property, if available, adjusted, if necessary, to reflect current lease market conditions as reflected in a market rent analysis conducted by a licensed real estate broker or a similar analysis conducted by Department staff experienced in such analysis. The market rent or similar analysis shall consider relevant circumstances including but not limited to whether the land is buildable and the restrictions, if any, that apply to the land. Lessees shall also pay all real property taxes and other taxes, if any, imposed on the leased property.

(a) Rent shall be paid to the Department as follows:

(A) Annually in full, with the first annual payment on or before the date the lease begins and subsequent payments on the anniversary date;

(B) Monthly in equal installments, payable at the beginning of each month; or

(C) By the terms of a payment-in-kind agreement that may constitute partial payment or full payment. The Department will determine and assign a value to payments in kind based upon a determination of the value of the goods, improvements or services actually received or to be provided. In kind payments are subject to rent escalation clauses. The determination of value will be based on an objective process which compares estimates obtained by the Department, the lessee or the proposed lessee from service providers for like services, goods or improvements. A payment-in-kind agreement and all documents used to determine payment-in-kind value must be retained in the lease file. Acceptance of an in kind payment offering requires documentation of an affirmative finding by the Department that the value of the in kind offering primarily benefits the airport generally rather than the individual lessee or the business of the individual lessee. Any payment-in-kind provision contained in an agreement executed before the effective date of this rule will be deemed valid.

(b) In new or renewed leases where all or part of the capital improvements are constructed at the Department's expense, the Department reserves the right to amortize all or part of the construction costs of the capital improvements, plus a reasonable rate of return as part of the rent, during the term of the lease.

(2) A fuel flowage fee, not to exceed \$0.12 per gallon, shall be assessed to each FBO for all types of fuel received from a commercial distributor. Fuel flowage fees shall be calculated from the FBO's fuel flowage delivery report and shall be paid in full not later than two working days after the conclusion of the reporting period.

(3) Each user with an agreement to access the State-owned airport property shall pay an access fee according to a published fee schedule. To ensure equity among all users, the schedule shall be based on the quantity and individual weight of user's aircraft that will access the airport.

(a) Each commercial operator shall pay a fee to the Department, either annually on the agreement anniversary date or monthly on or before the 25th, for the month then in process.

(A) The fee shall be the greater of:

(i) A fee for each aircraft based on the adjacent property, based on aircraft maximum gross landing weight as shown below; or

(ii) A minimum guaranteed amount determined by Airport Category, as follows:

\$275.00 — Per month per Category II Airport
\$175.00 — Per month per Category III and IV Airports
\$75.00 — Per month per Category V Airport

(B) For multiple aircraft, payment shall be accompanied by a report listing each based aircraft showing aircraft class, N-number, aircraft type and the hangar or tie-down number where the aircraft is stored.

(b) Each non-commercial operator shall pay a fee for each aircraft based on the adjacent property, based on aircraft's maximum gross landing weight as set forth in Table 1 below. Payment is due either:

(A) Annually on the anniversary date of the agreement; or

(B) Monthly on or before the 25th, for the month then in process.

(c) At residential airparks, access fees as set forth below shall be assessed for each developed lot with airport access, whether or not the access is being utilized.

PER AIRCRAFT WEIGHT-BASED FEE FOR ALL STATE-OWNED AIRPORTS
Aircraft Weight Class — Weight Range — Monthly Fee Per Aircraft
Class 1 — Up to 5,000 lbs — \$15 per month
Class 2 — 5,001 to 10,000 lbs — \$24 per month

Class 3 — 10,001 to 20,000 lbs — \$44 per month
Class 4 — 20,001 to 30,000 lbs — \$66 per month
Class 5 — 30,001 to 40,000 lbs — \$88 per month
Class 6 — 40,001 lbs. and over — \$120 per month

(4) The Department shall offer tie-down facilities to based and transient aircraft at specific State-owned airports where there are no FBO-provided tiedowns. Based aircraft operators leasing an available tiedown shall pay rent for an entire year in full beginning at lease commencement and subsequently on each anniversary date of the lease, according to rates set forth below.

(a) NON-COMMERCIAL TIE-DOWN FEES:

Category II Airports — \$20 per month
Category III and IV Airports — \$17.50 per month
Category V Airports — \$15 per month

(b) COMMERCIAL TIE-DOWN FEES: ODA shall rent tie-down facilities to FBOs wherever possible. ODA shall collect 30% of all tie-down revenue generated. There shall be no flat fee per tie-down. FBOs shall be responsible for providing a monthly accounting of all tie-down revenue received.

(5) The Department may negotiate individual fee and rent agreements at each State-owned airport, recognizing the diversity of services performed by the caretakers of different airports. These agreements shall be based on the specific services provided by the caretaker and the Department shall ensure that all the financial terms of those agreements are consistent among the same category of airport.

(6) The Director, or the Director's designee, may negotiate a unique rent or fee structure and enter into a special use agreement to benefit the general public, the local community or the State, for such activities as fire protection facilities, sports complexes, farming rights, weather equipment site leases and concession storage areas. All rental rates and charges applicable to special use agreements shall be determined through an analysis of similar activities, rates and charges at comparable airports in addition to consideration of overall benefit to the general public and the State aviation system.

(7) Each commercial operator conducting any type of agricultural-related aeronautical activity at a State-owned airport shall be required to lease property from the Department to store materials and equipment applicable to such operation. The rental rate shall be determined as of the day of occupancy.

(8) Each Mobile Service Provider (MSP) is required to obtain an annually renewable permit from the Department and pay the appropriate fee as represented below.

Category II Airports — \$25 per month or \$250 annually
Category III and IV Airports — \$20.00 per month or \$200 annually
Category V Airports — \$15 per month or \$150 annually

(9) The Director, or the Director's designee, may negotiate a specific rate or fee to support the Department's mission of developing and promoting aviation in the State of Oregon. Any such negotiated fee agreement will contain a fair and equitable rate structure, will not be used routinely and will only be considered for the most unique circumstances.

(10) The Director, or the Director's designee, may waive certain fees for government aircraft, in order to comply with Federal Airport improvement grant assurances. The Director, or the Director's designee, may also waive certain fees for an organization or person engaged in a non-profit aeronautical program or activity that benefits a charitable organization or community.

Stat. Auth.: ORS 835.035, 835.040 & 835.112
Stats. Implemented: ORS 835.035, 835.040, 835.112 & 836.055
Hist.: 1AD 2-1981, f. & ef. 4-20-81; AVIA 3-2002, f. 10-30-02 cert. ef. 11-1-02; AVIA 4-2002, f. 11-27-02, cert. ef. 12-1-02; AVIA 2-2003, f. & cert. ef. 4-3-03; AVIA 1-2010(Temp), f. & cert. ef. 1-7-10 thru 7-6-10; AVIA 2-2010, f. 6-9-10, cert. ef. 7-7-10

738-010-0035

Fair Market Value Cost of Construction — Adjustments of Unimproved Land, Improved Land and Facility Rents

All rents set forth in agreements for rental of improved or unimproved land, or for any facility or structure, may be adjusted by the Department as follows:

(1) Adjustments shall be made at intervals not to exceed every two years;

(2) Adjustments shall be based on the Consumer Price Index-Urban of the State of Oregon, provided that no adjustment shall exceed three percent (3%) of the rent for the previous year;

(3) Except as provided in subsection (4), at intervals of not less than five (5) years, the Department may engage a certified appraiser or equally qualified aviation consultant, at its sole expense, to determine by either appraisal or market rent analysis, the current fair market value or rent for any property subject to a rental agreement.

ADMINISTRATIVE RULES

(4) The minimum five (5) year interval described in subsection (3) may be waived by the Department when the Department finds it necessary to meet a legitimate business need arising prior to conclusion of the five-year period.

(5) The Department shall be responsible for the engagement of an appraiser or aviation consultant. All expenses for the appraisal or market rent analysis shall be borne by the Department.

Stat. Auth.: ORS 835.035, 835.040 & 835.112

Stats. Implemented: ORS 835.035, 835.040, 835.112 & 836.055

Hist.: AVIA 3-2002, f. 10-30-02 cert. ef. 11-1-02; AVIA 1-2010(Temp), f. & cert. ef. 1-7-10 thru 7-6-10; AVIA 2-2010, f. 6-9-10, cert. ef. 7-7-10

738-015-0005

Leasing Application for Commercial Aeronautical Activities

(1) To obtain an initial commercial lease at a State-owned airport, a person shall submit a written application to Oregon Department of Aviation (the Department or ODA) for review, in the form specified by ODA. As a prerequisite to initially granting commercial aeronautical activity privileges or occupancy at a State-owned airport, the prospective Lessee must submit a specific, detailed description of the scope of the intended commercial aeronautical activities, as well as the means and methods to be employed to accomplish the contemplated activities. Applications for the renewal of existing leases or applications for additional initial leases submitted by current lessees may require a written application at the discretion of the Department.

(2) Required information that must accompany an application for commercial lease shall include:

(a) The legal name of the person applying as prospective Lessee, and its business name if different;

(b) The name(s), address(es), and telephone number(s) of the person and the name of the primary contact individual;

(c) The names, addresses, and telephone numbers of all owners of five percent (5%) or more equity interest, management control, or debt in the entity;

(d) The proposed date for commencement of the intended activities and proposed base lease term for conducting these activities;

(e) A comprehensive listing of all activities proposed to be offered, along with copies of all applicable Federal, State, or local operating certificates and licenses held;

(f) For proposed agreements to lease existing structures or improvements, a description of the size, location, and proposed utilization of office, hangar, tiedown area(s), and vehicle parking area(s) to be utilized;

(g) For proposed agreements to lease unimproved State-owned airport areas, a layout (to scale) of the size, configuration, and location of the property proposed for occupancy, and preliminary drawing(s) of the building(s) and improvements to be constructed, together with identification of vehicle parking areas. Drawings shall be legible and reproducible with clearly defined dimensions. Each drawing shall be not less than 8.5 inches by 11 inches in size and be drawn in permanent media;

(h) The number of persons to be employed, including the name and qualifications of each management/supervisory person, and specifications as to whether the employees will be full-time, part-time, or seasonal;

(i) The number of aircraft to be utilized in connection with the proposed commercial aeronautical activities and, as soon as known, the make, model, passenger seating capacity, cargo capacity, aircraft registration number, and copies of applicable operating certificates for each aircraft; and

(j) A comprehensive list of the equipment, vehicles, and inventory proposed to be utilized in connection with the intended activities.

(3) The prospective lessee is responsible for providing any required infrastructure to support their proposed use of the site, at the lessee's expense. The prospective lessee shall provide to ODA prior to any construction, occupancy or use of the site written confirmation that all required services have been or will be installed (power, water, fire suppression, sewer, etc). Services must comply with local government and ODA requirements.

(4) At its option, the Department may:

(a) Request to review a written business plan; and

(b) Request a metes and bounds legal description of lease property boundaries.

Stat. Auth.: ORS 835.035, 835.040 & 835.112

Stats. Implemented: ORS 935.035, 935.040, 835.112 & 836.055

Hist.: AVIA 1-2002, f. & cert. ef. 9-3-02; AVIA 1-2006, f. & cert. ef. 1-27-06; AVIA 1-2010(Temp), f. & cert. ef. 1-7-10 thru 7-6-10; AVIA 2-2010, f. 6-9-10, cert. ef. 7-7-10

Oregon Department of Education Chapter 581

Rule Caption: Modifies rule relating to administration of state assessments by school districts.

Adm. Order No.: ODE 7-2010

Filed with Sec. of State: 5-27-2010

Certified to be Effective: 5-27-10

Notice Publication Date: 4-1-2010

Rules Amended: 581-022-0610

Subject: Allows school district to delegate assessment responsibilities to another school district or education service district.

Removes reference to Oregon School for the Blind.

Removes OAKs paper/pencil and OAKs Large Print as format for paper-based administration of state assessment.

Allows school districts to print test items under certain circumstances.

Rules Coordinator: Diane Roth—(503) 947-5791

581-022-0610

Administration of State Assessments

(1) Definitions. As used in this rule:

(a) "Accommodations" means practices and procedures in presentation, response, setting, and timing or scheduling that, when used in an assessment, provide equitable access to all students. Accommodations do not compromise the learning expectations, construct, grade-level standard, or measured outcome of the assessment as determined by the Oregon Accommodations Panel established by the Oregon Department of Education (ODE).

(b) "Allowable resources" means subject-specific resources identified as allowable in the Test Administration Manual that are made available to students by a test administrator during a testing event. Allowable resources are not student-specific, and their use does not invalidate test results. Allowable resources are the only resources that districts may give to students during administration of an Oregon Statewide Assessment.

(c) "District test coordinator" (DTC) means district personnel who ensure secure administration of Oregon Statewide Assessments as defined by Oregon Revised Statute, Administrative Rules, and the Test Administration Manual, including but not limited to supervising the work of the school test coordinators and test administrators.

(d) "Force majeure" means an extraordinary circumstance (e.g., power outage or network disturbance lasting at least one full school day) or act of nature (e.g., flooding, earthquake, volcano eruption) which directly prevents a school district from making reasonable attempts to adhere to the Test Schedule.

(e) "Impropriety" means the administration of an Oregon Statewide Assessment in a manner not in compliance with the Test Administration Manual, Oregon Revised Statute, or this rule.

(f) "Invalidation" means the act of omitting test results and student responses from the testing, reporting, and accountability systems for a given testing event for which the student may not retest.

(g) "Irregularity" means an unusual circumstance that impacts a group of students who are testing and may potentially affect student performance on the assessment or interpretation of the students' scores. A force majeure is an example of a severe irregularity.

(h) "Modification" means practices and procedures that compromise the intent of the assessment through a change in the achievement level, construct, or measured outcome of the assessment.

(i) "OAKS Online" means a mode of delivering the Oregon Assessment of Knowledge and Skills (OAKS) using a secure web-based testing application.

(j) "Oregon Statewide Assessments" means:

(A) The Oregon Assessment of Knowledge and Skills (OAKS) in:

(i) Reading/Literature;

(ii) Mathematics;

(iii) Science

(iv) Social Sciences;

(v) Writing Performance; and

(B) The English Language Proficiency Assessment (ELPA).

(k) "Paper-based administration" means administration of an OAKS assessment using one of the following ODE-provided formats:

(A) OAKS Braille; and

(B) OAKS Extended.

ADMINISTRATIVE RULES

(l) "Reset" means the removal of student responses from the web-based testing application for a given testing event for which the student may retest.

(m) "School building" means facilities owned, leased, or rented by a school district, educational service district, public charter school, private school, or private alternative program.

(n) "School district" means:

(A) A school district as defined in ORS 332.002;

(B) The Oregon School for the Deaf;

(C) The Juvenile Detention Education Program as defined in ORS 326.695;

(D) The Youth Corrections Education Program as defined in ORS 326.695;

(E) The Long Term Care Program as defined in ORS 343.961; and

(F) The Hospital Education Programs as defined in ORS 343.261.

(o) "School test coordinator" (STC) means school personnel who provide comprehensive training to test administrators and monitor the testing process.

(p) "Test Administration Manual" means a manual published annually by ODE that includes descriptions of the specific policies and procedures that school districts are required to follow when administering any component of the Oregon Statewide Assessments. References to the Test Administration Manual refer to the edition in effect at the time of test administration and include appendices and any addenda published in accordance with ODE's revision policy.

(q) "Test administrator" (TA) means an individual trained to administer the Oregon Statewide Assessments in accordance with the Test Administration Manual.

(r) "Test Schedule" means the Test Schedule and Required Ship Dates published annually by ODE that includes the windows in which school districts must offer their students the Oregon Statewide Assessments and the deadline by which DTCs must ship or postmark test materials.

(2)(a) School districts, as defined in ORS 332.002, must enforce the assessment policies described in this rule for all students enrolled in a school operated by the district or enrolled in a public charter school that is located within the boundaries of the school district.

(b) School districts, as defined in ORS 332.002, must enforce the assessment policies described in this rule for all resident students enrolled in a private alternative education program, regardless of whether the private alternative education program is located within the boundaries of the school district.

(c) The Oregon School for the Deaf must enforce the assessment policies described in this rule for all students enrolled in that school.

(d) The Juvenile Detention Education Program and the Youth Corrections Education Program must enforce the assessment policies described in this rule for all students enrolled in that program.

(e) The Long Term Care Program and the Hospital Education Programs must enforce the assessment policies described in this rule for all students enrolled in that program.

(f) School districts may delegate responsibility for enforcing the assessment policies described in this rule to another school district or education service district under the conditions specified in the Test Administration Manual.

(3) School districts must administer Oregon Statewide Assessments in accordance with the Test Administration Manual and Test Schedule published by ODE. School districts must use student assessment data in accordance with the Adequate Yearly Progress (AYP) Policy and Technical Manual published annually by ODE. The results of these assessments are used to satisfy the requirements specified in OAR 581-022-1670 and 581-022-0606 and as a method to evaluate compliance with OAR 581-022-1210.

(4) School districts must ensure that students are administered the proper Oregon Statewide Assessment and that the testing environment satisfies the following testing conditions:

(a) School districts must ensure that Oregon Statewide Assessments are administered by a trained TA who has signed an Assurance of Test Security form for the current school year on file in the district office;

(b) School districts must administer Oregon Statewide Assessments in a school building or in an environment that otherwise complies with the Test Administration Manual;

(c) School districts must apply the following criteria in deciding whether to provide a student with an accommodation during administration of an Oregon Statewide Assessment:

(A) School districts must decide whether to provide accommodations during an assessment on an individual student basis and separately for each content area to be assessed; and

(B) For students with an Individualized Education Plan (IEP) or 504 Plan, school districts must implement the assessment decision made by a student's IEP or 504 team and documented in the IEP or 504 Plan;

(d) School districts may only administer modifications to students with an IEP or 504 Plan and only in accordance with the assessment decision made by the student's IEP or 504 team and documented in the IEP or 504 Plan. Before administering an assessment using a modification, a student's IEP or 504 team must inform the student's parent that the use of a modification on an OAKS assessment will result in an invalid assessment;

(e) School districts must provide only those subject-specific allowable resources listed in the Test Administration Manual;

(f) School districts must ensure that students do not access electronic communication devices such as cellular phones or personal digital assistants (PDAs) during an assessment; and

(g) School districts must follow all additional testing conditions specified in the Test Administration Manual.

(5) Failure by a school district to comply with Section (4) of this rule constitutes an impropriety as defined in Section 1(e) of this rule. DTCs must report all potential improprieties or irregularities to ODE within one business day of learning of the potential impropriety or irregularity in accordance with the reporting procedures contained in the Test Administration Manual.

(6) The ODE may invalidate assessment results and student responses for assessments administered under conditions not meeting the assessment administration requirements specified in Sections 3 and 4 of this rule. In rare instances, ODE may reset a student assessment at the request of the school district if ODE determines that a reset would not compromise the security or validity of the assessment.

(7) ODE counts assessments that meet the following conditions as non-participants in ODE calculations of participation and does not include such assessments in ODE calculations of performance:

(a) OAKS Assessments administered using Modifications as defined in Section 1(h) of this rule;

(b) Invalidated assessments;

(c) Assessments administered outside the testing window specified in the Test Schedule; or

(d) Assessments shipped or postmarked after the dates identified in the Test Schedule.

(8) ODE only allows extensions to the testing window or shipping deadlines identified in the Test Schedule in cases where a force majeure occurs within three days of the close of the testing window or shipping deadline and prevents a school district from meeting the deadline. Upon receiving a force majeure extension request from the school district, ODE may permit a one-day extension of the testing window or shipping deadline for each day of the force majeure, for up to five days. The force majeure extension begins on the first school day after normal operations resume and ends no later than the last school day in the month in which the testing window closes.

(9) School districts must use OAKS Online when administering OAKS assessments in the following content areas:

(a) Mathematics;

(b) Reading/Literature;

(c) Science; and

(d) Social Science.

(10) School districts may only assess students in the content areas listed in section (9)(a)–(c) of this rule using a paper-based administration of the OAKS assessment instead of OAKS Online if the following conditions are met:

(a) For students with an IEP or 504 Plan, the student's Plan indicates separately for each content area to be assessed that the student requires a paper-based administration; or

(b) For students without either an IEP or 504 Plan, the school district determines separately for each content area to be assessed that the web-based testing application is not appropriate for the particular student to demonstrate his or her level of proficiency. The school district must base its determination on an individual evaluation of the student and on documentation of the student's needs maintained by the school district. Such documentation is subject to audits by the ODE.

(11) School districts must administer OAKS Online using the ODE-required secure browser.

(12) School districts may only provide students with access to printed test items or reading passages from OAKS Online if:

ADMINISTRATIVE RULES

(a) The TA administering the testing session approves the student's request to print a test item or reading passage;

(b) The printer used to print test items or reading passages is monitored by staff who have received test security training and signed an Assurance of Test Security Form for the current school year;

(c) Staff who have received test security training and signed an Assurance of Test Security Form for the current school year securely shred the printed test items or reading passages immediately after the testing session in which the test was administered in accordance with the Test Administration Manual.

(13) School districts must administer ELPA annually to all students determined by the school district to be eligible for English language development (ELD) services under Title III of the No Child Left Behind Act of 2001 (NCLB), regardless of whether an eligible student actually receives ELD services.

Stat. Auth.: ORS 326.051 & 329.075
Stats. Implemented: ORS 329.075 & 329.485
Hist.: 1EB 2-1985, f. 1-4-85, ef. 1-7-85; EB 14-1990(Temp), f. & cert. ef. 3-5-90; ODE 6-2002(Temp), f. & cert. ef. 2-15-02 thru 6-30-02; ODE 16-2002, f. & cert. ef. 6-10-02; ODE 30-2008, f. 12-16-08, cert. ef. 12-19-08; ODE 12-2009, f. & cert. ef. 12-10-09; ODE 7-2010, f. & cert. ef. 5-27-10

Rule Caption: Modifies form for school sports pre-participation examination.

Adm. Order No.: ODE 8-2010

Filed with Sec. of State: 5-27-2010

Certified to be Effective: 5-27-10

Notice Publication Date: 2-1-2010

Rules Amended: 581-021-0041

Subject: The rule amendments modify the form required for school sports pre-participation examinations. The form also sets out the protocol that must be used by health care professionals for conducting the physical examination. The form was last amended in June 2004.

Rules Coordinator: Diane Roth—(503) 947-5791

581-021-0041

Form and Protocol for Sports Physical Examinations

The State Board of Education adopts by reference the form entitled "School Sports Pre-Participation Examination May 2010" that must be used to document the physical examination and sets out the protocol for conducting the physical examination. Medical providers conducting physicals on or after June 30, 2010 must use the form dated May 2010.

NOTE: The form can be found on the Oregon School Activities Association (OSAA)

website: www.osaa.org.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.474

Hist.: ODE 24-2002, f. & cert. ef. 11-15-02; ODE 29-2004(Temp), f. & cert. ef. 9-15-04 thru 2-25-05; ODE 4-2005, f. & cert. ef. 2-14-05; ODE 8-2010, f. & cert. ef. 5-27-10

Oregon Health Licensing Agency

Chapter 331

Rule Caption: Align with agency rules, remove grandfathering provisions and integrate practice standards and guidelines requirements.

Adm. Order No.: HLA 4-2010

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-18-10

Notice Publication Date: 12-1-2009

Rules Adopted: 331-840-0070

Rules Amended: 331-800-0010, 331-800-0020, 331-810-0020, 331-810-0040

Rules Repealed: 331-810-0035

Subject: Due to requirements regarding filing permanent administrative rule filings pursuant to ORS 183.335 (12)(a) the agency and the board must re-file administrative rules related to definitions, affidavit of licensure, and standardized practice standards and guidelines. Continues to synchronize with current agency provisions and requires that all certified and associate sex offender therapists adhere to the same practice standards and guidelines when evaluating, treating, and managing sex offenders.

• Division 800: amends the definition for affidavit of licensure to streamline and align with procedures under the current agency model. Removes fee for certification under grandfathering provision,

which expired on March 15, 2009. Amends current delinquent fee to be consistent with other agency programs.

• Division 810: amends language regarding affidavit of licensure to align with procedures under the current agency model and allow flexibility for receipt of information based on agency review. Repeals grandfathering language which expired on March 15, 2009.

• Division 840: adopts requirement that all certified clinical and associate sex offender therapists adhere to standardized practice standards and guidelines for the evaluation, treatment and management of adult male sex offenders, juvenile sex offenders and adult sexual offenders with intellectual and other developmental disabilities. Practice standards and guidelines for adult male sex offenders can be purchased at <http://www.atsa.com/form.html>. Practice standards and guidelines for juvenile sex offenders and sexual offenders with intellectual and other developmental disabilities can be reviewed on the boards website at <http://www.oregon.gov/OHLA/SOTB/index.shtml>.
Rules Coordinator: Samantha Patnode—(503) 373-1917

331-800-0010

Definitions

The following definitions apply to OAR 331-800-0010 to 331-850-0010:

(1) "Active certificate" means a certificate issued when all requirements are met, fees paid and certificate is not expired, suspended or revoked.

(2) "Affidavit of Licensure" means an original document verifying licensing history and status, including information disclosing all unresolved or outstanding penalties and/or disciplinary actions. The document is issued and signed by the regulatory authority in the state which issued the license with an official seal or stamp affixed to the document; it is not the certificate or license form issued which authorizes the holder to practice. Refer to OAR 331-030-0040

(3) "Agency" means the Oregon Health Licensing Agency (OHLA). The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rule making, and record keeping.

(4) "Authorization" means the official document, the certificate, issued by the Oregon Health Licensing Agency.

(5) "Board" means pursuant to ORS 675.395, the entity that advises the agency in matters relating to the practice of sex offender treatment, including practice standards, education and training requirements, and advises the agency on all disciplinary issues in accordance with 676.612. The Oregon Health Licensing Agency Director controls the regulatory operations and has decision-making authority on all substantive matters.

(6) "Certified clinical sex offender therapist" means a person who is certified by the agency to provide services for the treatment and rehabilitation of sex offenders and who may supervise certified associate sex offender therapist; also referred to as "clinical therapist".

(7) "Certified associate sex offender therapist" means a person who is certified by the agency to provide services for the treatment and rehabilitation of sex offenders while under the direct supervision of a certified clinical sex offender therapist; also referred to as "associate therapist".

(8) "Continuing education hours" means the actual academic classroom or course work time, including but not limited to workshops, symposiums, seminars, excluding personal travel time to and from the training site, registration or check-in periods breaks or lunch periods.

(9) "Credential" or its derivative means the process of licensing, registration, certification or the equivalent through which a person is legally recognized by a state agency as lawfully authorized to practice a health profession.

(10) "Direct supervision" means a minimum of two hours of supervision by a certified clinical sex offender therapist for each 45 hours of direct clinical contact with a sex offender as specified in ORS 675.365(4).

(11) "Direct treatment services" means face-to-face individual, group or family therapy, provided by a clinical or associate therapist, to a client.

(12) "Director" means, pursuant to ORS Chapter 676.610, the individual who has sole responsibility for the administrative, fiscal, human resource and regulatory functions of the agency.

(13) "Ethical" means conforming to professional standards, as adopted by the Association for the Treatment of Sexual Abusers' Practice Standards (ATSA) and Guidelines adopted in 2005, and Professional Code of Ethics adopted in 2001, regarding professional practices authorized under ORS 675.360 to 675.410 and rules adopted by the agency.

ADMINISTRATIVE RULES

(14) "Evaluation" means a comprehensive psychosexual assessment or intake assessment conforming to professional standards as adopted by the Association for Treatment of Sexual Abusers' Practice Standards and Guidelines adopted in 2005, to determine a client's risk to re-offend, identify dynamic risk factors, and develop appropriate treatment and supervision plans. Evaluation includes a written report including, but not limited to the following:

(a) Useful guidance to others, such as the courts, in making decisions affecting a client's future and whether the client's risk can be managed in a community setting;

(b) Comprehensive description of the client's abusive and non-abusive sexual behavior;

(c) Amenability to treatment;

(d) Recommendations regarding the intensity and type of intervention that is required;

(e) Risk management strategies;

(f) Responsiveness to treatment, such as culture, ethnicity, age, IQ, learning style, neuropsychological disorders, personality style, mental and physical disabilities, medication, and motivation.

(15) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(16) "Informed consent" means consent obtained following a thorough and easily understood explanation to the client, or the client's guardian, of the proposed treatment plan, any available alternative procedures and any risks associated with the proposed plan. The therapist provides clients with information about the purpose, goals, techniques, procedures, limitations, and consequences of not consenting, the limits of confidentiality, and alternatives to the services offered, potential risks and benefits of services to be performed. Supervisors ascertain the client's ability to understand and utilize the information.

(17) "Functionally disabled" means a severe and chronic disability that is attributable to a mental or physical impairment or a combination of physical and mental impairments which result in substantial functional limitations in three or more of the major life activities.

(18) "Mental health professional" means a person licensed to practice without supervision in the state of Oregon as a physician, psychiatrist, psychiatric nurse practitioner, psychologist, psychological associate, licensed professional counselor, licensed clinical social worker, or licensed marriage and family therapist, who provides sex offender treatment of adults, juveniles or functionally disabled individuals.

(19) "Official transcript" means an original document certified by an accredited educational institution, delivered from the school to the agency by mail or courier, which includes:

(a) School name and location;

(b) Student's name, address and date of birth;

(c) Enrollment and termination dates;

(d) Hours and types of course work;

(e) Degree issued;

(f) School seal or stamp;

(g) Signature of authorized school representative or registrar.

(20) "Oregon Health Licensing Agency" (OHLA) means the agency assigned to carry out the administrative, programmatic and daily operations, and regulatory functions of ORS 676.606.

(21) "Professional mental health licensing or certification agency" means the entity charged with the administrative functions and responsibilities for protecting the public through the licensing and regulating of certain professions practiced in Oregon, or in a county, other state, country or territory. The entity has the responsibility for decisions on qualifications, standards of practice, licensing, discipline and other discretionary functions relating to professional activities in the professional licensing boards, councils, or programs; also known as regulatory authority.

(22) "Reciprocity" means, according to ORS 675.380, certification, registration or licensure in another state based on standards of training, education and experience that are similar to those required for certification in Oregon as a certified clinical sex offender therapist or a certified associate sex offender therapist as specified in 675.375.

(23) "Sex offender specific treatment" means treatment modalities that are based on empirical research with regard to favorable treatment outcomes and are professionally accepted in the field of sex offender treatment of adults, juveniles, and functionally disabled individuals, with sexual behavior problems. Offense specific treatment is a comprehensive set of planned treatment experiences and interventions that modify sexually deviant thoughts, fantasies, and behaviors and that utilize specific strategies to promote change and to reduce the chance of re-offending.

(24) "Treatment plan" means an individualized written statement of intended care and services as documented in the evaluation that details how the client's treatment needs will be met while protecting the community during the course of treatment.

Stat. Auth.: ORS 675.410 & 676.615

Stat. Implemented: ORS 675.360 - 675.410

Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08; HLA 2-2010, f. & cert. ef. 3-15-10; HLA 4-2010, f. & cert. ef. 5-18-10

331-800-0020

Fees

Fees established by the Oregon Health Licensing Agency are as follows:

(1) Application for certification: \$75.

(3) Original two year certification: \$650.

(4) Application for renewal — two year certificate: \$650.

(5) Replacement certificate, including name change: \$25.

(6) Duplicate certificate document: \$25 per copy with a maximum of three.

(7) Delinquency fee: \$50 for each year in expired status up to two years.

(8) Examination — Oregon laws & rules: \$50.

(9) Affidavit of licensure: \$50.

(10) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 675.405, 675.410 & 676.625

Stat. Implemented: ORS 675.405

Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08; HLA 8-2008, f. 9-15-08, cert. ef. 10-1-08; HLA 2-2010, f. & cert. ef. 3-15-10; HLA 4-2010, f. & cert. ef. 5-18-10

331-810-0020

Clinical Sex Offender Therapist Requirements

To qualify for certification as a clinical sex offender therapist, an applicant shall provide satisfactory evidence to the agency that requirements of ORS 675.375(3) have been met regarding education, training, and experience in the evaluation, treatment, and management of individuals who sexually offend, in addition to other requirements specified in this rule. Required documentation includes the following:

(1) The applicant shall arrange for Affidavit of Licensure as defined in OAR 331-030-0040 be provided to the Agency. The applicant is responsible for payment of any service fee the originating agency may assess for producing the affidavit.

(2) Record of at least 2,000 hours of professional clinical experience, of which 1,000 hours relates to providing direct treatment services as defined in OAR 331-800-0010, within a period of not less than three nor more than six years immediately preceding the date of application.

(3) Record of 500 hours of evaluations as defined in OAR 331-800-0010, that includes but is not limited to the following types of professional activities:

(a) Evaluation experience credit:

(A) Primary or secondary responsibility for interviewing the client;

(B) Preparation of the written evaluation report;

(C) All contact with clients; and

(D) Preparation of limited assessments for the purpose of:

(i) Institution classification;

(ii) Treatment monitoring; and

(iii) Reporting.

(b) Treatment experience credit:

(A) Face-to-face treatment hours performed by affiliates under the supervision of certified therapists;

(B) Time spent as a co-therapist. Both therapists shall have formal responsibility for the group session; and

(C) Time spent maintaining collateral contacts and written case/progress notes.

(4) Record of 500 hours of professionally related activities, associated with the following type of work:

(a) At least 340 hours of documented activities, including but not limited to:

(A) Client charting or case management;

(B) Research;

(C) Peer review, consultations, or meetings with attorneys, parole officers or other officials;

(D) Court time or testimony;

(E) Profession related committee work or attendance at sex offender treatment related meetings; and

ADMINISTRATIVE RULES

(b) At least 160 hours of professional activities engaged in as a sex offender therapist, while under the direct supervision of a qualified mental health professional; refer to OAR 331-810-0050.

(5) Record of 60 hours of formal training directly related to the treatment and evaluation of sex offenders or victims of abuse that was completed within the last three years immediately preceding the date of application.

(a) Completion of formal training shall include documenting 45 hours of the total required hours, in the following essential subjects:

- (A) Assessment and diagnosis;
- (B) Cognitive therapy;
- (C) Counseling and psychotherapy;
- (D) Cultural/ethnic issues;
- (E) Ethics applicable to working with a forensic population;
- (F) Human development with special attention to sexual development and healthy sexuality;
- (G) Interviewing skills;
- (H) Knowledge of family dynamics as related to sex offending;
- (I) Psychometric and psycho-physiological testing;
- (J) Psychopathology;
- (K) Relapse prevention;
- (L) Relationship and social skills training;
- (M) Risk assessment;
- (N) Sexual arousal control;
- (O) Social support networks;
- (P) Victim awareness and empathy.

(b) Completion of formal training shall include documenting 15 hours of the total required hours, in the following areas of training and knowledge:

- (A) Supervision;
- (B) Assessment and treatment of mental illness including neuropsychological disorders;
- (C) Couples and family therapy;
- (D) Family reunification;
- (E) Pharmacological therapy;
- (F) Substance abuse treatment.

Stat. Auth.: ORS 675.375, 675.400 & 676.615

Stat. Implemented: ORS 675.375 & 675.400

Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08; HLA 2-2010, f. & cert. ef. 3-15-10; HLA 4-2010, f. & cert. ef. 5-18-10

331-810-0040

Reciprocity; Equivalencies

Pursuant to ORS 675.380, an applicant who is recognized as a clinical sex offender therapist or associate sex offender therapist in another state may be issued Oregon certification as a sex offender therapist if the applicant's education, experience and formal training meet similar requirements for Oregon certification under ORS 675.375 and OAR 331-810-0020.

(1) Educational equivalency includes completion of the following:

(a) A masters or doctoral degree in social work, psychology, counseling, or educational psychology from a regionally accredited institution of higher education; or

(b) A masters or doctoral degree in an equivalent field from a regionally accredited institution of higher education and documentation of thirty graduate semester hours or forty-five graduate quarter hours in approved subject content listed in subsection (2) of this section.

(2) Approved subject content includes at least five graduate semester hours or seven graduate quarter hours in counseling, psychotherapy, and personality theory, and five graduate semester hours or seven graduate quarter hours in at least two of the following content areas:

- (a) Counseling and psychotherapy;
- (b) Personality theory;
- (c) Behavioral science and research;
- (d) Psychopathology/personality disorders;
- (e) Assessment/tests and measurement;
- (f) Group therapy/family therapy;
- (g) Human growth and development/sexuality; and
- (h) Corrections/criminal justice.

(3) The applicant shall arrange for Affidavit of Licensure as defined in OAR 331-030-0040 be provided to the Agency. The applicant is responsible for payment of any service fee the originating agency may assess for producing the affidavit.

(4) Applicants must document active practice as a certified sex offender therapist in another state during the previous two years immediately preceding application for Oregon certification.

(5) Applicants shall provide required documentation listed in OAR 331-030-0000, 331-820-0010 and other information as may be requested

by the agency to determine equivalent education, experience and formal training for Oregon certification as a sex offender therapist.

Stat. Auth.: ORS 675.375, 675.380, 675.400 & 676.615

Stat. Implemented: ORS 675.375, 675.380 & 675.400

Hist.: HLA 1-2008(Temp), f. 3-14-08, cert. ef. 3-15-08 thru 9-1-08; HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08; HLA 2-2010, f. & cert. ef. 3-15-10; HLA 4-2010, f. & cert. ef. 5-18-10

331-840-0070

Practice Standards and Guidelines

In accordance with ORS 675.400, all certified clinical and associate sex offender therapists as defined in ORS 675.365 and OAR 331-800-0010 must adhere to the following practice standards and guidelines for the evaluation, treatment and management of adult male sex offenders, juvenile sex offenders and sexual offenders with intellectual and other developmental disabilities:

(1) Adult Male Sex Offenders: The 2004 Association for the Treatment of Sexual Abusers (ATSA), Practice Standards and Guidelines. A copy of the Practice Standards and Guidelines may be purchased at the Web site: <http://www.atsa.com/form.html>. The information is also available by contacting ATSA: 4900 S.W. Griffith Drive, Suite 274, Beaverton, Oregon U.S.A. 97005, Phone: (503) 643-1023, Fax: (503) 643-5084, E-mail: atsa@atsa.com.

(2) Juvenile Sex Offenders: Practice Standards and Guidelines, adopted by the agency and board, January, 2010. A copy may be accessed on the agency Web site: <http://www.oregon.gov/OHLA/SOTB/index.shtml>. The information is also available by contacting the agency at: 700 Summer St. NE, Suite 320, Salem, OR 97301-1287. Phone: (503) 378-8667, Fax: (503) 585-9114, E-mail: ohla.info@state.or.us.

(3) Sex Offenders with Intellectual and Other Developmental Disabilities: Practice Standards and Guidelines, adopted by the agency and board, January, 2010. A copy of the Practice Standards and Guidelines may be accessed at the agency Web site: <http://www.oregon.gov/OHLA/SOTB/index.shtml>. The information is also available by contacting the agency at: 700 Summer St. NE, Suite 320, Salem, OR 97301-1287. Phone: (503) 378-8667, Fax: (503) 585-9114, E-mail: ohla.info@state.or.us.

(4) Failure to comply with OAR Chapter 331, Division 840 may result in disciplinary action under ORS 676.612.

Stat. Auth.: ORS 676.605, 676.606, 675.615, 675.400, 675.410 & 675.360

Stats. Implemented: ORS 676.360, 676.605, 676.606, 676.615, 675.400 & 676.410

Hist.: HLA 2-2010, f. & cert. ef. 3-15-10; HLA 4-2010, f. & cert. ef. 5-18-10

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Allows reservation of program tax credits to leverage federal and state funding; rule clarification language.

Adm. Order No.: OHCS 6-2010

Filed with Sec. of State: 6-10-2010

Certified to be Effective: 6-10-10

Notice Publication Date: 5-1-2010

Rules Adopted: 813-041-0027

Rules Amended: 813-041-0000, 813-041-0010, 813-041-0015, 813-041-0020, 813-041-0030

Rules Repealed: 813-041-0000(T), 813-041-0010(T), 813-041-0015(T), 813-041-0020(T), 813-041-0027(T), 813-041-0030(T), 813-041-0035(T), 813-041-0005, 813-041-0025

Subject: 813-041-0000 – Administrative Changes – language clarification.

813-041-0005 – Repealed – definitions are found within statute.

813-041-0010 – Language in rule clarified. Allows the department to issue reservation letters for projects waiting for a firm commitment of financing.

813-041-0015 – Allows the department to create a soft set-aside of credits for on-farm projects. Amends the criteria for the department's evaluation of the application. Limits the tax credit award to the minimum amount required to make the project financially viable. Language in rule is clarified.

813-041-0020 – Removes the ability for a new application to be submitted for the next calendar year for a standby application that expires on December 31. Language in rule is clarified.

813-041-0025 – Repealed.

813-041-0027 – Allows the department to impose charges for handling the application and for attorney costs.

813-041-0030 – Rule language clarified.

ADMINISTRATIVE RULES

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-041-0000

Purpose and Objectives

The rules in OAR chapter 813, division 41, are adopted to carry out ORS 315.164 to 315.169 as they pertain to the Oregon Housing and Community Services Department. The purpose of the Farmworker Housing Tax Credit Program is to encourage the rehabilitation of existing housing and the construction or placement of additional housing for farmworkers.

Stat. Auth.: ORS 315.167 - 315.139 & 458.650

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02; OHCS 3-2009(Temp), f. & cert. ef. 12-15-09 thru 6-12-10; OHCS 6-2010, f. & cert. ef. 6-10-10

813-041-0010

Program Description and Application Requirements

(1) A taxpayer who is an owner or operator of farmworker housing, or a contributor, may obtain a letter of credit approval from the Department for the purpose of claiming a tax credit for a farmworker housing project if the taxpayer submits an application for the credit as required by ORS 315.167 and if the Department approves the application. The application must be submitted on the application form furnished by the Department and must comply with all requirements established by the Department.

(2) For the purpose of the requirement in ORS 315.167 that the application be made prior to six months after beginning a farmworker housing project, a project is begun on the date that site or structural work related to the project described in the application is begun or on the start date in the application, whichever date is later.

(3) To claim the tax credit for a year, a taxpayer must file the application under section (1) of this rule after January 2 of the year for which the credit is claimed, or after another date established in the Department's annual notice referred to in section (6) of this rule. An application is filed with the Department:

(a) As of the date of the postmark of the United States Postal Service if the application is mailed;

(b) As of the date printed by the Department fax machine if the application is sent electronically by facsimile; or

(c) As of the date stamped by the Department if the application is hand delivered.

(4) An application is not eligible for approval if the application is filed before the applicable date under section (2) of this rule.

(5) A taxpayer may apply to the Department for a waiver of the length of time for which the taxpayer must show the housing continues to be operated as farmworker housing as authorized by ORS 315.164 by submitting to the Department an application for the waiver on the form furnished by the Department and by complying with all requirements established by the Department. The factors necessary for the Department to grant such a waiver are as follows: Documentation of a decline in a particular area for farmworker housing; and

(6) A taxpayer is responsible for being informed of current information provided by the Department through its annual notice, in which the Department announces matters pertaining to the program for the year, including any changes to the program. The notice is available from the Department and is posted on the Department's website.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 315.167 - 315.169 & 458.650

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02; OHCS 3-2009(Temp), f. & cert. ef. 12-15-09 thru 6-12-10; OHCS 6-2010, f. & cert. ef. 6-10-10

813-041-0015

Evaluation of Applications.

(1) The Department's evaluation and approval of an application under OAR 813-041-0010 is subject to the annual limitation on the total of estimated eligible costs for all approved projects for the calendar year under ORS 315.167 and to the applicable prioritizing process established by the Department. The process may be a first come-first reviewed process, a competitive review process, an evaluation as a demonstration program, or a process necessary to meet an on-going concern.

(2) The Department may create a 'soft set-aside' of credits solely for on-farm projects. Such set-aside will extend to June 30 of the given calendar year. Credits not awarded by that time shall be made available to any otherwise viable project.

(3) Applications are subject to evaluation by the Department according to criteria that include but are not limited to the following:

(a) Completeness, level of detail and accuracy of the information included in the application;

(b) The qualifying status of the taxpayer, the proposed project and the costs included in the estimated eligible costs; and

(c) Any other criteria established in the application form and announced in the annual notice.

(4) An application is subject to one or more of the following actions by the Department:

(a) An application determined by the Department in the evaluation process not to include specific or substantial information about the project or to be incomplete in any respect may be returned to the taxpayer as not filed;

(b) A request to the taxpayer to provide, within 15 days, any information deemed missing and, if the information is not timely submitted, the application may be returned as not filed;

(c) Limiting the tax credit award to the minimum amount required to make the project financially viable; or

(d) Issuance of a letter by the Department that indicates the level of farmworker housing tax credit award needed for leverage or match in an application for state or federal funds.

Stat. Auth.: ORS 315.167 315.169 & 458.650

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02; OHCS 3-2009(Temp), f. & cert. ef. 12-15-09 thru 6-12-10; OHCS 6-2010, f. & cert. ef. 6-10-10

813-041-0020

Standby Applications

(1) If the application of a taxpayer under OAR 813-041-0010 is subject to disapproval by the Department solely for the reason that the estimated eligible costs, when aggregated with the estimated eligible costs of all projects approved to that date for the calendar year, exceed the limitation on the total of estimated eligible costs under ORS 315.167, the taxpayer may:

(a) Request reduction of the estimated eligible costs for the project to an amount that, when aggregated with the estimated eligible costs of all projects approved to that date for the calendar year, would not exceed the limitation; or

(b) Request that the Department place the taxpayer on a standby list for future possible eligibility.

(2) Applications on a standby list under this rule are subject to maintenance in any order determined by the Department if they are otherwise determined in the evaluation process to be appropriate for approval.

(3) An application is subject to selection and processing for approval by the Department whenever the Department determines for any reason that credit available under the limitation on the total of estimated eligible costs later in a given calendar year. The taxpayer may update the taxpayer's application as needed within the time provided by the Department.

(4) All outstanding standby applications expire on December 31 of the calendar year of application.

Stat. Auth.: ORS 315.167 - 315.169 & 458.650

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02; OHCS 3-2009(Temp), f. & cert. ef. 12-15-09 thru 6-12-10; OHCS 6-2010, f. & cert. ef. 6-10-10

813-041-0027

Charges

When a taxpayer applies for a letter of credit approval under OAR 813-041-0010, the taxpayer shall pay any charge imposed by the Department for handling the application, including a charge for the cost of Department of Justice services required in its review of changes requested by the taxpayer to a document required in connection with the tax credit.

Stat. Auth.: ORS 315.164 - 315.169

Stats Implemented: ORS 315.167

Hist.: OHCS 3-2009(Temp), f. & cert. ef. 12-15-09 thru 6-12-10; OHCS 6-2010, f. & cert. ef. 6-10-10

813-041-0030

Monitoring

A taxpayer to whom a letter of credit approval is issued is subject, during the term the tax credit is being used, to monitoring by the Department to ensure compliance with the provisions of ORS 315.163 to 315.167 that apply to the Department, with OAR 813-041-0000 to 813-041-0030 and with terms of the letter of credit approval.

Stat. Auth.: ORS 315.167-315.169

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02; OHCS 3-2009(Temp), f. & cert. ef. 12-15-09 thru 6-12-10; OHCS 6-2010, f. & cert. ef. 6-10-10

ADMINISTRATIVE RULES

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Clarifies SB 897 provisions regarding retirement credit for retroactive salary payments.

Adm. Order No.: PERS 2-2010

Filed with Sec. of State: 5-28-2010

Certified to be Effective: 5-28-10

Notice Publication Date: 4-1-2010

Rules Amended: 459-011-0050

Rules Repealed: 459-010-0042

Subject: SB 897 provides that if retroactive payment of wages is included in the salary of an employee, the employee shall receive retirement credit for the periods to which the payment is allocated.

OAR 459-010-0042 (Repeal): All sections of this rule other than section (4) are redundant and do not require clarification in OAR. The only relevant section (4) is being moved into OAR 459-011-0050.

OAR 459-011-0050: The proposed changes to this rule incorporate the voluntary redeposit section (4) from repealed OAR 459-010-0042.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-011-0050

Forfeiture and Restoration of Service Rights

(1) A member who, pursuant to ORS 238.265, withdraws the amount credited to the member's account forfeits all membership rights accrued under ORS chapter 238 before the date of the withdrawal, including any service rights attributable to employment before the date of the withdrawal.

(2) Any such person who reenters the service of a participating employer within five years from the date of the last separation from employment that preceded the member's withdrawal may, at any time during the one-year period immediately following the date of reemployment, repay to PERS, in a single lump sum payment, an amount equal to the amount withdrawn plus the earnings the amount withdrawn would have accumulated from the date of withdrawal to the date of repayment.

(3) Upon repayment as described in section (2) of this rule, the PERS Chapter 238 Program membership and service rights forfeited by the withdrawal will be restored. The former member will reestablish membership in the PERS Chapter 238 Program on the first day of the month following the date of the repayment. Service by the former member from date of reemployment to the date membership is reestablished shall be attributed to the PERS Chapter 238 Program. The withdrawn member account will be reestablished in the amount of the repayment.

(4) An employee who is terminated from employment, withdraws the member account under ORS 238.265, and is reinstated to employment in connection with a retroactive payment may restore membership and service rights within the time period described in section (2) of this rule or within one year from the date the employee actually returns to employment, whichever is later. A retroactive payment must be allocated pursuant to section 2, chapter 1, Oregon Laws 2010. So allocated, the payment must be used in the determination of employee and employer contributions and in the calculation of benefits.

(5) Notwithstanding the provisions of this rule, a member who withdraws pursuant to ORS 238.265 and receives an additional amount pursuant to section 2, chapter 276, Oregon Laws 2003, may not reestablish membership under section (2) of this rule.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.105, 2007 OL Ch. 769 & 2010 OL Ch. 1

Hist.: PER 8, f. 12-15-55; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0060; PERS 2-2007, f. & cert. ef. 1-23-07; PERS 17-2007, f. & cert. ef. 11-23-07; PERS 2-2010, f. & cert. ef. 5-28-10

.....

Rule Caption: Adopt housekeeping updates to various rules and repeal obsolete rules.

Adm. Order No.: PERS 3-2010

Filed with Sec. of State: 5-28-2010

Certified to be Effective: 5-28-10

Notice Publication Date: 3-1-2010

Rules Amended: 459-005-0001, 459-015-0001, 459-015-0005, 459-010-0010, 459-010-0014, 459-075-0150

Rules Repealed: 459-009-0120, 459-014-0100

Subject: Modify "effective date of withdrawal" definition to reduce incidence of mandatory repayment. Define "granted service" and clarify its application to disability retirement allowance calculations. Clarify the interaction of the leave without pay (LWOP), creditable service, and retirements credit rules. Rules addressing employer recordkeeping for multiple qualified retirement plans and distribution of a member's account in the event of death have been rendered obsolete by changes in state and federal law.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0001

Definitions, Generally

The words and phrases used in chapter 459, Oregon Administrative Rules, have the same meaning given them in ORS 238.005 to 238.750. Specific and additional terms used in chapter 459 generally are defined as follows unless context of a particular division or rule within this chapter requires otherwise:

(1) "Ad hoc" means one-time for a specific purpose, case, or situation without consideration of a broader application.

(2) "After-tax" contributions means:

(a) Member contributions required or permitted by ORS 238.200 or 238.515, which a participating employer has not elected to "pick up," assume or pay in accordance with ORS 238.205 and 238.515(b). "After-tax" contributions are included in the member's taxable income for purposes of state or federal income taxation at the time paid to PERS. "After-tax" contributions are included in computing FAS and in computing the employer's contributions paid to PERS.

(b) Payments made by a member to PERS for the purchase of additional benefits.

(3) "Before-tax" contributions means member contributions required or permitted by ORS 238.200 or 238.515, which a participating employer has elected to "pick up," assume or pay in accordance with ORS 238.205 and 238.515(b). "Before-tax" contributions are not included in the member's taxable income for purposes of state or federal income taxation at the time paid to PERS. "Before-tax" contributions are included in:

(a) Computing final average salary; and

(b) Computing the employer's contributions paid to PERS if the employer has elected to "pick up" the member contributions.

(4) "Calendar month" means the Julian Calendar beginning with the first calendar day of a month through the last calendar day of that month.

(5) "Casual worker" means an individual engaged for incidental, occasional, irregular, or unscheduled intervals or for a period of less than six consecutive calendar months.

(6) "Contributions" means any contributions required or permitted pursuant to ORS 238.200 or 238.515.

(7) "Differential wage payment" means a payment made on or after January 1, 2009:

(a) By an employer to a member with respect to any period during which the member is performing service in the uniformed services, as defined in USERRA, while on active duty for a period of more than 30 consecutive days; and

(b) That represents all or a portion of the wages the member would have received from the employer if the member were performing service for the employer.

(8) "Effective date of withdrawal" means the later of:

(a) The first day of the calendar month in which PERS receives the last completed document required from a member who requested a withdrawal; or

(b) The first day of the second calendar month following the calendar month in which the member terminated employment with all participating employers and all employers in a controlled group with a participating employer.

(9) "Effective retirement date" means:

(a) For service retirements, the date described in OAR 459-013-0260; or

(b) For disability retirements, the date described in OAR 459-015-0015.

(10) "Elected official" means an individual who is a public official holding an elective office or an appointive office with a fixed term for the state or for a political subdivision of the state who has elected to participate in PERS pursuant to ORS 238.015(5).

(11) "Emergency worker" means an individual engaged in case of emergency, including fire, storm, earthquake, or flood.

ADMINISTRATIVE RULES

(12) "Employee" has the same meaning as provided in ORS 238.005(7) and shall be determined in accordance with OAR 459-010-0030.

(a) For the purposes of ORS 238.005 to 238.750 the term "employee" includes public officers whether elected or appointed for a fixed term.

(b) The term "employee" does not include:

(A) A member of the governing board of a political subdivision unless the individual qualifies for membership under ORS 238.015.

(B) An individual who performs services for a public employer as a contractor in an independently established business or as an employee of that contractor in accordance with OAR 459-010-0030.

(c) An individual providing volunteer service to a public employer without compensation for hours of service as a volunteer, except for volunteer firefighters who establish membership in accordance with ORS 238.015(6).

(13) "Employer contribution account" means a record of employer contributions to the Fund, as required by ORS 238.225(1), and investment earnings attributable to those contributions, that the Board has credited to the account after deducting amounts required or permitted by ORS Chapter 238.

(14) "Employment" is compensated service to a participating employer as an employee whose:

(a) Period or periods of employment includes only the actual hours of compensated service with a participating employer as an employee; and

(b) Compensated service includes, but is not limited to, paid vacation, paid sick leave, or other paid leave.

(15) "Estimate" means a projection of benefits prepared by staff of a service or disability retirement allowance, a death or a refund payment. An estimate is not a guarantee or promise of actual benefits that eventually may become due and payable, and PERS is not bound by any estimates it provides. (ORS 238.455(6))

(16) "FAS" and "final average salary" have the same meaning as provided in:

(a) ORS 238.005(8) for all PERS Tier One members;

(b) ORS 238.435(2) for all PERS Tier Two members who are not employed by a local government as defined in ORS 174.116;

(c) ORS 238.435(4) for all PERS Tier Two members who are employed by a local government as defined in ORS 174.116; or

(d) ORS 238.535(2) for judge members of PERS for service as a judge.

(17) "General service member" means membership in PERS as other than a judge member, a police officer, a firefighter, or a legislator.

(18) "Good cause" means a cause beyond the reasonable control of an individual. "Good cause" exists when it is established by satisfactory evidence that factors or circumstances are beyond the reasonable control of a rational and prudent individual of normal sensitivity, exercising ordinary common sense.

(19) "Independent contractor" means an individual or business entity that is not subject to the direction and control of the employing entity as determined in accordance with OAR 459-010-0032.

(20) "Judge member" has the same meaning as provided in ORS 238.500(3). For purposes of this chapter, active, inactive, and retired membership of a judge member shall have the same meaning as ORS 238.005(12)(b), (c), and (d), respectively.

(21) "Legislator" means an individual elected or appointed to the Oregon Legislative Assembly who has elected to participate in PERS pursuant to ORS 238.015(5) as a member of the Oregon Legislative Assembly as provided in ORS 238.068.

(22) "Member cost" means after-tax member contributions and payments made by or on behalf of a member to purchase additional benefits.

(23) "Participating employer" means a public employer who has one or more employees who are active members of PERS.

(24) "PERS" and "system" have the same meaning as the Public Employees Retirement System in ORS 238.600.

(25) "Qualifying position" has the same meaning as provided in ORS 238.005(19).

(26) "Regular account" means the account established under ORS 238.250 for each active and inactive member who has made contributions to the Fund or the account of an alternate payee of such a member.

(27) "Salary" has the same meaning as provided in ORS 238.005(21).

(a) "Salary" includes a differential wage payment, as defined in this rule.

(b) For a Tier One member, a lump sum payment for accrued vacation pay is considered salary:

(A) In determining employee and employer contributions.

(B) In determining final average salary for the purpose of calculating PERS benefits.

(c) For a Tier Two member, a lump sum payment for accrued vacation pay:

(A) Is considered salary in determining employee and employer contributions.

(B) Is not considered salary in determining final average salary for the purpose of calculating PERS benefits.

(28) "Seasonal worker" means an individual whose engagement is characterized as recurring for defined periods that are natural divisions of the employer's business cycle or services.

(29) "Staff" means the employees of the Public Employees Retirement System as provided for in ORS 238.645.

(30) "Tier One member" means a member who established membership in the system before January 1, 1996, as defined in ORS 238.430(2).

(31) "Tier Two member" means a member who established membership in the system on or after January 1, 1996, in accordance with ORS 238.430.

(32) "USERRA" means the federal Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301-4334, as in effect on the effective date of this rule.

(33) "Vacation pay" means a lump sum payment for accrued leave in a Vacation Leave Program provided by a public employer which grants a period of exemption from work for rest and relaxation with pay, and does not include:

(a) Sick leave programs;

(b) Programs allowing the accumulation of compensatory time, holiday pay or other special leaves unless the public employer's governing body indicates by resolution, ordinance, or other legislative process, that such leave is intended to serve as additional vacation leave; and

(c) Other programs, such as a Personal Time Off (PTO) plan, which are a combination of vacation, sick, bereavement, personal and other leaves of pay as defined and described by a public employer unless the employer has a written policy that clearly indicates the percentage of the plan that represents vacation leave. If the employer's PTO has a cash option, the employer must report to PERS the amount of any lump sum pay-off for the percentage that represents vacation leave.

(34) "Variable account" and "member variable account" mean the account in the Variable Annuity Account established under ORS 238.260(2) for each active and inactive member who has elected to have amounts paid or transferred into the Variable Annuity Account.

(35) "Variable Annuity Account" means the account established in ORS 238.260(2).

(36)(a) "Volunteer" means an individual who performs a service for a public employer, and who receives no compensation for the service performed.

(b) The term "volunteer" does not include an individual whose compensation received from the same public employer for similar service within the same calendar year exceeds the reasonable market value for such service.

(37) "Year" means any period of 12 consecutive calendar months.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238

Hist.: PERS 2-1998, f. & cert. ef. 3-16-98; PERS 3-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03; PERS 12-2003, f. & cert. ef. 11-14-03; PERS 14-2003, f. & cert. ef. 11-20-03; PERS 15-2003, f. & cert. ef. 12-15-03; PERS 9-2004(Temp), f. 4-15-04 cert. ef. 5-21-04 thru 7-1-04; PERS 15-2004, f. & cert. ef. 6-15-04; PERS 19-2005, f. 11-1-05, cert. ef. 1-1-06; PERS 4-2006, f. & cert. ef. 4-5-06; PERS 1-2009, f. & cert. ef. 2-12-09; PERS 3-2010, f. & cert. ef. 5-28-10

459-015-0001

Definitions

The words and phrases used in this division have the same meaning given them in ORS Chapter 238 and OAR 459-005-0001. Additional terms are defined as follows unless the context requires otherwise.

(1) "Any work for which qualified" means a job, not necessarily the last or usual job, which the applicant for a disability retirement allowance:

(a) Is physically and psychologically capable of performing; and

(b) Has, or may obtain with reasonable training the knowledge, skills and abilities, to perform the job.

(2) "Certified vocational consultant" means a person who satisfies the criteria set forth under either of the following:

(a) A Master's Degree in vocational rehabilitation, and one year of experience in performing vocation evaluations or developing individualized return-to-work plans; or a Bachelor's Degree and two years of such experience. All degrees must have been earned at an accredited institution; or

ADMINISTRATIVE RULES

(b) Accredited as a Certified Rehabilitation Counselor (CRC) by the Commission on Rehabilitation Counselor Certification; as a Certified Disability Management Specialist (CDMS) by the Certification of Disability Management Specialists Commission; or a Certified Vocational Evaluation Specialist (CVE) or a Certified Work Adjustment Specialist (CWA) by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.

(3) "Confidential information" means information of a personal nature such that disclosure would constitute an unreasonable invasion of privacy as defined by state law.

(4) "Date of disability" means the later of:

(a) The day an active member ceased to work because of injury or disease;

(b) The date an inactive member separated from employment if the inactive member applies for a disability retirement allowance within five years from date of separation and the disability has been continuous from the date of separation; or

(c) The date an inactive member was disabled if such disability occurred within six months from date of separation.

(5) "Date of termination" means the date a member terminates from employment such that an employee/employer relationship no longer exists; the last day worked (physically on the job), the last day of paid leave, or the last day of an official leave of absence, whichever is the later.

(6) "Extended duration" means a period of not less than 90 consecutive calendar days, unless the disability is expected to result in the death of the disabled member in less than 90 days.

(7) "Granted service" means that portion of creditable service used solely to calculate a disability retirement allowance under ORS 238.320 that is not performed or earned.

(8) "Independent medical exam" means an exam or exams conducted by a physician chosen by PERS for purposes other than treatment which results in the issuance of a report or reports based on those exams, giving an opinion regarding the claimed injury or disease.

(9) "Material contributing cause" means the efficient, dominant, and proximate cause of the disability, without which the member would not be disabled.

(10) "Monthly salary" means "salary" as defined in ORS 238.005(21)(a) that is earned in the last full calendar month of employment, and includes employer payments under ORS 238.205. This includes a differential wage payment as defined in OAR 459-005-0001.

(a) Retroactive payments or payments made due to clerical errors, paid in accordance with ORS 238.005(21)(b)(C), are allocated to the period the salary was earned or should have been earned.

(b) Payments of salary paid within 31 days of separation are allocated to the period the salary was earned and should be considered as paid on the last date of employment.

(11) "Monthly salary received" means the greater of the monthly salary paid for the last full calendar month of:

(a) Employment before the date of disability; or

(b) Differential wage payments made before the date of disability.

This subsection is effective January 1, 2009.

(12) "Normal retirement age" means the age at which a member can retire without a reduced benefit as set forth under ORS 238.005 and 238.280.

(13) "Other income" means income that includes, but is not limited to:

(a) Salary or wages received as an employee;

(b) Self-employment income from:

(A) Services industry;

(B) Sales;

(C) Assembly or manufacturing;

(D) Consulting;

(E) Property management;

(F) Hobby income; or

(G) Book advances.

(c) "Other income" does not include:

(A) Investment income;

(B) Rent; and

(C) Royalties.

(14) "Performance of duty" means mental or physical incapacitation arising out of and in the course of duty and is not intentionally self-inflicted. The injury or disease must be initially caused, aggravated or accelerated to cause incapacitation by the performance of the member's duties in the employment of a participating public employer. The job must be the material contributing cause of the injury or disease. Performance of duty

includes whatever an employee may be directed, required or reasonably expected to do in connection with his or her employment, and not solely the duties peculiar to his or her position.

(15) "Periodic review" means a review of a member receiving a disability retirement allowance to determine whether or not a continued allowance is warranted.

(16) "Physician" means a medical doctor, a doctor of osteopathy, a doctor of oral surgery, a chiropractic doctor, a naturopathic doctor, or a doctor of psychology practicing only within the purview of their license issued by the designated authority of a state.

(17) "Pre-existing condition" means a condition that was not sustained in actual performance of duty with the current employer.

(18) "Protected health information" means health information created or received by a health care provider, health plan, or health care clearinghouse, where an individual has a reasonable belief that the information can identify the individual, which relates to:

(a) The past, present, or future physical or mental health of an individual;

(b) The provision of health care to an individual; or

(c) The past, present, or future payment for the provision of health care to an individual.

(19) "Separation from all service entitling the member to membership in the system" means the last day worked (physically on the job), the last day of paid leave, or the last day of an official leave of absence, whichever is the later.

(20) "Similar in compensation" means salary or income, excluding overtime, equaling at least 80% of the monthly salary, as defined in section (10) of this rule.

(21) "Similar location: A position in the same general area of the applicant's residence or last employment location.

(22) "Training or vocational rehabilitation program" means a comprehensive, coordinated program, usually state or federally funded, to train and assist individuals with disabilities in securing gainful employment commensurate with their abilities and capabilities.

(23) "Vocational evaluation" means an evaluation conducted by a certified vocational consultant, to determine the ability of an applicant to perform any work for which they are qualified.

(24) "Work related stress" means conditions or disabilities resulting from, but not limited to:

(a) Change of employment duties;

(b) Conflicts with supervisors;

(c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;

(d) Relationships with supervisors, coworkers, or the public;

(e) Specific or general job dissatisfaction;

(f) Work load pressures;

(g) Subjective perceptions of employment conditions or environment;

(h) Loss of job or demotion for whatever reason;

(i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;

(j) Objective or subjective stresses of employment; or

(k) Personnel decisions.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.320 - 238.345 & 238.435(5)

Hist.: PERS 15-2005, f. & cert. ef. 10-3-05; PERS 1-2009, f. & cert. ef. 2-12-09; PERS 3-2010, f. & cert. ef. 5-28-10

459-015-0005

Eligibility for Disability Retirement Allowances

Eligibility for Disability Retirement Allowances

(1) Total, not partial disability, for an extended duration is required and eligibility for a disability retirement allowance requires that:

(a) A member be disabled to such an extent that the member is unable to perform any work for which qualified; and

(b) Is unable to generate any income that is similar in compensation as of date of disability.

(2) In determining a member's eligibility for a disability retirement allowance, the burden of proof is upon the applicant. The Board is not required to prove whether the applicant is or is not eligible for a disability retirement allowance.

(3) Eligibility requirements for duty disabilities.

(a) Applicants with less than 10 years of PERS employment must establish that they are members of PERS and were disabled while in the actual performance of duty.

ADMINISTRATIVE RULES

(b) A member who has a pre-existing condition must prove that the material contributing cause of the disability was sustained while in actual performance of duty.

(c) Work related stress will not be considered as the material contributing cause of a duty disability unless the applicant establishes all of the following:

(A) The employment conditions producing the work-related stress exist in a real and objective sense;

(B) The employment conditions producing the work-related stress are conditions other than conditions generally inherent in every working situation or reasonable disciplinary, corrective or job performance evaluation actions by the employer, or cessation of employment or employment decisions attendant upon ordinary business or financial cycles;

(C) There is a diagnosis of a mental or emotional disorder which is generally recognized in the medical or psychological community; and

(D) There is evidence that the work-related stress arose out of and in the course of employment.

(4) Eligibility requirements for non-duty disabilities. Eligible applicants must have a minimum of 10 years of employment as calculated pursuant to ORS 238.320(6).

(5) A member's disability retirement allowance shall be calculated based on:

(a) Creditable service; and

(b) Granted service if the member had not attained:

(A) Age 55 if the last qualifying position was as a police officer or a firefighter.

(B) Age 58 if the last qualifying position was as other than a police officer or firefighter.

(6) Granted service is:

(a) Not included in the calculation of increased benefits payable under ORS 238.380.

(b) Included in the calculation of increased benefits payable under ORS 238.385.

(7) Termination of membership. Disability retirement allowances are available only to PERS members. PERS membership is terminated by either loss of membership or withdrawal of the member account balance as provided in ORS 238.095. Therefore, former PERS members who have terminated their membership through loss of membership or withdrawal are not eligible to receive PERS disability retirement allowances.

Stat. Auth.: ORS 238.650 & 238.095

Stats. Implemented: ORS 238.320 - 238.345

Hist.: PERS 2-1992, f. & cert. ef. 1-14-92; PERS 15-2005, f. & cert. ef. 10-3-05; PERS 3-2010, f. & cert. ef. 5-28-10

459-010-0010

Leave of Absence Without Pay

(1) For purposes of this rule:

(a) "Business day" means a day Monday through Friday when PERS is open for business.

(b) "Major fraction of a month" means a minimum of 11 business days in a calendar month.

(2) Employer/Employee Agreement. An official leave of absence without pay for any purpose must have the following in order to be considered bona fide:

(a) An agreement in writing;

(b) Accordance with the applicable law, rules and regulations;

(c) The duration specifically stated at the time of granting; and

(d) Certification to PERS by the employer granting such leave.

(3) Creditable Service and Retirement Credit.

(a) A leave of absence without pay occurring on or after July 1, 1987, which constitutes the major fraction of a month:

(A) May not be used to calculate "years of membership" under ORS 238.300; and

(B) May not be used to determine "creditable service" or "retirement credit" under ORS 238.005.

(b) A leave of absence without pay occurring before July 1, 1987, which constitutes the major fraction of a month:

(A) Must be used to calculate "years of membership" under ORS 238.300; and

(B) Must be used to determine "creditable service" and "retirement credit" under ORS 238.005.

(c) A leave of absence without pay occurring on or after January 1, 2004, which constitutes the major fraction of a month may not be used to determine "retirement credit" under ORS 238A.140 for any period of employment after the date membership is established under ORS 238A.100.

(4) Reporting Requirement. Unless otherwise agreed upon by PERS, the employer shall report the following in a format acceptable to PERS:

(a) Any period of leave of absence without pay, which constitutes the major fraction of a month, for each member at the time the leave begins. The reported period of leave of absence without pay must include an end date.

(b) Any amendment or extension to a previously reported period of leave of absence without pay.

(5) A PERS member on an official leave of absence without pay is not considered terminated from service with a participating employer.

(6) An employee on an official leave of absence without pay on the date the employer begins to participate in PERS, shall be considered to be an employee on such date for the purpose of determining eligibility for participation in PERS.

(7) A layoff from employment does not constitute a leave of absence without pay.

Stat. Auth.: ORS 238.650 & 238A.450

Stats. Implemented: ORS 238.300 & 238A.140

Hist.: PER 8, f. 12-15-55; PERS 12-1998, f. & cert. ef. 12-17-98; PERS 12-2001, f. 12-14-01, cert. ef. 1-1-02; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 15-2008, f. & cert. ef. 11-26-08; PERS 3-2010, f. & cert. ef. 5-28-10

459-010-0014

Creditable Service in PERS Chapter 238 Program

(1) For purposes of this rule:

(a) "Active member" has the same meaning as provided in ORS 238.005(12)(b).

(b) "Creditable service" has the same meaning as provided in ORS 238.005(5).

(c) "Major fraction of a month" means a minimum of 50 hours in any calendar month in which an active member is being paid a salary by a participating public employer and for which benefits under ORS Chapter 238 are funded by employer contributions.

(2) Except as provided in OAR 459-010-0010(3), an active member accrues one month of creditable service for each month in which the member performs service for the major fraction of the month.

(3) An active member is presumed to have performed service for a major fraction of a month if:

(a) The member performs at least 600 hours of service in the calendar year and the member's employer(s) reports salary and hours for a pay period occurring within the calendar month;

(b) The member starts employment on or before the 15th day of the calendar month and the employment continues through the end of the month;

(c) The member starts employment on or before the first day of the calendar month and ends employment on or after the 16th day of the month; or

(d) The member starts employment on or before the first day of the calendar month and ends employment before the 16th day of the month, but is reemployed in a qualifying position before the end of the month.

(4) A member or employer may seek to rebut the determination of creditable service based on the presumptions in section (3) by providing to PERS records that establish that the member did or did not perform service for a major fraction of a month as defined in subsection (1)(c) of this rule.

(5) Except as provided in OAR 459-010-0010(3), an active member who is a school employee will accrue six months of creditable service if the member performs service for a major fraction of each month of a school year that falls between January 1 and June 30, and six months of creditable service if the member performs service for a major fraction of each month of a school year that falls between July 1 and December 31.

(6) A member may not accrue more than one month of creditable service for any calendar month and no more than one year of creditable service for any calendar year.

(7) The provisions of this rule are effective for service credit determinations made on or after January 1, 2008.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.005 & 238.300

Hist.: PERS 6-2005, f. & cert. ef. 2-22-05; PERS 24-2005, f. 12-23-05, cert. ef. 1-1-06; PERS 15-2007, f. & cert. ef. 11-23-07; PERS 1-2008(Temp), f. & cert. ef. 4-2-08 thru 9-26-08; PERS 9-2008, f. & cert. ef. 5-21-08; PERS 3-2010, f. & cert. ef. 5-28-10

459-075-0150

Retirement Credit

(1) For purposes of this rule:

(a) "Active member" has the same meaning as provided in ORS 238A.005(1).

(b) "Major fraction of a month" means a minimum of 50 hours in any calendar month in which an active member is being paid a salary by a par-

ADMINISTRATIVE RULES

icipating public employer and for which benefits under ORS Chapter 238A are funded by employer contributions.

(2) Except as provided in OAR 459-010-0010(3), an active member accrues one month of retirement credit for each month in which the member performs service for the major fraction of the month.

(3) An active member is presumed to have performed service for a major fraction of a month if:

(a) The member performs at least 600 hours of service in the calendar year and the member's employer(s) reports salary and hours for a pay period occurring within the calendar month;

(b) The member starts employment on or before the 15th day of the calendar month and the employment continues through the end of the month;

(c) The member starts employment on or before the first day of the calendar month and ends employment on or after the 16th day of the month; or

(d) The member starts employment on or before the first day of the calendar month and ends employment before the 16th day of the month, but is reemployed in a qualifying position before the end of the month.

(4) A member or employer may seek to rebut the determination of creditable service based on the presumptions in section (3) by providing to PERS records that establish that the member did or did not perform service for a major fraction of a month as defined in subsection (1)(c) of this rule.

(5) Except as provided in OAR 459-010-0010(3), an active member who is a school employee will accrue six months of retirement credit if the member performs service for a major fraction of each month of a school year that falls between January 1 and June 30, and six months of creditable service if the member performs service for a major fraction of each month of a school year that falls between July 1 and December 31.

(6) A member may not accrue more than one month of retirement credit for any calendar month and no more than one year of retirement credit for any calendar year.

(7) Credit for the six-month waiting period required by OAR 459-075-0010(2).

(a) Upon establishing membership in the pension program, a member shall receive credit for the waiting period required to establish membership under OAR 459-075-0010(2).

(b) If the member's waiting period before establishment of membership included an interruption of service as described in OAR 459-075-0010(2)(b), no credit shall be awarded for the period of employment before the interruption.

(8) The provisions of this rule are effective for retirement credit determinations made on or after January 1, 2008.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.140

Hist.: PERS 6-2004, f. & cert. ef. 2-18-04; PERS 17-2007, f. & cert. ef. 11-23-07; PERS 3-2010, f. & cert. ef. 5-28-10

Rule Caption: Creates new rules and modifies existing rules within division 45 – Domestic relations Orders.

Adm. Order No.: PERS 4-2010

Filed with Sec. of State: 5-28-2010

Certified to be Effective: 5-28-10

Notice Publication Date: 2-1-2010

Rules Adopted: 459-045-0012, 459-045-0014, 459-045-0032, 459-045-0034

Rules Amended: 459-045-0001, 459-045-0010, 459-045-0020, 459-045-0030, 459-045-0040, 459-045-0050, 459-045-0060, 459-045-0080, 459-045-0090

Rules Repealed: 459-045-0000

Subject: Create new rules to address domestic relations orders for alternate payees of members of the Chapter 238A OPSRP Pension Program and Individual Account Program (IAP). Modify existing rules to reference Chapter 238A and to streamline processes. Repeal redundant rule.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-045-0001

Definitions

The words and phrases used in this division have the same meaning given them in ORS Chapters 238 and 238A. Specific and additional terms for purposes of this division are defined as follows unless context requires otherwise.

(1) "Administrable" means that the language in a final court order that outlines an alternate payee award can be administered within the provisions of ORS Chapters 238, 238A, and this division.

(2) "Alternate payee" means the recipient of an award of a portion or all of a PERS member's account(s) or benefits as provided for in the terms of any judgment of annulment, dissolution of marriage, dissolution of registered domestic partnership, or separation, or the terms of any court order or court-approved property settlement agreement incident to any judgment of annulment, dissolution of marriage, dissolution of registered domestic partnership, or separation.

(3) "Alternate payee account" means a court-ordered separate account created under ORS 238.465 in the name of an alternate payee.

(4) "Alternate payee release" means a written statement that is signed by the alternate payee and received by PERS authorizing the release of information, and directing to whom and where the information is to be sent pertaining to:

(a) The alternate payee's interest in the member's account(s) or member's vested interest in the Fund;

(b) The alternate payee's account and benefit information if a separate account has been created in the name of the alternate payee;

(c) Benefit information applicable to either subsection (a) or (b) of this section; and

(d) Award information contained in any draft or final court order in regard to the alternate payee on record with PERS.

(5) "Award" means the portion of a member's account(s) or of the member's benefits under ORS Chapter 238 or 238A awarded to an alternate payee by a final court order.

(6) "Court order" means a court decree or judgment of annulment, dissolution of marriage, dissolution of registered domestic partnership, or separation, or the terms of any court order or court-approved property settlement agreement incident to any judgment of annulment, dissolution of marriage, dissolution of registered domestic partnership, or separation, which includes the content of any PERS divorce forms attached as exhibits.

(7) "Deduction" means an alternate payee's award is subtracted from the member's benefit(s) after tax.

(8) "Draft court order" means an order for dividing a PERS account(s) or benefits that has been prepared but not approved or signed by the court or filed with the court clerk, which includes the content of any PERS divorce forms attached as exhibits.

(9) "Final court order" means a court order that has been signed by a judge and shows the stamp of the court clerk or trial court administrator indicating the order is a certified copy of the original record that is on file with the court.

(10) "Joint and survivor annuity" means any retirement annuity option under which a monthly lifetime annuity is payable to a surviving beneficiary of a member.

(11) "Married time ratio" means the fraction in which the numerator is the years and months of creditable service time or retirement credit accrued by the member during a specified period or while married to or in a registered domestic partnership with the alternate payee as provided in the court order and the denominator is the member's total creditable service time or retirement credit accrued by the member at the time of retirement.

(12) "Member" means a person described in ORS 238.005(12), 238.500(3), or 238A.005(10), who is the current or former spouse or partner of an alternate payee.

(13) "Member release" means a written statement that is signed by a member and received by PERS authorizing the release of information, and directing to whom and where information is to be sent pertaining to:

(a) The member's account(s);

(b) The member's interest in the Fund;

(c) Benefit information applicable to either subsection (a) or (b) of this section; and

(d) Award information contained in any draft or final court order in regard to the member on record with PERS.

(14) "Partner" has the same meaning as defined in ORS 106.310(2)

(15) "PERS divorce forms" means the forms provided by PERS that must be completed to describe a court order's provisions relating to administration of a member's benefit that is subject to that order.

(16) "Reduction" means an alternate payee's award is subtracted from the member's benefit(s) before tax.

(17) "Registered domestic partnership" has the same meaning as domestic partnership as defined in ORS 106.310(1).

Stat. Auth.: ORS 238.465, 238.650 & 238A.450

Stats. Implemented: ORS 238.465

Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 3-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03; PERS 14-2003, f. & cert. ef. 11-20-03; PERS 19-2005, f. 11-1-05, cert. ef. 1-1-06; PERS 4-2010, f. & cert. ef. 5-28-10

ADMINISTRATIVE RULES

459-045-0010

Chapter 238 Tier One / Tier Two Division of Benefits

(1) A final court order that provides for a division of benefits must use a method described in this rule.

(a) The method must be identified on PERS divorce forms.

(b) The PERS divorce forms must be attached as exhibits to the court order, and incorporated by reference in the court order.

(2) Award of Alternate Payee Account (Non-Retired Member). If a final court order provides an award of an alternate payee account, the court order must provide:

(a) The date of annulment, separation, divorce, or property settlement.

If no date is provided, PERS will use the date the judge signed the court order. The separate account will be established as of December 31 of the calendar year before this date unless:

(A) A prior year is provided in the court order; or

(B) The date is December 31.

(b) That a separate account be established in an alternate payee's name.

(c) The method by which the award is to be calculated. One of the following methods must be used:

(A) A percentage, expressed with up to two decimal points; or

(B) A dollar amount.

(d) Whether an alternate payee is awarded matching employer dollars.

(e) That an alternate payee may elect to receive the award at any time after the member's earliest retirement eligibility.

(3) Award of Payment from Member's Monthly Benefit (Non-Retired Member). If a final court order awards an alternate payee a reduction or deduction amount from the monthly service or disability retirement benefit that shall be paid in the future to the member, the court order must provide:

(a) The date of annulment, separation, divorce, or property settlement.

If no date is provided, PERS will use the date the judge signed the court order.

(b) Whether the award is a reduction or deduction from the member's benefit. If the award is a reduction, the court order must provide whether the alternate payee is eligible to elect a separate benefit option at any time after the member reaches earliest retirement eligibility.

(c) The method by which the monthly award is to be calculated. One of the following methods must be used:

(A) A percentage, expressed with up to two decimal points; or

(B) A dollar amount; or

(C) A percentage of the married time ratio. The court order must provide:

(i) The percentage, expressed with up to two decimal points; and

(ii) The years and months of creditable service time accrued by the member during a specified period or while married to the alternate payee.

(d) If there is a specific end date or dollar amount limit to the award, and what that date or limit is.

(e) Whether the award applies to service retirement benefits, disability retirement benefits, or withdrawal benefits.

(f) Whether the member is restricted from withdrawing as a member under ORS 238.265.

(g) Whether the member must select a specific benefit payment option at retirement.

(h) Whether the member is required to designate the alternate payee as a beneficiary:

(A) Before retirement.

(B) At retirement.

(i) Whether an alternate payee award continues after the death of:

(A) The member.

(B) The alternate payee.

(4) Award of Monthly Benefit (Retired Member). If a final court order awards an alternate payee an amount payable from a retired member's monthly service or disability retirement benefit, the court order must provide:

(a) The date of annulment, separation, divorce, or property settlement.

If no date is provided, PERS will use the date the judge signed the court order.

(b) Whether an alternate payee award is a reduction or deduction from the member's monthly benefit.

(c) The method by which the monthly award is to be calculated. One of the following methods must be used:

(A) A percentage, expressed with up to two decimal points; or

(B) A dollar amount.

(d) If there is a specific end date or dollar amount limit to the award, and what that date or limit is.

(e) Whether the member may or must change their beneficiary designation. If the member's beneficiary designation is changed, the member's monthly benefit must be recalculated.

(f) Whether a member who elected Option 2A or 3A under ORS 238.305(1) is allowed to receive the Option 1 benefit under ORS 238.305(6).

(g) Whether an alternate payee award continues after the death of:

(A) The member.

(B) The alternate payee.

Stat. Auth.: ORS 238.465 & 238.650

Stats. Implemented: ORS 238.465

Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0012

OPSRP Pension Program Division of Benefits

(1) A final court order that provides for a division of pension benefits or disability benefits must use a method described in this rule.

(a) The method must be identified on PERS divorce forms.

(b) The PERS divorce forms must be attached as exhibits to the court order, and incorporated by reference in the court order.

(2) Award of Pension Benefits (Non-Retired Member). If a final court order awards an alternate payee a reduction or deduction amount from the monthly pension benefit that shall be paid in the future to the member, a court order must provide:

(a) The date of annulment, separation, divorce, or property settlement. If no date is provided, PERS will use the date the judge signed the court order.

(b) Whether the award is a reduction or deduction from the member's monthly pension. If the award is a reduction, the court order must provide whether the alternate payee is eligible to elect a separate benefit option at any time after the member reaches earliest retirement eligibility.

(c) The method by which the monthly award is to be calculated. One of the following methods must be used:

(A) A percentage, expressed with up to two decimal points; or

(B) A dollar amount; or

(C) A percentage of the married time ratio. If this method is used, the court order must provide:

(i) The percentage, expressed with up to two decimal points; and

(ii) The years and months of retirement credit accrued by the member during a specified period or while married to the alternate payee.

(d) If there is a specific end date or dollar amount limit to the award, and what that date or limit is.

(e) Whether the member must select a specific benefit payment option at retirement.

(f) Whether the member must designate the alternate payee as beneficiary.

(g) Whether the alternate payee and any minor children are awarded a percentage of any pre-retirement death benefit pursuant to ORS 238A.230.

(h) Whether the alternate payee award continues or ends after the member retires if:

(A) The member dies before the alternate payee and the member's beneficiary is not the alternate payee.

(B) If the alternate payee dies before the member.

(3) Award of Pension Benefits (Retired Member). If a final court order awards an alternate payee an amount to be paid from a retired member's monthly pension, the court order must provide:

(a) The date of annulment, separation, divorce, or property settlement. If no date is provided, PERS will use the date the judge signed the court order.

(b) Whether the award is a reduction or deduction from the member's monthly pension.

(c) The method by which the monthly award is to be calculated. One of the following methods must be used:

(A) A percentage, expressed with up to two decimal points; or

(B) A dollar amount.

(d) If there is a specific end date or dollar amount limit to the award, and what that date or limit is.

(e) Whether the member may or must change the beneficiary designation. If the member's beneficiary is changed, the member's pension must be recalculated.

(f) Whether a member, who elected to receive their pension under ORS 238A.190(1)(b) or (d), is allowed to receive the higher pension benefit under ORS 238A.190(2)(b).

ADMINISTRATIVE RULES

(g) Whether the alternate payee will be the sole beneficiary or any remaining share not awarded to the alternate payee shall be paid to the member's secondary beneficiary if the member dies before the alternate payee and the alternate payee was the member's beneficiary.

(h) Whether an alternate payee award continues or ends if:

(A) The member dies before the alternate payee and the member's beneficiary is not the alternate payee.

(B) The alternate payee dies before the member.

(4) Award of Disability Benefits. If a final court order awards an alternate payee an amount to be paid from the monthly disability benefit that is being paid or may be paid in the future to the member, the court order must provide:

(a) The date of annulment, separation, divorce, or property settlement. If no date is provided, PERS will use the date the judge signed the court order.

(b) Whether the award is a reduction or deduction from the member's monthly disability benefit.

(c) A percentage, expressed with up to two decimal points, of the member's monthly disability benefit that is awarded to the alternate payee.

Stat. Auth.: ORS 238.465, 238.650 & 238A.450

Stats. Implemented: ORS 238.465

PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0014

Individual Account Program (IAP) Division of Benefits

(1) A final court order that provides for a division of benefits must use a method described in this rule.

(a) The method must be identified on PERS divorce forms.

(b) The PERS divorce forms must be attached as exhibits to the court order, and incorporated by reference in the court order.

(2) Award of IAP Alternate Payee Account (Non-Retired Member). If a final court order provides an award of an alternate payee account to be established from the account balance of a member, the court order must provide:

(a) The date of annulment, separation, divorce, or property settlement. If no date is provided, PERS will use the date the judge signed the court order.

(A) The separate account will be established from the member's account balance as of December 31 of the calendar year before this date unless:

(i) A prior year is provided in the court order; or

(ii) The date is December 31.

(B) If the date in subsection (a) of this section is other than December 31, contributions made during that calendar year will not be included in the calculation of the alternate payee's award.

(b) That the separate account be established in an alternate payee's name.

(c) The method by which the award is to be calculated. One of the following methods must be used:

(A) A percentage, expressed with up to two decimal points; or

(B) A dollar amount.

(d) Whether the member may change their pre-retirement beneficiary designation, if the alternate payee was named as beneficiary.

(3) Award of IAP Alternate Payee Account (Retired Member). If a final court order provides an award of an alternate payee account to be established from the remaining account balance of a retired member receiving installment payments, to be effective on the date that PERS establishes the alternate payee account, the court order must provide:

(a) The date of annulment, separation, divorce, or property settlement. If no date is provided, PERS will use the date the judge signed the court order.

(b) That a separate account be established in an alternate payee's name.

(A) The effective date of the alternate payee account shall be as soon as administratively feasible after PERS receives and approves a final court order as administrable.

(B) The alternate payee will be notified when the account has been established.

(C) The alternate payee account shall be distributed in a lump sum payment.

(D) Any installment payments paid to the member before the alternate payee account is established will not be included in the award.

(c) The award as a percentage, expressed with up to two decimal points.

(d) Whether the member may or must change their beneficiary designation.

Stat. Auth.: ORS 238.465, 238.650 & 238A.450

Stats. Implemented: ORS 238.465

Hist.: PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0020

Court Orders

(1) A final court order must be received by PERS and approved as administrable before an alternate payee award can be established.

(a) PERS shall provide a written response as to whether a final court order is administrable to the member, the alternate payee, and their attorneys.

(b) Award information shall be provided to attorneys or other representatives of a member or an alternate payee only if a member release or an alternate payee release has been received by PERS.

(2) In the absence of a final court order, a restraining order or stay must be filed with PERS to prevent the distribution of any funds to a member.

(3) PERS shall establish an alternate payee award from a retired member's monthly benefit as soon as administratively feasible on a prospective basis only. Court orders that purport to award retroactive benefits or benefits to be paid before the final court order was received by PERS cannot be administered.

(4) If a final court order is received by PERS after a member has withdrawn from PERS under ORS 238.265, 238.545, 238A.120 or 238A.375, the final court order will be rejected as unadministrable.

Stat. Auth.: ORS 238.465, 238.650 & 238A.450

Stats. Implemented: ORS 238.465

Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0030

General Administration for Chapter 238 Tier One/Tier Two

(1) Alternate payee account.

(a) A percentage award will be applied against the member's regular account and if applicable, Variable Annuity Account. A dollar award will be applied proportionately against the member's regular account and if applicable, Variable Annuity Account.

(A) Once the amount of an alternate payee's award is determined, funds will be transferred to an alternate payee account.

(B) An alternate payee may not participate in the Variable Annuity Account program.

(C) Earnings and losses on the alternate payee's account will be based on regular account earning rates in accordance with OAR chapter 459, division 007 after the transfer.

(b) At the time of the alternate payee's death, if the provisions of ORS 238.395 are met by the member, the alternate payee's beneficiary will receive matching employer dollars regardless of whether a final court order awarded matching employer dollars.

(c) An alternate payee is not entitled to matching employer dollars if the alternate payee elects to receive the award in the form of a withdrawal, regardless of whether a final court order awarded matching employer dollars.

(d) At retirement, an alternate payee may elect one of the following benefit payment options, as described in ORS 238.305:

(A) Refund Annuity.

(B) Option 1.

(C) Option 4 (15 Year Certain).

(D) Lump-sum Option 1.

(E) Total lump-sum option.

(e) An alternate payee has 60 days from the date of the first actual, not estimated, payment to change the retirement option, except that the designation of beneficiary under the Refund Annuity or Option 4 (15 Year Certain) may be changed at any time before an alternate payee's death.

(f) An alternate payee whose total benefit is less than \$200 per month under Option 1 shall receive a one time lump-sum payment as provided under ORS 238.315.

(2) If a retired member changes the beneficiary designation pursuant to a final court order, the member's monthly benefit must be recalculated.

(a) The benefit recalculation shall be effective the first of the month after the month in which PERS receives a written request from the member to change beneficiary.

(b) The request must provide the full name, a copy of proof of birth, and the relationship of the new beneficiary to the member.

(3) If a final court order provides that a retired member may elect to receive the Option 1 benefit pursuant to ORS 238.305(6), in order to make that election the member must submit a written request to PERS.

(4) A member is released from a court ordered benefit payment option:

(a) If the alternate payee award is a reduction, and

ADMINISTRATIVE RULES

(b) The alternate payee is eligible to elect a separate benefit option at any time after the member's earliest retirement eligibility and elects to do so.

(5)(a) PERS shall provide to the alternate payee a written summary of the information used in calculating the alternate payee's retirement allowance or benefit. An alternate payee may dispute the accuracy of the information used in making the calculation of the retirement allowance or benefit by filing a written notice by the later of:

(A) The 30th day after the date on which the calculation and information is provided to the alternate payee; or

(B) The 30th day after the issue date of the first actual, not estimated, payment of a retirement allowance or benefit to the alternate payee.

(b) Upon receiving a notice described above, PERS shall determine the accuracy of the disputed information and make a written decision either affirming the accuracy of the original information and calculation or changing the calculation using corrected information. PERS shall provide the alternate payee a copy of the decision and a written explanation of any applicable statutes and rules.

(c) The filing of a notice under this section extends the time allowed for election of an optional form of retirement allowance or benefit until the 30th day after the conclusion of the dispute proceeding or review results in a change in the calculation of the retirement allowance or benefit.

(d) This section does not limit any authority of PERS to correct an incorrect calculation of any retirement allowance or benefit.

(6) If an alternate payee was a partner of the member, the award to the alternate payee is a distribution to the member for federal tax purposes. Therefore:

(a) An award of a monthly benefit amount as described in OAR 459-045-0010(3)(b) and (4)(b) is only administrable as a deduction from the member's monthly payment.

(b) An award of an alternate payee account as described in OAR 459-045-0010(2) will not be distributed until such distribution would not jeopardize the plan's tax qualified status.

Stat. Auth.: ORS 238.465 & 238.650

Stats. Implemented: ORS 238.450, 238.465

Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 17-2004, f. 6-15-04 cert. ef. 7-1-04; PERS 14-2005, f. & cert. ef. 8-18-05; PERS 19-2007, f. & cert. ef. 11-23-07; PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0032

General Administration for OPSRP Pension Program

(1) If a retired member changes the beneficiary designation pursuant to a final court order, the member's monthly benefit must be recalculated.

(a) The benefit recalculation shall be effective the first of the month after the month in which PERS receives a written request from the member to change beneficiary.

(b) The request must provide the full name, a copy of proof of birth, and the relationship of the new beneficiary to the member.

(2) If a final court order provides that a retired member may elect to receive the higher benefit pursuant to ORS 238A.190(2), in order to make that election the member must submit a written request to PERS.

(3) A member is released from a court ordered benefit payment option:

(a) If the alternate payee award is a reduction, and

(b) The alternate payee is eligible to elect a separate benefit option at any time after the member's earliest retirement eligibility and elects to do so on or before the member's effective retirement date.

(4) An alternate payee award of a member's disability benefit must end when the member is no longer eligible for a disability benefit pursuant to ORS 238A.235(4).

(5) An alternate payee award of a pre-retirement death benefit is payable only if, at the time of the member's death, a benefit would be otherwise payable under ORS 238A.230(1).

(6)(a) PERS shall provide to the alternate payee a written summary of the information used in calculating the alternate payee's pension or benefit. An alternate payee may dispute the accuracy of the information used in making the calculation by filing a written notice with PERS by the later of:

(A) The 30th day after the date on which the calculation and information is provided to the alternate payee under this section; or

(B) The 30th day after the issue date of the first actual, not estimated, payment of a pension or benefit to the alternate payee.

(b) Upon receiving a notice as described above, PERS shall determine the accuracy of the disputed information and make a written decision either affirming the accuracy of the original information and calculation or changing the calculation using corrected information. PERS shall provide the alternate payee a copy of the decision and a written explanation of any applicable statutes and rules.

(c) This section does not limit any authority of PERS to correct an incorrect computation of any retirement allowance or benefit.

(7) If an alternate payee was a partner of the member, the award to the alternate payee is a distribution to the member for federal tax purposes. Therefore an award of a monthly benefit amount as described in OAR 459-045-0012(2)(b), (3)(b), and (4)(b) is only administrable as a deduction from the member's monthly payment.

Stat. Auth.: ORS 238.465 & 238A.450

Stats. Implemented: ORS 238.450, 238.465, 238A.450

Hist.: PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0034

General Administration for Individual Account Program (IAP)

(1) A percentage award will be applied against the member's account(s) to the extent the member is vested in the account(s). A dollar amount will be applied on a pro-rata basis against the member's account(s) to the extent the member is vested in the account(s).

(2) An alternate payee account shall be credited with earnings and losses in accordance with OAR chapter 459, division 007.

(3)(a) At the time of distribution to the alternate payee, PERS shall provide the alternate payee a written summary of the information used in making the calculation for the distribution of benefits. An alternate payee may dispute the accuracy of the information used in making the calculation of the distribution of benefits by filing a written notice with PERS by the later of:

(A) The 30th day after the date on which the information and calculation is provided to the alternate payee under this section; or

(B) The 30th day after the issue date of the first distribution of benefits to the alternate payee.

(b) Upon receiving a notice as described above, PERS shall determine the accuracy of the disputed information and make a written decision either affirming the accuracy of the original information and calculation or changing the calculation using corrected information. PERS shall provide the alternate payee with a copy of the decision and a written explanation of any applicable statutes and rules.

(c) This section does not limit any authority of PERS to correct an incorrect calculation of any benefit.

(4) If an alternate payee was a partner of the member, the award to the alternate payee is a distribution to the member for federal tax purposes. Therefore, an award of an alternate payee account as described in OAR 459-045-0014(2) and (3) will not be distributed until such distribution would not jeopardize the plan's tax qualified status.

Stat. Auth.: ORS 238.465, 238.650 & 238A.450

Stats. Implemented: ORS 238.465 & 238A.450

Hist.: PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0040

Requesting Information from PERS

(1) PERS may not provide member information or alternate payee information to anyone other than the member or alternate payee respectively, including representatives of the member or alternate payee, unless PERS receives:

(a) A member release.

(b) An alternate payee release.

(c) A judicial order, subpoena, or administrative order pursuant to OAR 459-060-0030.

(2) A subpoena must be made out to the Oregon Public Employees Retirement System and served at PERS Tigard Headquarters. Faxed subpoenas will not be accepted. PERS reserves the right to object to any subpoena for reasons that include but are not limited to:

(a) The subpoena fails to provide a reasonable time for preparation and travel.

(b) The subpoena is otherwise unreasonable or oppressive.

(c) That service was improper.

(3) An alternate payee with a final court order that has been received and approved as administrable by PERS may submit a written request for an estimate under the provisions of OAR 459-005-0250(1).

Stat. Auth.: ORS 238.465, 238.650, & 238A.450

Stats. Implemented: ORS 238.465

Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 10-2003, f. & cert. ef. 8-4-03; PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0050

Filing Requirements for Alternate Payees

(1) An alternate payee must apply for benefits on PERS forms.

(2) An application for benefits must be accompanied by a final court order that is administrable by PERS, unless an administrable final court order is already on file with PERS.

ADMINISTRATIVE RULES

(3)(a) An alternate payee's effective retirement date is the later of:
(A) The first day of the calendar month specified on the alternate payee's retirement application; or

(B) The first day of the calendar month following the date an application was received by PERS.

(b) If a final court order allows the alternate payee to commence benefits under ORS 238.465(2)(a), the effective retirement date can be no earlier than the first of the month following the month in which the member reaches earliest retirement eligibility.

(4) A request to cancel an application for benefits must be:

(a) In writing;

(b) Signed by the alternate payee; and

(c) Received by PERS no later than the day before the issue date of the first payment.

(5) An alternate payee may not apply for alternate payee benefits due to his or her own disability.

(6) Alternate payees must keep PERS informed of their current mailing address at all times. A change of mailing address must be submitted to PERS in writing and signed by the alternate payee.

Stat. Auth.: ORS 238.465, 238.650 & 238A.450

Stats. Implemented: ORS 238.465

Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0060

General Rules for Calculating Benefits

(1) If an alternate payee award is a reduction and the alternate payee elects to begin receiving their benefit before the member retires, the calculation of the alternate payee benefit:

(a) Must use creditable service or retirement credit accrued by the member as of the alternate payee's effective retirement date.

(b) May not include any potential increase attributable to unused sick leave under ORS 238.350 or voluntary purchases of retirement credit.

(2) Benefit payments to either the member or the alternate payee, or to both simultaneously, that exceed the allowable limits set forth in Section 415 of the Internal Revenue Code (IRC) shall be deducted from the benefit payment(s) to the member or the alternate payee, or both. Unless a final court order specifies the allocation of the deduction for benefits that exceed the limits in IRC Section 415, PERS shall pro rate the amount that exceeded those limits in the same proportions that benefits were awarded to the member and the alternate payee as specified in a final court order.

(3) If PERS determines that an alternate payee has received benefits in excess of the amount to which the alternate payee is entitled, PERS shall recover any overpayment in accordance with ORS 238.715.

(4) Payment of benefits under this division must not jeopardize the status of the programs as a tax-qualified governmental plan.

Stat. Auth.: ORS 238.465, 238.650 & 238A.450

Stats. Implemented: ORS 238.465

Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0080

PERS Notifications

(1) PERS is separate from other public employer retirement plans and deferred compensation plans, and notification to other plans does not constitute notice to PERS. PERS is not responsible for notifying other plans of member or alternate payee changes in address, changes in eligibility, application for benefits, or death.

(2) PERS shall send a written notification acknowledging receipt of a final court order to the submitting party. PERS shall send a copy of the acknowledgment to the other persons named in the court order only if those persons' mailing addresses are provided to PERS.

(3) PERS will notify an alternate payee of an event described in ORS 238.465(2)(a)(B), unless the alternate payee has already commenced receiving alternate payee benefits.

(4) PERS shall issue the applicable tax reporting forms directly to the recipient of any funds that are issued by PERS pursuant to a final court order.

(5) PERS shall notify the member or the alternate payee, or both, of any benefit payments that are reduced by PERS pursuant to Section 415 of the Internal Revenue Code.

Stat. Auth.: ORS 238.465, 238.650 & 238A.450

Stats. Implemented: ORS 238.465

Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 4-2010, f. & cert. ef. 5-28-10

459-045-0090

PERS Administrative Fee

The Board has determined that actual and reasonable administrative expenses incurred by PERS for obtaining data and making calculations to administer an alternate payee award will always exceed \$300.00. At the

time of benefit payment, PERS shall allocate the administrative fee under the provisions of ORS 238.465(9).

Stat. Auth.: ORS 238.465, 238.650 & 238A.450

Stats. Implemented: ORS 238.465

Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 4-2010, f. & cert. ef. 5-28-10

Oregon State Marine Board Chapter 250

Rule Caption: Temporary closure of a section of the Rogue River in Jackson County.

Adm. Order No.: OSMB 11-2010(Temp)

Filed with Sec. of State: 5-28-2010

Certified to be Effective: 6-15-10 thru 10-15-10

Notice Publication Date:

Rules Amended: 250-020-0151

Subject: This rule action will temporarily close a section of the Rogue River to all boating traffic due to dam removal.

Rules Coordinator: June LeTarte—(503) 378-2617

250-020-0151

Boat Operations in Jackson County

(1) No person shall operate a motorboat, except those propelled by electric motors on Agate Reservoir.

(2) No person shall operate a motorboat in excess of 10 MPH on:

(a) Applegate Reservoir;

(b) Fish Lake;

(c) Hyatt Lake;

(d) Willow Lake — Southern portion as denoted by the Uniform Waterway Marker buoys.

(3) The following areas are "designated moorage areas":

(a) Willow Lake — Southwest Cove;

(b) Howard Prairie Lake — Howard Prairie Resort Marina and Klum Landing;

(c) Emigrant Lake — Spillway Cove area at the northwest corner of the lake.

(4) No person shall operate a motorboat in excess of "Slow — No Wake" speed in the moorage areas designated in section (3) of this rule. (For the purposes of this rule "Slow — No Wake" speed means the speed of the boat shall not exceed 5 MPH.)

(5) No person shall moor a boat outside the designated moorage areas set forth in section (3) of this rule for more than 48 hours without obtaining a permit from the Jackson County Parks Department.

(6) Rogue River:

(a) No boat shall enter or be operated on the waters of the Rogue River from a buoyed line westerly to the up-river face of Savage Rapids Dam, a distance of approximately 300 feet;

(b) No person shall operate a motorboat in excess of 20 MPH, water ski or tow any recreational equipment on the Rogue River between Wards Creek and Evans Creek;

(c) No person shall operate a motorboat in excess of 30 MPH on the Rogue River between Evans Creek and the buoyed line cross the Rogue River approximately 300 feet east of Savage Rapids Dam.

(d) No person shall operate a boat from 500 feet below the site of the Gold Ray Dam to 1,000 feet above the Gold Ray Dam site.

(7) Lost Creek Lake:

(a) No person shall operate a motorboat between the breakwaters designating the Steward State Park swimming area;

(b) No person shall operate a motorboat in excess of a 5 MPH, "Slow — No Wake" speed:

(A) In the Lost Creek Arm upstream of the "narrows" as marked;

(B) Within the cove area of the Takelma Park Boat Ramp from the intake tower to shore as marked;

(C) Upstream of the Peyton Bridge.

(8) Emigrant Lake:

(a) No person shall operate a boat in excess of a "Slow — No Wake", Maximum 5 MPH speed in the Hill Creek Arm upstream of a line beginning at a point on the west shore of the Arm that is approximately 1000' southeast from the area of the point known as the Quarry and extending northeast across the arm to the nearest point of land on the east shore of the arm, as marked;

(b) No person shall operate a boat in excess of a "Slow — No Wake", Maximum 5 MPH speed in the Emigrant Creek Arm upstream of a line extending north and south across the arm that approximately coincides with the meridian of longitude equal to 122° 37' 34" North, as marked.

Stat. Auth.: ORS 830.110 & 830.175

ADMINISTRATIVE RULES

Stats. Implemented: ORS 830.110 & 830.175
Hist.: MB 30, f. 6-17-66; MB 39, f. 4-5-68; MB 84(Temp), f. & ef. 5-20-77; MB 86, f. & ef. 7-20-77; MB 87, f. & ef. 9-16-77; MB 5-1978, f. & ef. 6-15-78; Renumbered from 250-020-0175; MB 1-1980, f. 4-1-80, ef. 5-1-80; MB 2-1981, f. & ef. 3-3-81; MB 6-1984, f. 2-14-84, ef. 2-15-84; MB 2-1990, f. & cert. ef. 2-22-90; OSMB 5-1999, f. & cert. ef. 7-1-99; OSMB 7-2002, f. & cert. ef. 10-15-02; OSMB 11-2010(Temp), f. 5-28-10, cert. ef. 6-15-10 thru 10-15-10

Rule Caption: Establish a speed restriction on Foster Reservoir.

Adm. Order No.: OSMB 12-2010(Temp)

Filed with Sec. of State: 5-28-2010

Certified to be Effective: 6-1-10 thru 10-31-10

Notice Publication Date:

Rules Amended: 250-020-0241

Subject: This rule action establishes a speed restriction of 5 MPH within 100 feet of the Foster Marina on Foster Reservoir.

Rules Coordinator: June LeTarte—(503) 378-2617

250-020-0241

Boat Operations on Foster Reservoir in Linn County

(1) Except on safe take-offs and landings, boats with skiers under tow must keep 200 feet or more from shore. A safe take-off or landing will not be considered "safe" unless it can be accomplished without risk to any swimmer or craft within 200 feet from shore line. If a safe landing as thus defined is not possible, skiers must be picked up by the boat before coming within 200 feet from shore line and brought to shore under the usual speed restrictions (5 MPH within 200 feet of shore). Boats towing skiers may exceed 5 MPH to the extent necessary to maintain the skier in a skiing position, within the 200 feet from shore line only when taking off or landing as outlined in this section.

(2) All take-offs and landings shall be made at a 45° angle to the shore.

(3) No boat shall follow behind a skier closer than 300 feet nor cross the towing boat's bow less than 200 feet nor alongside a skier closer than 100 feet.

(4) All boats towing water skiers or other towed equipment shall proceed on a counter-clockwise course about the lake.

(5) No person shall operate a motorboat at speeds in excess of 5 MPH in the following areas:

(a) Within 200 feet of the shore, subject to section (1) of this rule;

(b) Upstream from the highway bridge crossing the Middle Santiam Arm;

(c) Upstream from the highway bridge crossing the South Santiam Arm;

(d) Within 200 feet of any designated swimming area;

(e) Within the posted areas surrounding the Gedney Creek and Lewis Creek Boat Landings.

(6) No person shall operate a boat in the area between the trash boom and the dam.

(7) No person shall operate a motorboat at speeds in excess of 5 MPH within 100 feet of the Foster Marina on Foster Reservoir.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 43, f. 7-18-69; Renumbered from 250-020-0181; OSMB 12-2010(Temp), f. 5-28-10, cert. ef. 6-1-10 thru 10-31-10

Oregon State Treasury Chapter 170

Rule Caption: Restructures Municipal Debt Advisory Commission Fees for Tracking Municipal Debt Information Using Bond Tracker Software.

Adm. Order No.: OST 4-2010(Temp)

Filed with Sec. of State: 6-3-2010

Certified to be Effective: 7-1-10 thru 12-27-10

Notice Publication Date:

Rules Amended: 170-061-0015

Rules Suspended: 170-061-0015(T)

Subject: Amendments to this rule establish a Municipal Debt Advisory Commission (MDAC) fee to pay for Debt Management Division staff support costs related to the ongoing tracking and reporting of all local government bond issuances in the State of Oregon.

These amendments also eliminate the fee charged by the MDAC through the Division for generating Overlapping Debt Reports.

Due to the existing fee structure, other programs managed by the State Treasurer's office have periodically subsidized MDAC's annual operations. Also, efficiencies will be realized by eliminating invoices as the fee will be wired at the time of the bond closing. This rule will ensure MDAC's on-going costs are distributed across all local Oregon debt issuers and fees will more closely match the costs of maintaining the local government's share of the debt tracking system.

As adopted by the MDAC, municipalities at the date of closing, will be charged: (i) \$800 for bond sales of \$8 million or less; (ii) 0.01% (0.0001) of the principal amount for bond sales of greater than \$8 million but less than \$50 million; (iii) \$5,000 for bond sales of \$50 million or greater.

Rules Coordinator: Sally Wood—(503) 378-4990

170-061-0015

Fees Charged by the Debt Management Divisions

(1) State agencies. The OST shall charge the following fees in connection with the services, duties and activities of the OST related to bonds issued for state agencies by the State Treasurer:

(a) Agency Bond Issues of \$15 million or less. For a single series bond sale of \$15 million or less, a state agency will be charged \$15,000 per sale. For a bond sale of \$15 million or less by a single state agency with multiple series, the state agency will be charged the greater of (i) \$15,000 or (ii) \$6,000 per series. For a bond sale of \$15 million or less by two or more state agencies, each agency will be charged the greater of (i) \$7,500 or (ii) \$6,000 for each series sold for the agency. This subsection does not apply if the bond sale is a private placement conduit sale of \$5 million or less as described below in subsection (c).

(b) Agency Bond Issues of more than \$15 million. For a single series bond sale of more than \$15 million, a state agency will be charged \$20,000. For a bond sale of more than \$15 million by a single state agency with multiple series, the state agency will be charged the greater of (i) \$20,000 or (ii) \$7,000 per series. For a bond sale of more than \$15 million by two or more state agencies, each agency will be charged the greater of (i) \$10,000 or (ii) \$7,000 for each series sold for the state agency. This subsection does not apply if the bond sale is a private placement conduit sale described below in subsection (c).

(c) Conduit Bond Sales. A state agency will be charged: (i) \$5,000 for conduit bond sales of \$5 million or less, (ii) \$10,000 for conduit bond sales of greater than \$5 million but less than \$10 million, or (iii) \$15,000 for conduit bond sales of \$10 million or greater, that are payable solely from monies owed by a party other than the State of Oregon, with no recourse for payment to the State of Oregon, and when the bonds are sold by a private placement, with no publicly disseminated official statement or other offering circular, to one or more sophisticated investors, accredited investors or qualified institutional buyers. Should conduit bonds be sold publicly or using an official statement then subsection (b) or subsection (c) above applies.

(d) Advance refunding plan application and review. The fee for review and approval of an advance refunding plan is \$3,000 per sale of refunding bonds for sales of \$2 million or less, and \$5,000 per sale of refunding bonds for sales exceeding \$2 million. If the plan is not approved or the refunding not completed the review and approval fee will not be charged. When necessary to review complex proposals, OST may consult recognized experts whose fees will be charged to the agency, whether or not the refunding is approved or completed.

(e) Tax Anticipation Notes. A state agency shall be charged \$30,000 for each sale of tax anticipation notes.

(f) Interest Rate Exchange Agreements. In addition to any other fee, \$25,000 will be charged for the review and approval of a state agency's first executed interest rate exchange agreement for a specific bond program of the agency. After the first agreement, a fee of \$10,000 will be charged for each executed interest rate exchange agreement subsequently entered into by the agency for the same bond program or indenture. These charges do not include costs such as interest rate exchange advisor fees, rating agency charges or printing costs which are payable by the agency or authority for whom the cost is incurred.

(2) Public Bodies. OST shall charge the fees set forth below in connection with the services, duties and activities of the OST related to bonds issued by public bodies in Oregon; expenses incurred in reviewing refund-

ADMINISTRATIVE RULES

Oregon University System, Southern Oregon University Chapter 573

ing and defeasance plans may be charged against the bond proceeds or may be paid by the public body from such other funds as may be available:

(a) Advance refunding plan application and review. The application fee for submission of an advance-refunding plan is \$350. The fee for review and approval of an advance refunding plan is \$3,000 per sale of refunding bonds for sales of \$2 million or less, and \$5,000 per sale of refunding bonds for sales exceeding \$2 million. If the plan is not approved or the refunding not completed the review and approval fee will not be charged.

(b) Oregon School Bond Guarantee Program. School Districts that submit an application for participation in the Oregon School Bond Guarantee Program shall submit an application fee of \$200 to OST at the time their application is submitted. School Districts whose bonds are guaranteed by the state shall submit to OST, within 10 business days of closing of any guaranteed bonds, a fee equal to .03% (.0003) of the total principal and interest due, assuming the bonds are paid on their regularly scheduled maturity or redemption dates. If bonds are issued as "Qualified Bonds" under OAR 170-063-000 that may be converted to an interest bearing format over and above interest payments that may be due and payable under the original terms of bonds, the fee for such Qualified Bonds shall be equal to .045% (.00045) of the total principal and interest due, assuming the bonds are paid on their regularly scheduled maturity or redemption dates and that there is no conversion to a different interest bearing format than the original terms of the bonds.

(3) Municipal Debt Advisory Commission. OST shall charge the following fees in connection with the services, duties and activities of the OST as staff to the Municipal Debt Advisory Commission.

(a) Administrative Tracking and Reporting fee. Local Government entities shall submit, at the time of closing, a fee equal to: (i) \$800 for bond sales of \$8 million or less, (ii) 0.01% (0.0001) of the principal amount for bond sales of greater than \$8 million but, less than \$50 million, (iii) \$5,000 for bond sales of \$50 million or greater.

(b) Other fees and charges. Fees for specialized reports and services shall be determined by the number of hours spent producing such specialized report or service times the rate of \$115 per hour.

(4) Private Activity Bonds.

(a) Current Year Allocation. State agencies or public bodies that submit an application for allocation of the state's private activity bond volume limit ("CAP") for the current year to the Private Activity Bond Committee under OAR 170-071-0005 shall submit an application fee of \$200 to OST when their application is submitted. State agencies or public bodies who receive CAP shall pay to OST: (i) For a bond sale of \$10 million or less, a fee equal to \$3,000, payable within 10 business days of the closing bond sale, (ii) For a bond sale of more than \$10 million, a fee equal to \$10,000 payable within 10 business days of the closing bond sale, or (iii) for a Mortgage Credit Certificate program, a fee equal to \$2,000, payable within 10 business days of the date of the notice of allocation by OST.

(b) Carry Forward Allocation. State agencies or public bodies that submit an application for carry forward CAP allocation under OAR 170-071-0005(10) shall submit an application fee of \$200 to OST when their application is submitted. State agencies or public bodies who receive carry forward CAP shall pay to OST: (i) For a bond sale of \$10 million or less, a fee equal to \$3,000 of which the first \$500 is payable within 10 days of the date of the notice of allocation by OST, with the balance payable within 30 days of the closing of the first bond sale associated with the allocation, (ii) For a bond sale of more than \$10 million, a fee equal to \$10,000 of which the first \$2,000 is payable within 10 days of the date of the notice of allocation by OST, with the balance payable within 30 days of the closing of the first bond sale associated with the allocation, or (iii) for a Mortgage Credit Certificate program, a fee equal to \$2,000, payable within 10 business days of the date of the notice of allocation by OST.

(5) OST may, at its discretion, waive or reduce any fee outlined in sections (1) to (4) based on compelling financial reasons.

Stat. Auth.: ORS 286A.014, 287A.370 & 287A.634

Stats. Implemented: ORS 287A & 286A

Hist.: TD 3-1990, f. & cert. ef. 12-21-90; TD 2-1994, f. & cert. ef. 9-9-94; OST 1-1999, f. & cert. ef. 2-1-99; OST 1-2005, f. & cert. ef. 4-22-05; OST 5-2006, f. & cert. ef. 10-25-06; OST 7-2008, f. & cert. ef. 12-29-08; OST 2-2009, f. & cert. ef. 4-22-09; OST 3-2009, f. & cert. ef. 7-21-09; OST 5-2009(Temp), f. & cert. ef. 10-30-09 thru 4-27-10; OST 1-2010 f. & cert. ef. 1-15-10; OST 2-2010(Temp), f. & cert. ef. 1-26-10 thru 7-24-10; OST 4-2010(Temp), f. 6-3-10, cert. ef. 7-1-10 thru 12-27-10

Rule Caption: Parking Enforcement and Appeals.

Adm. Order No.: SOU 3-2010

Filed with Sec. of State: 6-8-2010

Certified to be Effective: 6-8-10

Notice Publication Date: 5-1-2010

Rules Amended: 573-050-0025, 573-050-0045

Subject: This amendment in division 50 removes/modifies outdated language in the rule and increases permit fees.

Rules Coordinator: Treasa Sprague—(541) 552-6319

573-050-0025

Vehicle Permits, Parking Areas and Fee Schedule

(1) All vehicles operated on the University campus are required to display a permit when the posted signs require a permit. Faculty/Staff lots are posted yellow; Student Commuter lots are posted green; Resident Student lots are posted red. Parking Services can be contacted for the location where other types of permits may be obtained. Failure to display a permit may result in the issuance of a parking citation. Permits may be purchased during normal office hours at the Enrollment Services Center (ESC) located in Britt Hall. All permits are valid for the current academic year only, unless otherwise designated by Parking Services at the time of issuance; there are no open-ended permits.

(a) Permit is defined as any Parking Services sanctioned or issued permit. Examples include: decal, hangtag, guest, special, metered, temporary, courtesy*, media, or other placard or device issued or developed by Parking Services as needed to facilitate parking of vehicles on Southern Oregon University property. *(A courtesy permit refers to a Retiree, VIP, or a Volunteer.) Any misuse of these parking permits may cause them to be revoked.

(2) Parking permits and faculty/staff hangtags are serialized for use on specific vehicle(s) with a license plate designated by the purchaser at the time of purchase. Permits (decal) must be affixed outside to left-rear bumper, left-rear body, left-rear window, or rear-side window behind driver of the vehicle where visible. The adhesive on the back of the permit must be the attaching mechanism. Hangtags are to be hung from the rear-view mirror; serialized numbers facing out. Parking Services (at the Enrollment Services Center in Britt Hall) must be informed of changes in vehicles; re-registering the hangtags to the appropriate vehicle(s). If a vehicle is disposed of, the permit must be removed and returned to Parking Services.

(3) Parking permits may be purchased for the time period designated on the decals; generally the academic year. The academic year begins and ends in September. Parking permits purchased during the winter, spring, or summer terms are at a proportionately reduced rate.

(4) Faculty/Staff parking permits (or hangtags) will be sold to classified employees, graduate assistants, temporary employees who are half-time or more, and faculty. Faculty/staff employees working less than .50 FTE will be eligible for a permit at a reduced rate of one-half the cost of the permit. Hangtags are issued for a three-year period. Faculty/staff hangtags are considered the first permit. They are not to be sold as a second permit. Vehicles displaying a Faculty/Staff permit (or hangtag) are authorized to park in designated Faculty/Staff (yellow) parking areas.

(5) Student Commuter parking permits will be sold to students who live off campus and wish to bring vehicles on campus. Vehicles displaying a Student Commuter permit are authorized to park in designated Student Commuter (green) parking areas only.

(6) Residence Hall parking permits will be sold to students living in campus residence halls. Vehicles displaying a Residence Hall permit are authorized to park in designated Residence Hall (red) parking areas only.

(7) Second parking permits may be purchased for an additional vehicle if more than one vehicle will be brought to campus. The purchaser must also be the registered owner of the vehicle. Only one permit (the original or second permit) is valid in permit-required lots at a time. If both first and second permits of one person are parked in permit-required lots at the same time, both vehicles will be cited for improper permits. A second permit may not be purchased for a car if the first permit is for a vehicle used in a Residence Hall Parking area, a motorcycle, moped, or scooter.

(8) A replacement permit may be obtained for a damaged, unreadable permit or for a replacement vehicle. The replacement vehicle must be registered to the same owner as the original vehicle. The permit which is being replaced will be considered void and should be returned to Parking Services

ADMINISTRATIVE RULES

(at the Enrollment Services Center in Britt Hall) upon purchase of a replacement permit.

(9) Guest permits are available at Parking Services and departmental offices. Guest permits are issued for one day only. Guest permits may not be used in timed or visitor pay meter lots. Guest permits will not be valid if issued to University employees, faculty, students, buses, or vehicles displaying a valid parking permit. Guest permits will not be valid and a citation may be issued for failure to display permit if any of the following information is illegible or omitted:

- (a) Both license number and make or color of vehicle;
- (b) Date that permit is valid;
- (c) Name and telephone extension of departmental personnel issuing the permit.

(10) Carpool parking permits will be sold for the entire school year only if the carpool meets the following criteria:

(a) The carpool must contain at least two individuals with cars, but no more than six.

(b) No more than one vehicle from the carpool is allowed on campus at a particular time. They may not purchase a second permit. However, replacement permits are available if requirements as stated in the regulations for replacement permits are met.

(11) Temporary replacement vehicles for a vehicle with a permit may be brought on campus after obtaining a Substitute Vehicle parking permit from Parking Services. This permit is used for temporary situations of short duration (30 days or less).

(12) Special permits may be approved by Parking Services on an as-needed basis.

(13) Weekly or Daily permits, for those persons who use the campus parking facilities only intermittently, may be purchased at Parking Services (at the Enrollment Services Center in Britt Hall) or may be available in departments that have purchased them for use in special programs or events on campus.

(14) Courtesy (purple), parking permits are available to personnel retiring with ten years of service or more. Courtesy (purple), permits are valid for all retirees only, not to be used by family or friends. Volunteer board members, designated governmental officials, media representatives, and such others as deemed necessary by the President will have dated and numbered VIP hangtags to facilitate their interaction with the institution. Media representatives will receive dated and numbered hangtags.

(15) Vendor or Volunteer permits may be obtained through Parking Services.

(a) Commercial permits will be sold to commercial vendors, including vending machine, video game, outside maintenance, travel, office supply, and food vendor companies, and contractors' employees. Companies or departments can purchase a long-term permit for six months or a year. Short-term permits are available for one day or one month. Companies or departments will be billed for the permits by Parking Services.

(b) Volunteer parking permits will be sold to departments for use by volunteers. Departments can purchase long-term permits for one year, short-term permits for less than one month or term-by-term. These permits will be billed by Parking Services to the issuing department. Volunteer permits are not valid if issued to current University employees, faculty or students.

(16) Disabled parking is in accordance with ORS 811.602, 811.605, 811.606, 811.607, and 811.615. Only vehicles displaying a disabled placard or license plate issued and registered at the Motor Vehicles Division (as designated in Rule 573-050-0020) will be allowed to park in spaces posted for use by disabled persons. These vehicles must also display an SOU permit or meter permit unless otherwise posted.

(a) Temporary placards are issued by the Motor Vehicle Division for persons with qualifying temporary disabilities (as provided by ORS 811.606 and 811.640). The requirements for parking on campus apply for all disabled parking listed above.

(b) Vehicles with an appropriate disabled placard or license plate and SOU permit may park in any lot or space without incurring citations, except where the lot or space is designated for parking limited to 60 minutes or less in a parking space reserved for other vehicles, or visitor-pay meter lots.

(17) Refunds will be given for student/staff parking permits for unused academic terms, except summer term. No refunds will be given for year permits that are not used summer term. Refunds will be given upon return of the permit or fragments thereof showing the permit numbers and expiration date. Refund schedules are on file at ESC.

(18) Vehicles displaying valid permits are not guaranteed a parking space on the campus.

(19) Vehicles displaying valid permits are not exempt from timed parking restrictions. Vehicles may park in a timed space or in a metered parking space but must comply with the time limits or metered fee payment of the specific space.

(20) Mopeds, scooters, & motorcycles must have a motorcycle permit and be parked in a motorcycle parking space. If a motorcycle has a full price vehicle parking permit they may park in a vehicle space that corresponds with the color of the permit. Motorcycles may park in timed spaces that are open to the public. Mopeds, scooters, and motorcycles parked in bicycle racks and on the campus grounds will be cited for improper parking. Vehicles parked inside University buildings will be towed at the owner's expense.

(21) If a faculty/staff hangtag is the first legal permit, and a motorcycle is the second vehicle, a decal may be purchased at second decal rate.

(22) If, during the process of issuing a parking citation, the driver of the violating vehicle drives away from the scene, thus preventing the issuing agent from placing the citation on the vehicle, the citation will be entered into the parking system as if it had been placed on the vehicle. When a driver leaves the scene during the issuing process, this will be considered "constructive notice" of the citation.

(23) Vehicles parked facing in the direction against one-way arrows will be cited for improper parking. Vehicles parked on the side of street opposing direction of usual traffic flow will be cited for improper parking.

(24) Vehicles using parking lots marked "Visitor Pay Parking" are required to display the serialized meter permit purchased at each lot of this type. Failure to display the meter permit in plain view on the left side of the vehicle's dashboard will result in a citation for failure to display a permit. There is no grace period to obtain change for the permit machine.

(25) Loading Zone spaces are provided for loading and unloading purposes not to exceed 30 minutes unless by prior approval through Parking Services.

(26) Buses may park where directed by Parking Services.

(27) Fee Schedule:

(a) Carpool, sold for entire school year only: \$78 each pool.

(b) Faculty and staff decal for first-registered vehicle:

(A) Fall term through summer term: \$119

(c) Faculty/staff hangtags are issued for a three-year period: \$357

(A) This fee is for a one-time purchase.

(B) Payroll deduction is available, plus applicable increases in permit fees.

(d) Student Commuter and Residence Hall decal for first-registered vehicle for only Fall term through summer term: \$112

(e) Motorcycles, mopeds, and scooters, one vehicle only:

(A) Fall term through summer term: \$46

(B) If motorcycles park in auto spaces, the fee is commensurate with full fee for the area.

(f) Second Vehicle permit: \$24

(A) Second permits will be sold only to Faculty/Staff and Commuter permit holders. Red permit holders may not purchase a second permit.

(B) One second permit is allowed for each full-price (first-registered vehicle) permit purchased.

(C) Replacement permits can be obtained only in accordance with OAR 573-050-0025(8).

(g) Replacement permits or hangtags: \$24

(h) Lost/stolen permits: \$20

(i) Departmental Reserved Parking spaces (nonrefundable): \$100 over and above price for regular parking permit and a \$50 fee for each subsequent sign-change after a sign is posted.

(j) Commercial permit, each vehicle:

(A) Long-term, twelve months: \$156

(B) Long-term, six months: \$92

(C) Short-term, one month: \$24

(D) Short-term, daily: \$8

(k) Weekly parking permits (for red and green lots only): \$24 per week (available at Housing, and Parking Services).

(l) Daily parking permits (for red and green lots only): \$8 per day (available at Housing, and Parking Services).

(m) Department Daily Guest Pass booklets: \$36

(n) Evening and weekend parking in designated lots: \$1

(o) Visitor pay parking in specified lots: \$1 per hour (lot 12, and lot 29; in lot 1, pay \$0.25 per hour). Lots 27, 30, 32, are \$1.00 per visit after 6 PM and weekends.

(p) Volunteer permit:

(A) Volunteer, each vehicle, long-term, one year: \$5

(B) Volunteer, each vehicle, short-term, less than one month: \$1

ADMINISTRATIVE RULES

- (q) Handling charges:
 - (A) Deducting fines from payroll check: \$5
 - (B) Out-of-state Department of Motor Vehicles research fee: \$5
- Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 3-1981, f. & ef. 9-9-81; SOSC 4-1982, f. & ef. 7-28-82; SOSC 1-1983, f. & ef. 1-3-83; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 3-1986, f. & ef. 7-22-86; SOSC 5-1987, f. & ef. 9-8-87; SOSC 4-1989, f. & cert. ef. 9-19-89; SOSC 3-1990, f. & cert. ef. 5-31-90; SOSC 4-1991, f. & cert. ef. 6-11-91; SOSC 2-1994, f. & cert. ef. 6-10-94; SOSC 2-1996, f. & cert. ef. 8-2-96; SOU 2-1997, f. & cert. ef. 8-26-97; SOU 2-1998, f. & cert. ef. 7-16-98; SOU 1-1999, f. & cert. ef. 5-7-99; SOU 2-2000, f. & cert. ef. 6-9-00; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 2-2002, f. & cert. ef. 6-28-02; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 3-2006, f. & cert. ef. 6-29-06; SOU 3-2007, f. & cert. ef. 7-23-07; SOU 3-2009, f. 10-1-09, cert. ef. 10-4-09; SOU 3-2010, f. & cert. ef. 6-8-10

573-050-0045 Enforcement and Appeals

- (1) Campus regulations are in effect 24 hours a day, seven days a week, except when parking permits are not required (as stated in OAR 573-050-0030).
- (2) Tow-away zones will be enforced 24 hours a day, seven days a week.
- (3) All penalties prescribed in OAR 573-050-0040 will be administratively enforced by Southern Oregon University. Violators will receive a parking citation of offense, together with the scheduled fine for said violation, in accordance with the penalties set forth in OAR 573-050-0040.
- (4) After receipt of a parking citation, the individual must, within seven calendar days of the date of the citation, file a request for a hearing before the TAB or pay the appropriate fine.
- (5) Any University personnel or students issuing a Guest permit may contact Parking Services (at the Enrollment Services Center in Britt Hall) to transfer responsibility for citations received by their guests to themselves. This in no way implies the fine will be suspended, only that the guest will not be billed or pursued to pay the fine. The University personnel or students will be responsible and have all avenues of appeal available as if the citation were issued to them personally.
- (6) Any person wishing to take a case before the TAB must prepare a Petition for Appeal of Traffic Violation for a hearing indicating why the citation should be adjudicated. The petition form, available from Parking Services, must be completed and returned to the office within seven calendar days of the citation date.
- (7) A person appealing the citation may appear before the TAB to present his/her case. If the appellant does not wish to appear in person, for reasons he/she may specify, the written appeal will be reviewed by the TAB, which shall render judgment. The appellant shall be notified by mail or email of the decision of the TAB.
- (8) The party appealing the citation may have legal counsel to present his/her case to the TAB.
- (9) In adjudicating appeals, the TAB shall have full authority to do the following:
 - (a) Dismiss the violations;
 - (b) Find the individual not guilty of the charges of the citation;
 - (c) Find the individual guilty of the violation and either imposes the fine stipulated in these rules or impose a lesser fine;
 - (d) Enter a finding of guilty without imposing any fine; issue a reprimand or warning; or impose a fine.
- (10) The decision of the TAB may be appealed in writing to the Transportation Planning and Parking Committee (TPPC) by obtaining, completing, and filing a second appeal form with Parking Services within ten calendar days following the decision of the TAB. Parking Services will also have an opportunity to submit a written statement concerning the issuance of the citation.
- (11) Once the TAB makes the decision on an appeal for a parking citation, the appellant will have ten calendar days from the decision date to appeal the TAB decision further via the TPPC. After a decision has been made on the second appeal, the appellant has ten calendar days to pay any amount owed before it is charged to his/her account.

- (12) The student's right to register for classes may be denied if any fines owing under these regulations remain unpaid.
- (13) A student who fails to pay the University for any outstanding fine will have the fine charged to his/her account. Non-students who fail to pay any outstanding fines may be subjected to University collection policies and practices of up to and including assignment to an outside collection agency.

(14) Students leaving or graduating from the University will continue to be responsible for parking fines owed to the University, as long as such fines can be identified as belonging to the student(s) responsible.

(15) A faculty or staff member who fails to pay the University for any outstanding parking fines may have the fine deducted from his/her payroll check 30 days after written notice of the outstanding fines.

(16) Vehicles having outstanding parking fines may be denied issuance of a replacement or new parking decal.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 3-1981, f. & ef. 9-9-81; SOSC 4-1982, f. & ef. 7-28-82; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 3-1986, f. & ef. 7-22-86; SOSC 5-1987, f. & ef. 9-8-87; SOSC 4-1989, f. & cert. ef. 9-19-89; SOSC 3-1990, f. & cert. ef. 5-31-90; SOSC 4-1991, f. & cert. ef. 6-11-91; SOSC 3-1993, f. & cert. ef. 5-21-93; SOSC 2-1996, f. & cert. ef. 8-2-96; SOU 2-1997, f. & cert. ef. 8-26-97; SOU 2-1998, f. & cert. ef. 7-16-98; SOU 1-1999, f. & cert. ef. 5-7-99; SOU 2-2000, f. & cert. ef. 6-9-00; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 2-2002, f. & cert. ef. 6-28-02; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 1-2005, f. & cert. ef. 4-11-05; SOU 3-2006, f. & cert. ef. 6-29-06; SOU 3-2007, f. & cert. ef. 7-23-07; SOU 5-2008, f. 6-4-08, cert. ef. 6-5-08; SOU 3-2009, f. 10-1-09, cert. ef. 10-4-09; SOU 3-2010, f. & cert. ef. 6-8-10

Oregon Youth Authority Chapter 416

Rule Caption: Controlling, accessing and using criminal offender information from criminal records checks on identified subject individuals.

Adm. Order No.: OYA 3-2010

Filed with Sec. of State: 6-10-2010

Certified to be Effective: 6-25-10

Notice Publication Date: 8-1-2009

Rules Adopted: 416-800-0031, 416-800-0041, 416-800-0045, 416-800-0050, 416-800-0055, 416-800-0065, 416-800-0080, 416-800-0090, 416-800-0095

Rules Amended: 416-800-0000, 416-800-0010, 416-800-0020, 416-800-0070

Rules Repealed: 416-800-0060

Subject: These rules will control how the Oregon Youth Authority accesses criminal offender information about a subject individual through criminal records checks and the use of that information to determine whether the subject individual is fit to provide services to the Oregon Youth Authority as an employee, volunteer, foster parent, contractor, vendor, or adult member of a foster parent's household.

Rules Coordinator: Winifred Skinner—(503) 373-7570

416-800-0000

Purpose

(1) The Oregon Youth Authority (OYA) seeks to ensure the security and safety of the offenders in its care and custody. OYA values excellence in public service, partnerships with local communities and other agencies, openness and accountability and provision of service in a fair, respectful, and humane manner. As a state agency, OYA employees serve as public officials. As public officials, OYA employees must adhere to ethics and boundaries described in statute and agency policy. OYA expects its Volunteers, contractors, and foster parents to also maintain these ethics and boundaries.

(2) These rules control how OYA accesses Criminal Offender Information about a Subject Individual through Criminal Records Checks and its use of that information to determine whether the Subject Individual is fit to provide services to OYA as an employee, Volunteer, foster parent, contractor, or vendor. The fact that OYA approves a Subject Individual as fit does not guarantee the individual a position as an OYA employee, Volunteer, foster parent, contractor, or vendor.

Stat. Auth.: ORS 181.534 & 420A.021
Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 11-2005, f. & cert. ef. 4-20-05; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0010

Definitions

(1) Approved: Pursuant to a preliminary Fitness Determination under OAR 416-800-0040 or a final Fitness Determination under OAR 416-800-0050, OYA has determined that the Subject Individual is fit to be an employee, Volunteer, foster parent, contractor, or vendor in a position covered by OAR 416-800-0020.

ADMINISTRATIVE RULES

(2) Conviction: A final judgment on a verdict or finding of guilty, a plea of guilty, a plea of nolo contendere (no contest), or any determination of guilt entered by a court of law against a Subject Individual in a criminal case, unless that judgment has been reversed or set aside by a subsequent court decision.

(3) Crime Relevant to a Fitness Determination: A crime listed or described in OAR 416-800-0055.

(4) Criminal Offender Information: Records and related data as to physical description and vital statistics, fingerprints received and compiled by the Oregon Department of State Police Bureau of Criminal Identification for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.

(5) Criminal Records Check: One or more of the following processes undertaken to check the criminal history of a Subject Individual:

(a) Computerized Criminal Records Check: A check of Criminal Offender Information conducted through use of the Law Enforcement Data Systems (LEDS), including information from the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC), and the National Law Enforcement Telecommunications System (NLETS).

(b) Fingerprint-based Criminal Records Check: A national check of federal Criminal Offender Information through the submission of fingerprints and other identifying data, conducted by the Oregon Department of State Police through the Federal Bureau of Investigation or otherwise at OYA's request.

(6) Denied: A determination by OYA pursuant to a preliminary Fitness Determination under OAR 416-800-0040 or a final Fitness Determination under OAR 416-800-0050, that the Subject Individual is not fit to be an employee, Volunteer, foster parent, contractor, or vendor in a position covered by OAR 416-800-0020.

(7) False Statement: In association with an activity governed by these rules, a Subject Individual either: (a) provided OYA with materially false information about his or her criminal history, such as, but not limited to, materially false information about his or her identity or Conviction record; or (b) failed to provide to OYA information material to determining his or her criminal history.

(8) Fitness Determination: A determination made pursuant to the process established in OAR 416-800-0040 (preliminary Fitness Determination) or 416-800-0050 (final Fitness Determination) that a Subject Individual is or is not fit to be an employee, Volunteer, contractor, vendor, or foster parent in a position covered by OAR 416-800-0020.

(9) Member of the Household: Any person, other than an OYA offender, who lives in an OYA offender's home, on the property where an OYA offender's home is located, is a frequent visitor to the home or who assists in the care provided to an OYA offender including but not limited to Volunteers or a person providing services such as tutoring, recreation, relief care, household chores, or other services, whether paid or unpaid.

(10) Subject Individual: An individual identified in OAR 416-800-0020 as someone from whom OYA may require a Criminal Records Check.

(11) Volunteers: Persons who, as defined in OAR 416-450-0010, provide services to OYA on a non-paid basis.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 11-2005, f. & cert. ef. 4-20-05; OYA 15-2005, f. & cert. ef. 6-30-05; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0020

Subject Individuals

"Subject Individual" means a person who is required to complete a Criminal Records Check pursuant to these rules and from whom OYA may require fingerprints for the purpose of conducting a Criminal Records Check because the person:

(1) Is employed or applying for employment with OYA; or

(2) Provides services or seeks to provide services to OYA as a contractor, vendor, or Volunteer; or

(3) Operates or is an applicant to operate a youth offender foster home, or who is an adult Member of the Household in the foster home.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0031

Criminal Records Check Process

(1) Disclosure of Information by Subject Individual.

(a) Preliminary to a Criminal Records Check, Subject Individuals must complete and sign a consent for criminal record check form and, if requested by OYA, a fingerprint card. The consent form must require the following information: name, date of birth, Social Security Number, physical characteristics, driver's license or identification numbers, current address, prior residences, and any other information deemed necessary by OYA. The consent form may also require details concerning any circumstance listed in OAR 416-800-0040(3)(a)-(g).

(b) A Subject Individual must complete and submit to OYA the consent form and, if requested, a fingerprint card within three business days of receiving the forms.

(c) If the Oregon State Police or the FBI returns a Subject Individual's fingerprint card to OYA as "unreadable," OYA may require the Subject Individual to submit a new fingerprint card within a reasonable period of time, as established by OYA.

(d) Within a reasonable period of time, as established by OYA, a Subject Individual will disclose additional information as requested by OYA in order to resolve any issue(s) hindering the completion of a criminal record check.

(2) When a Criminal Records Check is Conducted. OYA may conduct, or request that the Oregon State Police conduct, a Criminal Records Check when:

(a) An individual meets the definition of a Subject Individual; or

(b) Required by federal law or regulation, by state or administrative rule, or by contract or written agreement with OYA.

(3) Which Criminal Records Check Is Conducted. When OYA determines under section (2) of this rule that a criminal record check is needed, OYA may request or conduct a computerized records check, a fingerprint-based records check, or both.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0041

Preliminary Fitness Determination

(1) OYA may conduct a preliminary Fitness Determination if it is interested in hiring or appointing a Subject Individual on a preliminary basis, pending a final Fitness Determination.

(2) If OYA elects to make a preliminary Fitness Determination about a Subject Individual, pending a final Fitness Determination, OYA will make a preliminary Fitness Determination about a Subject Individual based on information disclosed by the Subject Individual and a computerized Criminal Records Check.

(3) OYA may approve a Subject Individual as fit on a preliminary basis if OYA has no reason to believe that the Subject Individual has made a False Statement and the information available to OYA does not disclose that the Subject Individual:

(a) Has pled nolo contendere (or no contest) to, been convicted of, found guilty except for insanity (or comparable disposition) of, or has a pending indictment for a crime listed under OAR 416-800-0055.

(b) Is being investigated for, has been arrested for, has an outstanding warrant for, or has been charged with a crime listed under OAR 416-800-0055.

(c) Is currently on probation, parole, or any form of post-prison supervision for a crime listed in OAR 416-800-0055.

(d) Has a deferred sentence or conditional discharge in connection with a crime listed in OAR 416-800-0055.

(e) Has been adjudicated in a juvenile court and found to be within the court's jurisdiction for an offense that would have constituted a crime listed in OAR 416-800-0055 if committed by an adult.

(4) A Subject Individual may not appeal a preliminary Fitness Determination under the process described in OAR 416-800-0080.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0045

Hiring or Appointing on a Preliminary Basis

(1) OYA may hire or appoint a Subject Individual on a preliminary basis if OYA has Approved the Subject Individual on the basis of a preliminary Fitness Determination under OAR 416-800-0040.

(2) A Subject Individual hired or appointed on a preliminary basis may be provided provisional access to offenders and OYA facilities, training, orientation and work activities, pending the results of a final Fitness Determination described in these rules.

(3) A Subject Individual hired or appointed on a preliminary basis is deemed to be on trial service and, if terminated, prior to the completion of

ADMINISTRATIVE RULES

a final Fitness Determination under OAR 416-800-0050 may not appeal the termination under the process provided under OAR 416-800-0070.

(4) If a Subject Individual hired or appointed on a preliminary basis is Denied upon completion of a final Fitness Determination, as provided 416-800-0050, then OYA must immediately terminate the Subject Individual's employment or appointment.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0050

Final Fitness Determination

(1) If OYA elects to conduct a Criminal Records Check, OYA must make a Fitness Determination about a Subject Individual based on information provided by the Subject Individual under OAR 416-800-0030(1), the Criminal Records Check(s) conducted, if any, and any False Statements made by the Subject Individual.

(2) In making a Fitness Determination about a Subject Individual, OYA will consider the factors in subsections (2)(a)-(f) of this rule in relation to information provided by the Subject Individual under OAR 416-800-0030(1), any information obtained through a Criminal Records Check, and any False Statement made by the Subject Individual. To assist in considering these factors, OYA may obtain other information deemed relevant from the Subject Individual or any other source, including law enforcement and criminal justice agencies or courts within or outside of Oregon. To acquire other relevant information from the Subject Individual, OYA may request to meet with the Subject Individual, to receive written materials from him or her, or both. OYA will use all collected information in considering:

(a) Whether the Subject Individual has, pled nolo contendere (or no contest) to, been convicted of, found guilty except for insanity (or a comparable disposition) of, or has a pending indictment for a crime listed in OAR 416-800-0055;

(b) Whether the Subject Individual is being investigated for, has been arrested for, has an outstanding warrant for, or has been charged with a crime listed under OAR 416-800-0055.

(c) Whether the Subject Individual is currently on probation, parole, or any form of post-prison supervision for a crime listed in OAR 416-800-0055.

(d) Whether the Subject Individual has a deferred sentence or conditional discharge in connection with a crime listed in OAR 416-800-0055.

(e) Whether the Subject Individual has been adjudicated in a juvenile court and found to be within the court's jurisdiction for an offense that would have constituted a crime listed in OAR 416-800-0055 if committed by an adult.

(f) The nature of any crime identified under subsection (2)(a);

(g) The facts that support the arrest, conviction, finding of guilty except for insanity, or pending indictment;

(h) The facts that indicate the Subject Individual made a False Statement;

(i) The relevance, if any, of a crime identified under subsection (2)(a) or of a False Statement made by the Subject Individual to the specific requirements of the Subject Individual's present or proposed position, services or employment; and

(j) Intervening circumstances, to the extent that they are relevant to the responsibilities and circumstances of the services or employment for which the Fitness Determination is being made, including, but not limited to:

(A) The passage of time since the commission or alleged commission of a crime identified under subsection (2)(a);

(B) The age of the Subject Individual at the time of the commission or alleged commission of a crime identified under subsection (2)(a);

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another crime listed in OAR 416-800-0055;

(E) Whether a Conviction identified under subsection (2)(a) has been set aside or pardoned, and the legal effect of setting aside the Conviction or of a pardon; and

(F) A recommendation of an employer.

(3) Refusal to Consent. If a Subject Individual refuses to submit or consent to a Criminal Records Check, including fingerprint identification, OYA must deny the employment of the Subject Individual, or revoke or deny any applicable position or authority to provide services. A person may not appeal any determination made based on a refusal to consent.

(4) If a Subject Individual is Denied as not fit, then the Subject Individual may not be employed by OYA or provide services to OYA as a Volunteer, foster parent, contractor, or vendor.

(5) Under no circumstances must a Subject Individual be Denied under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 11-2005, f. & cert. ef. 4-20-05; OYA 15-2005, f. & cert. ef. 6-30-05; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0055

Types of Crimes Relevant to a Fitness Determination

(1) Crimes Relevant to a Fitness Determination.

(a) All felonies;

(b) All misdemeanors;

(c) Any United States Military crime or international crime;

(d) Any civil restraining order entered for spousal abuse, domestic violence, harassment, or stalking.

(2) Evaluation of Crimes. OYA must evaluate a crime on the basis of the laws of the jurisdiction in which the crime or offense occurred.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0065

Incomplete Fitness Determination

(1) OYA will close a preliminary or final Fitness Determination as incomplete when:

(a) Circumstances change so that a person no longer meets the definition of a "Subject Individual" under OAR 416-800-0020;

(b) The Subject Individual does not provide materials or information under OAR 416-800-0030(1) within the timeframes established under that rule;

(c) OYA cannot locate or contact the Subject Individual;

(d) The Subject Individual fails or refuses to cooperate with OYA's attempts to acquire other relevant information under OAR 416-800-0050(2); or

(e) OYA determines that the Subject Individual is not eligible or not qualified for the position of employee, foster parent, contractor, Volunteer, or vendor for a reason unrelated to the Fitness Determination process; or

(f) The position is no longer open.

(2) A Subject Individual does not have a right to a contested case hearing under OAR 416-800-0080 or alternate appeal process under OAR 416-800-0080(6) to challenge the closing of an incomplete Fitness Determination.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0070

Notice to Subject Individuals of Fitness Determination

OYA must inform the Subject Individual who has been determined not to be fit on the basis of a Criminal Records Check, via certified mail to the most current address provided by the Subject Individual, of such disqualification.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0080

Appealing a Fitness Determination

(1) Model Rules of Procedure. OYA adopts the Attorney General's Model Rules of Procedure OAR 137-003-0001 to 137-003-0091 and 137-003-0580, effective January 1, 2008, as procedural rules for contested case hearings. In addition to the Model Rules of Procedure adopted by OYA, the procedures set forth in this rule must apply.

(2) Process

(a) A Subject Individual may appeal a Fitness Determination by submitting a written request for a contested case hearing to the address specified in the notice provided under OAR 416-800-0070.

(A) A request for a hearing from a foster parent or foster parent applicant must be received by OYA within 60 days of the date of the notice.

(B) A request for a hearing from any Subject Individual other than foster care parents or foster care applicants must be received by OYA within 14 calendar days of the date of the notice.

ADMINISTRATIVE RULES

(b) When a timely request is received by OYA under subsection (a), a contested case hearing must be conducted by a hearing officer appointed by OYA's Director.

(3) Time and Place of Hearings. The time and place of hearing will be set by the hearing officer. Notice of the hearing must be served on the appropriate assistant director and interested parties at least ten days in advance of the hearing date.

(4) Discovery. OYA or the hearing officer may protect information made confidential by ORS 181.534(15) or other applicable laws and rules.

(5) Disclosure of LEDS Information. Information obtained through LEDS must be disclosed only in a manner consistent with Oregon State Police rules and regulations.

(6) No Public Attendance. Contested case hearings on Fitness Determinations are closed to non-participants.

(7) Proposed and Final Order

(a) Proposed Order. After a hearing, the hearings officer will issue a proposed order.

(b) Exceptions. Exceptions, if any, must be filed within 14 calendar days after service of the proposed order. The proposed order must provide an address to which exceptions must be sent.

(c) Default. A completed final Fitness Determination made under OAR 416-800-0050 becomes final: (A) unless the Subject Individual makes a timely request for hearing; or (B) when a party withdraws a hearing request, notifies the agency or the hearing officer that the party will not appear, or fails to appear for the hearing.

(8) Alternative Process. A Subject Individual currently employed by OYA may choose to appeal a Fitness Determination either under the process made available by this rule or through the process made available by applicable personnel rules, policies and collective bargaining provisions. A Subject Individual's decision to appeal a Fitness Determination through applicable personnel rules, policies, and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the Fitness Determination and is a waiver of the contested case process made available by this rule.

(9) Remedy. The only remedy that may be awarded is a determination that the Subject Individual is fit. Under no circumstances must OYA be required to place a Subject Individual in any position, nor must OYA be required to accept services or enter into a contractual agreement with a Subject Individual.

(10) Challenging Criminal Offender Information. A Subject Individual may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon Department of State Police or the Federal Bureau of Investigation. To challenge information identified in this section (10), a Subject Individual may use any process made available by the agency that provided the information.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0090

Record Keeping, Confidentiality

Any information obtained in the Criminal Records Check is confidential. OYA must restrict the dissemination of information obtained in the Criminal Records Check. Only those persons, as identified by OYA, with a demonstrated and legitimate need to know the information, may have access to Criminal Records Check records information.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0095

Fees

(1) OYA may charge a fee for acquiring Criminal Offender Information for use in making a Fitness Determination. In any particular instance, the fee may not exceed the fee(s) charged OYA by the Oregon Department of State Police and the Federal Bureau of Investigation to obtain Criminal Offender Information on the Subject Individual.

(2) OYA may charge the fee to the Subject Individual on whom Criminal Offender Information is sought, or, if the Subject Individual is an employee of an OYA contractor or vendor and is undergoing a Fitness Determination in that capacity, OYA may charge the fee to the Subject Individual's employer.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

Parks and Recreation Department Chapter 736

Rule Caption: Rules governing Cultural, Historic, Natural and Wildlife resources are being amended to restrict hunting in LaPine State Park.

Adm. Order No.: PRD 7-2010

Filed with Sec. of State: 6-15-2010

Certified to be Effective: 6-15-10

Notice Publication Date: 3-1-2010

Rules Amended: 736-010-0055

Rules Repealed: 736-010-0055(T)

Subject: The General Park rules are being amended to eliminate hunting of waterfowl within LaPine State Park.

Rules Coordinator: Vanessa DeMoe—(503) 986-0719

736-010-0055

Cultural, Historic, Natural and Wildlife Resources

(1) A person may not disturb or remove any archaeological, cultural, or historical material from a park area, unless authorized by the director as defined in ORS 390.235.

(2) A person may not, except with the written permission of the park director or park manager:

(a) Dig up, or remove any soil, rock, or fossil materials;

(b) Roll any stones, logs or other objects that may endanger a person or damage park resources; or

(c) Pick, cut, mutilate or remove plants or natural resources of any type from any park area, except as allowed by sections (3) to (5) and (7) of this rule.

(3) A person may collect limited-souvenirs of agate and gem stone rock materials within the boundaries of Succor Creek State Recreation Area away from the developed public use areas and roadways of the park under the following conditions:

(a) No commercial digging, quarrying, or removal of rock is allowed;

(b) No excavating or rock collecting is allowed within a distance of 500 feet from any developed public use picnic area or campground, or 200 feet from an improved highway or park road within the park area; or within the area of an archeological site;

(c) Excavation is restricted to standard hand tools including a hand pick, shovel, or hammer;

(d) The use of mechanical excavators including, but not limited to bulldozers, backhoes, scoops, tractors, or the use of other power tools to excavate or remove materials is prohibited;

(e) Excavation of rock or soil materials around the root zone of trees and shrubs is prohibited.

(4) Notwithstanding section (2) or (3), a person must comply with existing state and federal rules and regulations concerning mining or the protection of public archeological features or artifacts on the state and federal lands of this area.

(5) A person may gather for personal consumption berries, fruits, mushrooms, or similar edibles. A person may not uproot living plants, and roots, tubers, flowers, and stems may not be collected except with a written permit and only for scientific collection or research purposes, or by a Native American for personal consumption as part of their traditional cultural heritage. Driftwood may be taken in small amounts in accordance with OAR 736-026-0010.

(6) A person may not give or offer food items to any wildlife within a park area except when authorized by the park manager.

(7) A person may not hunt, pursue, trap, kill, injure, or molest any wildlife or disturb their habitats within a park area, except under the following provisions:

(a) In those park areas where hunting and trapping is allowed, a person must comply with the rules and regulations of the Oregon Department of Fish and Wildlife.

(b) In those park areas where hunting is allowed, dogs being used for hunting game birds or unprotected wildlife or being trained for hunting or tracking shall be in the handler's control at all times.

(c) Seasonal hunting of waterfowl is allowed in the following park areas:

(A) Bowers Rock State Park;

(B) That portion of Elijah Bristow State Park located north of the main channel of the Middle Fork of the Willamette River;

(C) Portions of Fort Stevens State Park adjacent to Trestle Bay as posted;

ADMINISTRATIVE RULES

(D) That portion of Willamette Mission State Park located on Grand Island in Yamhill County;

(E) That portion of Government Island State Recreation Area including the perimeter of both Government and Lemon Islands, not above the mean high water mark as posted;

(F) That portion of Rooster Rock State Park which includes Sand Island as well as the bank which runs parallel to the south of the island. Hunting will not be allowed during the special waterfowl hunting season which starts in September as posted;

(G) That portion of Benson State Recreation Area at Dalton Point, north of I-84, starting 300' east of the boat ramp running to the eastern most tip of the property at river mile 134 as posted;

(H) That portion of Starvation Creek State Park, north of I-84, river mile 159.6 to 160.2 as posted;

(I) That portion of Mayer State Park including the entire Salisbury Slough area and the pond 800' Northwest of the boat ramp as posted.

(d) Seasonal hunting of game wildlife is allowed within Deschutes River State Recreational Area south of the stream gauge cable crossing line and parallel extensions of the cable crossing line to the east and west park boundaries.

(e) Seasonal hunting of deer is allowed in portions of La Pine State Recreation Area north of the east-west power line road, approximately one mile north of the campground booth.

(f) Seasonal hunting permitted at Cottonwood Canyon State Park on the John Day River subject to change upon the adoption of the Cottonwood Canyon State Park Master Plan.

(g) Seasonal hunting of upland game birds is allowed in Succor Creek State Park, except within 500 feet of camping areas located near the Succor Creek Bridge and posted Safety Zones.

(h) Trapping is allowed only by permit from the department in Bowers Rock State Park, Deschutes State Recreation Area, Elijah Bristow State Park, and Willamette Mission State Park.

(i) Hunting is allowed with shotguns or bows and arrows only, during authorized seasons in all Willamette River Greenway Corridor parcels, except in those parcels described below, where all hunting is prohibited:

(A) Wapato Access (Virginia Lake), River Mile 17.0–18.0, Multnomah Channel, Right bank when facing downstream;

(B) Crown Zellerbach, River Mile 21.3, Main Channel, Left Bank when facing downstream;

(C) Merrell (Mary S. Young State Park), River Mile 23.6, Main Channel, Left Bank when facing downstream;

(D) Willamette Shores, Inc. (Mary S. Young State Park), Main Channel, River Mile 24.0, Main Channel, Left Bank when facing downstream;

(E) Meldrum Bar Park (City of Gladstone) River Mile 24.2–24.4, Main Channel, Right Bank when facing downstream;

(F) Hattan-Fisher, River Mile 24.3, Main Channel, Left Bank when facing downstream;

(G) Dahl Park (City of Gladstone) River Mile 24.7, Main Channel, Right Bank when facing downstream;

(H) Coalca Landing, River Mile 30.7, Main Channel, Right Bank when facing downstream;

(I) Lang, River Mile 30.7, Main Channel, Left Bank when facing downstream;

(J) Pete's Mountain Landing, River Mile 30.8, Main Channel, Left Bank when facing downstream;

(K) Peach Cove Landing, River Mile 31.5, Main Channel, Left Bank when facing downstream;

(L) Brandborg, River Mile 32.0, Main Channel, Left Bank when facing downstream;

(M) Asche, River Mile 34.1, Main Channel, Left Bank when facing downstream;

(N) Molalla River State Park, River mile 34.6–36.1, Main Channel, Right Bank when facing downstream;

(O) Willamette Meridian Landing, River Mile 37, Main Channel, Left Bank when facing downstream;

(P) French Prairie Access, River Mile 41.0, Main Channel, Right Bank when facing downstream;

(Q) Parrett Mountain Access, River Mile 45.5–46.0, Main Channel, Left Bank when facing downstream;

(R) Hess Creek Landing, River Mile 53, Main Channel, Left Bank when facing downstream;

(S) San Salvador Access, River Mile 56.7, Main Channel, Right Bank when facing downstream;

(T) Lincoln Access, River Mile 76.2–77.0, Main Channel, Left Bank when facing downstream;

(U) Lincoln Access (Doak's Ferry) River Mile 77.6, Main Channel, Left Bank when facing downstream;

(V) Darrow Rocks Access, River Mile 78.1, Main Channel, Left Bank when facing downstream;

(W) Ross Island Sand & Gravel (Salem Waterfront), River Mile 82.8, Main Channel, Right Bank when facing downstream;

(X) Hall's Ferry Access, River Mile 91.3, Main Channel, Right Bank when facing downstream;

(Y) Springfill Access, River Mile 113.8, Main Channel, Left Bank when facing downstream;

(Z) Takenah Landing (City of Albany), River Mile 118.5, Main Channel, Left Bank when facing downstream (Closed only for 500 feet west of parking area);

(AA) Jasper Bridge, River Mile 195.2, Middle Fork, Right Bank when facing downstream;

(BB) Minshall, Eller, River Mile 119.9, Main Channel, Left Bank when facing downstream;

(CC) Jones, Lanham, River Mile 120.1, Main Channel, Left Bank when facing downstream;

(DD) F. Schmidt, P. Schmidt, River Mile 120.3, Main Channel, Left Bank when facing downstream;

(EE) Truax Island Access, River Mile 168.7, Main Channel, Left Bank when facing downstream (closed only for 500 feet west of parking area);

(FF) Marshall Island Access (Banton), River Mile 168.7, Main Channel, Left Bank when facing downstream;

(GG) Log Jam Access, River Mile 194.4–194.8, Middle Fork, Left Bank when facing downstream;

(HH) Pengra Access, River Mile 195.2, Middle Fork, Right Bank when facing downstream;

(II) Cougar Mountain Access, River Mile 15.5, Coast Fork, Right Bank when facing downstream; and

(JJ) Lynx Hollow Access, River Mile 17.2, Coast Fork, Left Bank when facing downstream (Closed except for 100 foot strip along river-bank);

(j) Trapping is allowed only with written authorization from the department in the Willamette River Greenway Corridor parcels closed to hunting, as listed above. Trapping is allowed in all other Willamette River Greenway Corridor parcels.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, 498.002 & 498.006

Hist.: 1 OTC 2-1980, f. & ef. 1-4-80; PR 9-1981, f. & ef. 4-6-81; PR 10-1991, f. & cert. ef. 6-18-91; Renumbered from 736-015-0065, 736-015-0072, 736-015-0080, 736-015-0090, 736-015-0095, 736-015-0100, 736-015-0130, 736-015-0135, 736-015-0150 & 736-015-0160, PRD 4-2005, f. & cert. ef. 5-5-05; PRD 11-2008, f. & cert. ef. 12-15-08; PRD 11-2009, f. & cert. ef. 6-18-09; PRD 2-2010(Temp), f. & cert. ef. 2-3-10 thru 7-30-10; PRD 7-2010, f. & cert. ef. 6-15-10

Public Utility Commission Chapter 860

Rule Caption: In the Matter of Clarifying Changes to Rules regarding the RSPF Surcharge and Remittance Reports.

Adm. Order No.: PUC 1-2010

Filed with Sec. of State: 5-18-2010

Certified to be Effective: 5-18-10

Notice Publication Date: 4-1-2010

Rules Amended: 860-033-0006, 860-033-0007, 860-033-0008

Subject: The changes to OAR 860-033-0006, 860 033 0007, and 860-033-0008 correct a statutory citation, clarify the exemption for counties and political subdivisions and for federal, state, and municipal bodies or public corporations; and further clarify the late report fee amount and when it may be assessed.

Rules Coordinator: Diane Davis—(503) 378-4372

860-033-0006

Monthly and Quarterly RSPF Surcharge: General Provisions, Remittance Reports and Payment

(1) The surcharge rate and the balance in the RSPF are reviewed annually by the Commission each October. The Commission may adjust the amount of the surcharge to ensure the fund has adequate resources but does not exceed six months of projected expenses. A rate adjustment ordered by the Commission following the annual review becomes effective January 1 of the year following the review.

ADMINISTRATIVE RULES

(2) The surcharge imposed by 1987 Oregon Laws Chapter 290, Section (7)(1) does not apply to entities upon which the state is prohibited from imposing the surcharge by the Constitution or laws of the United States or the Constitution or laws of the State of Oregon including, but not limited to:

(a) Counties and political subdivisions.

(b) Federal, state and municipal government bodies or public corporations. For purposes of this rule, "public corporation" means a corporation formed by a state or local government authority for the public's benefit or for a public purpose.

(c) Federally chartered corporations specifically exempt from state excise taxes by federal law.

(d) Federally recognized Native-American Tribes, and tribal members who live within federally recognized Indian country and are enrolled members of the tribe with sovereignty over that Indian country.

(e) Foreign government offices and representatives that are exempt from state taxation by treaty provisions.

(f) Regional housing authorities exempt from all state taxes and assessments by ORS 307.092.

(g) Interconnection between telecommunications utilities, telecommunications cooperatives, competitive telecommunications services providers certified pursuant to ORS 759.020, radio common carriers and interexchange carriers.

(h) Any other agency, organization or person claiming an exemption is required to identify the authority for its claim to a provider. If a telecommunications provider is unable to determine the status of a subscriber the Commission will determine whether the subscriber is exempt.

(3) Each telecommunications provider must:

(a) Collect the RSPF surcharge by charging the specified amount to each retail subscriber with access to the telecommunications relay service, including OTAP eligible subscribers. The RSPF surcharge is applied on a telecommunications circuit designated for a particular subscriber.

(A) One subscriber line is counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity of customer premises equipment connected to each circuit.

(B) For providers of central office based services, the surcharge is applied to each line that has unrestricted connection to the telecommunications relay service. For central office based service lines that have restricted access to the Oregon Telecommunications Relay Service (OTRS), the surcharge is charged based on software design.

(C) For cellular, wireless, or other radio common carriers, the surcharge is applied on a per-instrument basis.

(b) Identify the surcharge on each retail customer's bill as a separate line item named "RSPF Surcharge."

(4) Each telecommunications provider must submit to the Commission the Remittance Report and surcharge fees on or before the 21st calendar day after the close of each month or quarter as follows:

(a) Each telecommunications provider that has 1,000 or more customers must collect and submit the RSPF surcharge fee and Remittance Report monthly.

(b) Each telecommunications provider that has fewer than 1,000 customers must collect the RSPF surcharge fee and submit the Remittance Report either monthly or quarterly in January, April, July, and October at the telecommunication provider's discretion.

(5) Each telecommunications provider must submit the Remittance Report and surcharge fee with no exceptions. If no surcharge is collected, the telecommunications provider must still submit its monthly or quarterly Remittance Report specified in section (4) of this rule.

(6) For each billing period that a telecommunications provider fails to submit the surcharge fees in full on or before the due date required by these rules, the telecommunications provider must pay a late payment fee in accordance with OAR 860 011-0110. The Commission may not impose a late payment fee until the surcharge fees are five business days past due.

(7) If the telecommunications provider fails to submit the surcharge fee in full on or before the due date, the telecommunications provider must pay interest in accordance with OAR 860-011-0110.

(8) If a telecommunications provider fails to file a Remittance Report as required by these rules, the telecommunications provider must pay a late report fee in accordance with OAR 860-011-0110. The Commission may not impose a late report fee until the Remittance Report is five business days past due.

(9) If the amount shown due on a Remittance Report is not paid by the due date, the Commission may issue a proposed order to set the sum due. The Commission may waive the late report fee, the late payment fees and the interest on the unpaid surcharge fees, or any combination thereof, if the

telecommunications provider files a written waiver request and provides evidence showing that the telecommunications provider submitted the Remittance Report and surcharge fees late due to circumstances beyond its control.

(10) The telecommunications provider must pay a fee in accordance with OAR 860 011-0110 for each payment returned for non-sufficient funds.

(11) Remittance Report Records: A telecommunications provider must keep all records supporting each Remittance Report for three years, or if a Commission review or audit is pending, until the review or audit is complete, whichever is later.

(12) In computing any period of time prescribed or allowed by these rules, the first day of the act or event is not included. The last day of the time period is included, unless the last day is a Saturday or legal holiday; then the time period runs until the end of the next day that is not a Saturday or a legal holiday. Legal holidays are those identified in ORS 187.010 and 187.020.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 1-2010, f. & cert. ef. 5-18-10

860-033-0007

Estimated Report

(1) For any time period for which a telecommunications provider fails to file a Remittance Report as required by these rules, the Commission may determine a proposed surcharge assessment based upon any information available to the Commission.

(2) The proposed assessment must:

(a) Include a late payment fee equal to 9 percent of the proposed assessment amount, up to a maximum of \$500 for that reporting period;

(b) Include interest on the proposed assessment amount at the rate of 9 percent per annum from the day the surcharge fee was originally due;

(c) Include a late report fee per 860-011-0110(3)(e); and

(d) Be made no later than 3 years after the Remittance Report's due date.

(3) Notwithstanding subsection (2)(c) of this rule, if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission has an unlimited time to propose an assessment for the time period represented by the non-filed Remittance Report. The proposed assessment must include all late payment fees as specified in this rule.

(4) During the 30-day period allowed for filing a petition for a hearing, the telecommunications provider may file its Remittance Report and pay the surcharge, late report fee, late payment fee, and interest. The Commission must accept the Remittance Report, surcharge payment, late report fee, late payment fee and interest if correctly calculated in accordance with the original due date for the subject time period's Remittance Report and payment.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 1-2010, f. & cert. ef. 5-18-10

860-033-0008

Commission Audit and Proposed Assessment

(1) For any time period for which a telecommunications provider's Remittance Report was due, the Commission may audit the telecommunications provider as the Commission deems necessary and appropriate.

(2) The Commission's audit must begin no later than three years after the Remittance Report's due date. After completion of the audit, the Commission may propose to assess an additional surcharge amount due from the telecommunications provider.

(3) If a telecommunications provider failed to file a Remittance Report within the time period specified in these rules, the Commission must add to the proposed assessment a late report fee per 860-011-0110(3)(e) and a late payment fee equal to 9 percent per annum of the amount of the proposed assessment, up to a maximum of \$500.

(4) Each proposed assessment bears interest on the additional surcharge amount proposed at the rate of 9 percent per annum from the day the original surcharge amount was due.

(5) Notwithstanding section (2) of this rule, if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission has an unlimited time to audit the telecommunications provider for the surcharge fees.

(6) A telecommunications provider must produce for inspection or audit upon request of the Commission or its authorized representative all

ADMINISTRATIVE RULES

records supporting its Remittance Reports. The Commission, or its representative, must allow the telecommunications provider a reasonable time to produce the records for inspection or audit.

(7) In addition to any other penalty allowed by law, the Commission may suspend or cancel a telecommunications provider's certificate of authority to provide telecommunications service for its failure to produce for inspection or audit the records required by this rule.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987
Hist.: PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 1-2010, f. & cert. ef. 5-18-10

Rule Caption: In the Matter of a Rulemaking Regarding Solar Photovoltaic Energy Systems.

Adm. Order No.: PUC 2-2010

Filed with Sec. of State: 6-1-2010

Certified to be Effective: 6-1-10

Notice Publication Date: 12-1-2009

Rules Adopted: 860-084-0000, 860-084-0010, 860-084-0020, 860-084-0030, 860-084-0040, 860-084-0050, 860-084-0060, 860-084-0070, 860-084-0080, 860-084-0100, 860-084-0120, 860-084-0130, 860-084-0140, 860-084-0150, 860-084-0160, 860-084-0170, 860-084-0180, 860-084-0190, 860-084-0195, 860-084-0200, 860-084-0210, 860-084-0220, 860-084-0230, 860-084-0240, 860-084-0250, 860-084-0260, 860-084-0270, 860-084-0280, 860-084-0300, 860-084-0310, 860-084-0320, 860-084-0330, 860-084-0340, 860-084-0350, 860-084-0360, 860-084-0365, 860-084-0370, 860-084-0380, 860-084-0390, 860-084-0400, 860-084-0420, 860-084-0430, 860-084-0440, 860-084-0450

Subject: ORS 757.365 (2009), as amended by House Bill 3690 (2010), mandates the development of pilot programs for each electric company to demonstrate the use and effectiveness of volumetric incentive rates and payments for electricity delivered by solar photovoltaic energy systems. ORS 757.370 creates a solar capacity standard under which the electric companies must acquire a share of 20 megawatts of nameplate capacity from large solar photovoltaic energy systems by the year 2020. In this rulemaking, the Commission adopted the rules necessary to implement the pilot programs required under ORS 757.365 and to address the solar capacity standard required under ORS 757.370. Additionally, the adopted rules ensure that when implementing the pilot programs and capacity standards, the electric companies operate safe and reliable electric systems and provide service at just and reasonable rates.

Rules Coordinator: Diane Davis—(503) 378-4372

860-084-0000

Scope and Applicability of Solar Photovoltaic Programs

(1) OAR 860-084-0020 through 860-084-0080 (“the Solar Photovoltaic Capacity Standard”) govern implementation of programs requiring electric company installation of solar photovoltaic capacity.

(2) OAR 860-084-0100 through 860-084-0450 (the “Solar Photovoltaic Pilot Programs”) govern implementation of pilot programs to demonstrate the use and effectiveness of volumetric incentive rates and payments for electricity delivered from solar photovoltaic energy systems.

(3) The Commission may waive any of the rules contained in Division 084 for good cause.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0010

Definitions for Solar Photovoltaic Capacity Standard and Pilot Programs

(1) “Contracted system” means an eligible system under contract in the solar photovoltaic pilot program.

(2) “Electric company” has the meaning given that term in ORS 757.600.

(3) “Eligible consumer” means a retail electricity consumer receiving service at the property where the solar photovoltaic energy system will be installed.

(4) “Eligible energy” or “eligible generation” means the kilowatt-hours that may be paid at the volumetric incentive rate. For the net metering option of the pilot program, eligible energy is equal to the usage of the

retail electricity consumer in the year that the energy is generated by the eligible system. In a given month, this eligible energy is equal to the actual usage of the retail electricity consumer for that month. For the bidding option of the pilot program, eligible energy equals actual generation, net of system requirements.

(5) “Eligible participant” or “participant” means an eligible consumer who has signed a contract with the electric company and is participating in the pilot program. A regulated utility is not an eligible participant in pilot programs.

(6) “Eligible system” means a qualifying system that meets the requirements of OAR 860-084-0120.

(7) “Equipment package” means a group of components connecting an electric generator with an electric distribution system and includes all interface equipment including switchgear, inverters, or other interface devices. An equipment package may include an integrated generator or electric production source.

(8) “Excess energy” or “excess generation” means the kilowatt-hours generated in excess of actual annual usage under the net metering option of the volumetric incentive rate pilot program. In a given month, excess energy means kilowatt-hours generated in excess of monthly usage.

(9) “Nameplate capacity” means the maximum rated output of a solar photovoltaic system, measured at an irradiance level of 1000 W/m², with reference air mass 1.5 solar spectral irradiance distribution and cell or module junction temperature of 25°C.

(10) “IEEE standards” means the standards published in the 2003 edition of the Institute of Electrical and Electronics Engineers (IEEE) Standard 1547, entitled “Interconnecting Distributed Resources with Electric Power Systems,” approved by the IEEE SA Standards Board on June 12, 2003, and in the 2005 edition of the IEEE Standard 1547.1, entitled “IEEE Standard Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems,” approved by the IEEE SA Standards Board on June 9, 2005.

(11) “On-line” means that the photovoltaic system is installed and providing power to the electric company’s electrical system or to serve the load of the retail electricity consumer.

(12) “Payable generation” is the eligible generation for each month plus accrued excess generation, up to the actual monthly usage. Excess generation accrues monthly.

(13) “Pilot capacity limit” means the maximum installed capacity that each electric company may contract during the pilot program.

(14) “Pilot year” means each twelve-month period of the solar photovoltaic pilot program beginning on April 1 and ending on March 31.

(15) “Qualifying assignee” or “assignee” means a person to whom a retail electricity consumer may assign volumetric incentive rate payments under the standard contract. An electric company or its affiliate or any other regulated utility is not a qualifying assignee. Qualifying assignees include, but are not limited to:

(a) A lender providing up front financing to a retail electricity consumer,

(b) A company or individual who enters into a financial agreement with a retail electricity consumer to own and operate a solar photovoltaic energy system on behalf of the retail electricity consumer in return for compensation,

(c) A company or individual who contracts with the retail electricity consumer to locate a solar photovoltaic system on property owned by the retail electricity consumer, or

(d) Any party identified by the retail electricity consumer to receive payments that the electric company is obligated to pay to the retail electricity consumer.

(16) “Qualifying third party” or “third party” means a party who is the owner or operator of a photovoltaic system installed under the pilot program but who is not the retail electricity consumer at that location. An electric company is not a qualifying third party under the pilot programs.

(17) “Reservation start date” means the date the retail electricity consumer is notified of securing capacity through a capacity reservation process and of the start and expiration dates for that capacity reservation. The reservation start date initiates the time to interconnection agreement.

(18) “Retail electricity consumer” means a consumer who is a direct customer of the electric company and is the end user of electricity for specific purposes, such as heating, lighting or operating equipment. Retail electricity consumers include consumers on direct access.

(19) “System requirements” means the input electricity required to allow the solar photovoltaic energy system to operate, sometimes referred to as the parasitic load.

ADMINISTRATIVE RULES

(20) “Time to interconnection agreement” means the time between the reservation start date and the date an eligible participant signs an interconnection agreement.

(21) “Volumetric incentive payments” or “payments” means the monthly amount that an electric company pays to an eligible participant or assignee in the solar photovoltaic pilot program for payable energy generated by a contracted system.

(22) “Volumetric incentive rate” means the rate per kilowatt-hour paid by an electric company to a retail electricity consumer or assignee for payable generation.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0020

Solar Photovoltaic Capacity Standard

On or before January 1, 2020, each electric company must own, or contract to purchase the capacity and output of qualifying solar photovoltaic energy systems to achieve, or exceed, and maintain the following minimum solar photovoltaic capacity standards:

- (1) Portland General Electric: 10.9 megawatts
- (2) Pacific Power: 8.7 megawatts
- (3) Idaho Power Company: 0.5 megawatts.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0030

Qualifying Systems under the Solar Photovoltaic Capacity Standard

Individual solar photovoltaic energy systems used to comply with the solar photovoltaic capacity standards specified in OAR 860-084-0020 must have a nameplate generating capacity greater than or equal to 500 kilowatts and less than or equal to 5 megawatts.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0040

Measurement of Capacity under the Solar Photovoltaic Capacity Standard

(1) The capacity of solar photovoltaic energy systems used to satisfy the requirements of OAR 860-084-0020 must be measured on the alternating current side of the system’s inverter.

(2) Each electric company must convert nameplate capacity ratings reported by manufacturers in terms of direct current watts under standard test conditions to an alternating current rating in watts to account for inverter and other system component losses and to account for the effect of normal operating temperature on solar module output. This conversion will be calculated as 85 percent of the manufacturer’s nameplate rating.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0050

Compliance Report

(1) On or before February 1, 2020, each electric company must file a report with the Commission demonstrating compliance, or explaining in detail any failure to comply, with the solar photovoltaic capacity standards specified in OAR 860-084-0020.

(2) The report required in section (1) of this rule must include the following information associated with each solar photovoltaic energy system:

- (a) The name of the facility;
- (b) The location of the facility;
- (c) The in-service date of the facility;
- (d) The manufacturer’s nameplate capacity rating;
- (e) The electric company’s capacity rating on the alternating current side of the system’s inverter;
- (f) The execution date of any associated power purchase agreement;

and

- (g) The contracted capacity and output delivery period of any associated power purchase agreement.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0060

Cost Recovery

An electric company may request recovery of its prudently incurred costs to comply with the solar photovoltaic capacity standard specified in

OAR 860-084-0020 in an automatic adjustment clause proceeding filed at the Commission pursuant to ORS 469A.120.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0070

Renewable Energy Certificates and Compliance with the Renewable Portfolio Standards

(1) Each renewable energy certificate associated with the electricity produced by solar photovoltaic energy systems used to achieve, or exceed, the minimum solar photovoltaic capacity standards specified in OAR 860-084-0020 may be used to comply with the renewable portfolio standards established under ORS 469A.005 to ORS 469A.120.

(2) Each renewable energy certificate associated with the electricity produced by solar photovoltaic energy systems may be used, or counted, twice to comply with the renewable portfolio standards established under ORS 469A.005 to ORS 469A.120, if the solar photovoltaic energy systems:

- (a) First become operational before January 1, 2016,
- (b) Are installed in Oregon, and
- (c) Are within the solar photovoltaic capacity standards specified in

OAR 860-084-0020.

(3) Renewable energy certificates used pursuant to sections (1) and (2) of this rule must comply with the standards of OAR 860-083-0050.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0080

Implementation Plans

Each electric company must incorporate its plan to achieve, or exceed, and maintain the minimum solar photovoltaic capacity standards specified in OAR 860-084-0020 into its renewable portfolio standard implementation plans filed pursuant to OAR 860-083-0400.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0100

Solar Photovoltaic Pilot Programs

(1) Each electric company must establish pilot programs to demonstrate the use and effectiveness of volumetric incentive rates and payments for electricity delivered from qualifying solar photovoltaic energy systems.

(2) Each electric company must offer a net metering option under the pilot program. This option has the following characteristics:

- (a) Qualifying systems installed on the customer side of the service meter;
- (b) Volumetric incentive rates established by Commission order;
- (c) Volumetric incentive rate payments for generation up to the actual annual usage of the retail electricity consumer (eligible generation);
- (d) Generation in excess of net metered annual usage (excess generation) donated to the electric company’s low income bill assistance program; and

(e) Capacity of qualifying systems sized to provide an estimated energy generation equal to 90 percent of the rolling average of the usage at the premises at which the qualifying system will be installed. If this average cannot be determined, the nameplate capacity can be no more than 90 percent of a rolling average of three year’s usage by a similarly-situated customer, as determined by the electric company. The methodology used to calculate this energy generation will be consistent with the methodologies used by the Energy Trust of Oregon and the Oregon Department of Energy.

(3) Each electric company must offer a volumetric incentive rate bid option under the pilot program. This option has the following characteristics:

(a) Volumetric incentive rate paid to each retail electricity consumer is established by a successful bid for capacity in the volumetric incentive rate pilot program; and

(b) Volumetric incentive rate payments for 100 percent of energy generated, net of system requirements.

(4) Retail electricity consumers eligible for each pilot program option will be defined by Commission order.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

ADMINISTRATIVE RULES

860-084-0120

Systems Eligible for Enrollment in Pilot Programs

(1) Individual solar photovoltaic energy systems eligible for the Solar Photovoltaic Pilot Programs must have a nameplate generating capacity less than or equal to 500 kilowatts and must be:

(a) In compliance with the siting, design, interconnection, installation, and electric output standards and codes required by the laws of Oregon;

(b) Installed with meters or other devices to monitor and measure the quantity of energy generated;

(c) Permanently installed in the State of Oregon by a retail electricity consumer of the electric company;

(d) Installed in the service territory of the electric company;

(e) First operational and on-line after the launch of the pilot programs;

(f) Financed without expenditures under ORS 757.612 (3)(b)(B) or tax credits under ORS 469.160 or ORS 469.185 to 469.225;

(g) Certified by the residential electric consumer as constructed from new components (modules, inverter, batteries, mounting hardware, etc.); and

(h) Compliant with Commission quality and reliability requirements for solar photovoltaic systems and system installation.

(2) Systems that are uninstalled before the end of the contract term are not eligible for subsequent volumetric incentive rates, other feed-in tariffs, or pilot programs during the remainder of the contract term; and these systems cannot be reinstalled for the purposes of entering a new contract under any solar photovoltaic pilot program, volumetric incentive or other feed-in tariff program in the service territory of any electric company in the State of Oregon during the contract term of the system, except that a system may be uninstalled and reinstalled at another location under the same contract under the conditions set forth in OAR 860-084-0280.

(3) Retail electricity consumers submitting applications for a 500 kilowatt project are not eligible to reserve capacity in the solar photovoltaic pilot program if the same project is also competing for a purchased power agreement under the Solar Capacity Standard.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0130

Ownership and Installation

(1) An electric company must contract to provide an incentive for solar photovoltaic energy generated from an eligible system owned by a retail electricity consumer who has been granted a capacity reservation in the solar photovoltaic pilot program and has executed all agreements with the electric company.

(2) Eligible systems must be installed on the same property as the property where the retail electricity consumer buys electricity from the electric company.

(a) Retail electricity consumers required to choose the net metering option of the volumetric pilot programs must connect their systems to the customer load side of their meter.

(b) Retail electricity consumers required to choose the volumetric incentive rate bidding option of the pilot program must connect into the distribution feeder that services the consumer at the property.

(3) A retail electricity consumer may transfer its existing contract to another retail electricity consumer eligible to contract with the electric company and residing at the same address where the system is installed.

(4) Eligible systems may be owned, operated, or owned and operated by qualifying third parties, if the eligible system is:

(a) Owned by a qualifying third party as part of a loan agreement, or

(b) Owned and operated by a qualifying third party on behalf of the retail electricity consumer, or

(c) Operated by a third party on behalf of the retail electricity consumer.

(5) The electric company will own the rights to 100 percent of the renewable energy certificates associated with the energy provided by the contracted systems. The electric company may perfect the renewable energy certificates.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0140

Assignment of Payments

(1) An electric company must allow a retail electricity consumer to assign payments to a single qualifying assignee under standard contracts approved by the Commission and must allow changes to assignment over the contract term.

(2) An electric company may charge a reasonable fee for the assignment of payments for account setup at the time that the standard contract is assigned. An electric company may charge a reasonable fee for changes to assignment of payments over the contract term.

(3) An electric company must provide payment to the qualifying assignee within 45 days from the last day of the retail electricity consumer's prior billing period.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0150

Solar Photovoltaic Pilot Capacity Limit

(1) New capacity reservations will not be accepted after March 31, 2015, or when the cumulative capacity of contracted systems in pilot programs reaches 25 megawatts of nameplate capacity, whichever is earlier.

(2) Power that qualifies against this capacity limit is measured as the sum of power generated on the alternating current side of system inverters across all contracted systems.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0160

Measurement of Capacity under the Solar Photovoltaic Pilot Program

(1) For purposes of the Solar Photovoltaic Pilot Program, the capacity of solar photovoltaic energy is measured on the alternating current side of the system's inverter.

(2) Each electric company must convert nameplate capacity ratings reported by manufacturers in terms of direct current watts under standard test conditions to an alternating current rating in watts to account for inverter and other system component losses and to account for the effect of normal operating temperature on solar module output. This conversion will be calculated as 85 percent of the manufacturer's nameplate rating.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0170

Distributing Solar Photovoltaic Pilot Capacity by Electric Company

(1) Each electric company will receive a share of the total solar photovoltaic pilot program capacity as established by Commission order.

(2) An electric company may not solicit or accept additional capacity reservations for a solar photovoltaic pilot program once the company reaches 100 percent of its allocated solar photovoltaic pilot capacity limit.

(3) The Commission may consider requests to adjust each electric company's solar photovoltaic pilot capacity limit by changing the allocation of the total solar photovoltaic pilot program capacity from those established at pilot program initiation.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0180

Distributing Electric Company Capacity Limit by Allocation Period

(1) Each electric company must allocate a percentage of its total allocated capacity limit as established by Commission order.

(2) The Commission may consider requests to adjust the allocation percentage for any electric company.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0190

Distributing Capacity by System Size

(1) A solar photovoltaic system capacity is the total capacity contracted by a single retail electricity consumer.

(2) Three size classes of qualifying systems are established and defined by a range of nameplate capacity; the Commission may modify these capacity ranges.

(a) A small-scale system has a nameplate capacity of less than or equal to 10 kilowatts;

(b) A medium-scale system has a nameplate capacity greater than 10 kilowatts and less than or equal to 100 kilowatts; and

(c) A large-scale system has a nameplate capacity greater than 100 kilowatts and less than or equal to 500 kilowatts.

(3) Small-scale systems must be targeted to attain a goal of 75 percent of the energy generated under the solar photovoltaic pilot program.

ADMINISTRATIVE RULES

(4) An electric company must allocate certain percentages of its pilot capacity allocation for small-scale, medium-scale, and large-scale capacity systems as directed by Commission order.

(5) An electric company with less than one megawatt of total allocation must allocate 100 percent of its solar photovoltaic capacity limit to retail electricity consumers installing small-scale systems.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0195

Mechanisms for Reserving Capacity

(1) Capacity reservations for small-scale and medium-scale systems are awarded on a first-come first-served basis, until the annual capacity limit for the system size class is reached,

(a) Application packages for capacity may be submitted to the electric company at any time during the pilot year.

(b) A capacity reservation starts when an application package meeting the requirements of OAR 860-084-0230(2) is received by the electric company.

(2) Unless otherwise directed by Commission order, capacity reservations for large-scale systems are awarded on the basis of competitive bidding.

(a) Electric companies must issue a Request for Proposal for large-scale systems no later than 30 business days prior to the start of each pilot year.

(b) Electric companies must set the bidder response deadline no later than the first business day of each pilot year.

(c) Electric companies must award capacity to winning bidders no later than fifteen business days after the bidder response deadline. Selection of winning bids must be based solely on the bidder's volumetric incentive rate bid.

(d) If capacity remains available after all bids are awarded, then the remaining capacity will roll over to the next pilot year.

(e) A large-scale capacity reservation begins when the bidder receives notification of a successful bid.

(3) Electric companies must require a capacity reservation deposit of \$20 per kilowatt of the proposed system capacity.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0200

Capacity Reservation, Timing, and Volumetric Incentive Rates

(1) A consumer that has made a capacity reservation under the net metered option may receive the volumetric incentive rate in place at the time of the consumer's capacity reservation for 100 percent of the eligible energy generated by the consumer's system. Capacity reservation applications and standard contracts provided to retail electricity consumers at the time of capacity reservation must state the volumetric incentive rate that the retail electricity consumer is eligible to receive, based on the capacity reservation date.

(2) An eligible system owned by a retail electricity consumer who has been granted a capacity reservation in the solar photovoltaic pilot program and has executed all agreements with the electric company under the volumetric bidding option may receive the volumetric incentive rate bid by the retail electricity consumer, to be paid on 100 percent of the energy generated by the contracted system, net of system requirements. Capacity reservation applications and standard contracts provided to these retail electricity consumers must state the successful volumetric incentive rate bid awarded to the retail electricity consumer.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0210

Capacity Reservation, Timing, and Duration

(1) The capacity reservation for small-scale and medium-scale systems expires if a completed interconnection application is not filed within two months of the reservation start date, or if the system has not been installed within twelve months of the reservation start date.

(2) The capacity reservation for large-scale systems expires six months from the date that an interconnection application is filed or within twelve months from the reservation start date, whichever is longer, if the system has not been installed.

(3) Electric companies must collect data on the time to interconnection agreement and conduct pilot program satisfaction surveys in order to

improve capacity reservation and interconnection processes over the pilot program. Data collection and surveys must include:

(a) Interconnection agreements that have not been negotiated between the electric company and the retail electricity consumer within a six-month window after an application for interconnection has been filed, or

(b) Retail electricity consumers that have reserved capacity under the pilot programs and whose capacity reservations expire before solar photovoltaic energy systems are installed.

(4) Once the capacity reservation expires, the retail electricity consumer must newly apply for a capacity reservation and will not be given preferential treatment.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0220

Capacity Availability

(1) Each electric company must announce the available capacity for the upcoming capacity reservation period and solicit applications no later than two months before the start of the capacity reservation period. Each electric company must announce when the capacity allocation is fully reserved.

(2) Capacity allocated to small-scale, medium-scale, and large-scale systems that is not reserved in a capacity reservation period must be added to the available capacity for the respective size systems in the next capacity reservation period.

(3) In January 2013, the remaining pilot capacity may be reallocated. This reallocation may redistribute the remaining pilot program capacity so that 75 percent of the energy generated is from small-scale systems at the time the pilot program reaches 25 megawatts of alternating current.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0230

Application for Capacity Reservation

(1) The electric company must establish, in compliance with Commission order, a capacity application process for both the net metering and volumetric incentive rate bid options. The electric company must provide eligible participants the necessary instructions on how to complete a satisfactory capacity application. Fees collected during the capacity application process must be refunded to the retail electricity consumer if a capacity reservation is not secured.

(2) For the purposes of these rules, an application package includes a capacity reservation application, payment of fees required under OAR 860-084-0280, and an interconnection application that complies with OAR 860-084-0270(4)(a), (c), (d), (f), and (g). Electric companies may not require a retail electricity consumer to provide the information required by OAR 860-084-0270(4)(b) and (4)(e) as part of this initial application package.

(3) Within two months of securing a capacity reservation, a retail electricity consumer must submit a completed application for interconnection that meets all the requirements of OAR 860-084-0270 and that includes an estimate of annual system energy generation using the methodology identified in OAR 860-084-0100(2)(e).

(4) The capacity reservation application must certify that the retail electricity consumer has read and understands the standard contract established under the pilot program. Standard contract forms must be provided to retail electricity consumers as part of the application process.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0240

Standard Contracts

(1) Each electric company must file, for Commission approval, a separate standard contract for the net metering and competitive bidding volumetric incentive rate programs as part of its volumetric incentive rate tariff filing.

(a) The standard contract will establish an agreement between the electric company and a retail electricity consumer under which the electric company will make volumetric incentive rate payments to participants for energy generated by solar photovoltaic systems installed in the service territory of the electric company for a 15-year period. After the initial 15-year period, the electric company may pay its prevailing avoided cost for energy generated by the solar photovoltaic systems.

(b) Contracts under the solar photovoltaic pilot programs may only be issued to retail electricity consumers of the electric company; these consumers must be eligible to participate in the pilots.

ADMINISTRATIVE RULES

(2) Standard Contracts must include at least the following elements:

(a) Name and address of the retail electricity consumer and the installation address of the eligible system;

(b) Each standard contract must be based on the volumetric incentive rate (bid option) or volumetric incentive rate formula (net metering option) in place at the time of the capacity reservation for the retail electricity consumer;

(c) Each standard contract must require a retail electricity consumer installing capacity under the net metered option to transfer generation in excess of eligible energy to the low income bill assistance program of the electric company. Standard contracts must provide for certification by the retail electricity consumer that they are eligible to make wholesale sales of energy at market-based rates;

(d) Each standard contract must include a date of initiation and a date of contract expiration. If mutually agreed upon by the electric company and consumer, the contract may exceed 15 years;

(e) Each standard contract must include a section to record retail electricity consumer certifications that:

(A) Any investor in the qualifying system has not accepted or will not accept incentives from the Energy Trust of Oregon or Oregon state residential or business tax credits for the qualifying system covered by the contract, and

(B) The system and its individual components are new and have not been previously installed, and meet quality, reliability, and installation criteria approved by the Commission;

(f) Each standard contract must include a provision under which the retail electricity consumer agrees that the electric company can release lists of all participants in the pilot programs to the Oregon Department of Revenue, the Oregon Department of Energy, the Public Utility Commission, and the Energy Trust of Oregon. The standard contract must contain descriptions of the confidentiality requirements that those receiving this information must follow;

(g) Each standard contract must require the retail electricity consumer to agree to complete up to three surveys on the effectiveness of the pilot programs in order to remain eligible for participation in the pilot program. Each standard contract must also include the retail electricity consumer's agreement that the electric company may release information obtained from the surveys to the Commission and the Energy Trust of Oregon;

(h) Monthly payments must be made directly to the retail electricity consumer or to a qualifying assignee;

(i) Each standard contract must allow a retail electricity consumer to assign payments to a single qualifying assignee. Contracts must allow the retail electricity consumer to change the assignee at any time during the contract term;

(j) Each standard contract must allow the transfer of an existing retail electricity consumer's contract under the pilot program to another retail electricity consumer eligible to contract with the electric company under the pilot program, consistent with OAR 860-084-0130(3).

(k) Disclosure that payments under the volumetric incentive rate bid option may be taxable as income under Oregon and Federal Tax law and that an eligible system may be subject to property tax in the State of Oregon;

(l) Name and business address of solar installer or contractor, name and business address of system financier, and description of the photovoltaic equipment package;

(m) For net metered systems, participants must certify that the system is sized such that their qualifying system complies with OAR 860-084-0100(2)(e).

(3) A retail electricity consumer found by the Commission to have made a false certification is no longer eligible for the Volumetric Incentive Rate Pilot Programs and any contract entered under the Volumetric Incentive Rate Pilot Programs is void.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0250

Billing and Payment Requirements

(1) Volumetric incentive payments for payable energy must be paid no later than 45 days from the last day of the retail electricity consumer's billing period. Retail electricity consumers may request that:

(a) Payments be paid directly to the consumer; the consumer will continue to receive a standard monthly bill for electricity purchased under the tariff; or

(b) Payments for energy generated be netted against the retail electricity consumer's standard monthly bill and the retail electricity consumer receive or pay the resulting amount; or

(c) The qualified assignee identified on the standard contract be paid 100 percent of the volumetric incentive rate payment and the retail electricity consumer be billed separately for the retail electricity consumer's monthly bill.

(2) The retail electricity consumer is responsible for the minimum monthly charge and other non-volumetric charges on the standard monthly bill.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0260

Interconnection Requirements for Solar Photovoltaic Pilot Program

(1) To be qualified for interconnected operation, a qualifying system must be certified as complying with the following standards as applicable:

(a) IEEE standards; and

(b) UL 1741 Inverters, Converters, and Controllers for Use in Independent Power Systems. (January 2001).

(2) A system is considered as certified to the standards of section (1) of this rule, and the electric company may not require further design review, testing, or additional equipment, if:

(a) The system is a complete equipment package that has been submitted by a manufacturer to a nationally recognized testing and certification laboratory, and has been tested and listed by the laboratory for continuous interactive operation with an electric distribution system in compliance with the applicable codes and standards listed in section (1) of this rule; or

(b) The system is an equipment package which includes a generator or other electric source and the equipment package has been tested and listed as an integrated package in compliance with the applicable codes and standards listed in section (1) of this rule, or

(c) The certified equipment package comprises only the interface components (switchgear, inverters, or other interface devices) and the interconnection applicant has shown that

(A) The solar photovoltaic energy system being utilized is compatible with the equipment package,

(B) Testing and listing of the solar photovoltaic generator being utilized, as performed by the nationally recognized testing and certification laboratory, is consistent with the testing and listing of the interface component equipment package, and

(C) The testing and listing specified for the package is consistent with the applicable codes and standards listed in section (1) of this rule.

(3) A qualifying system may not interconnect to a transmission line.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0270

Authorization to Interconnect

(1) A person may not interconnect an eligible system to an electric company's distribution system without authorization from the electric company.

(2) A person proposing to interconnect an eligible system to an electric company's distribution system must submit an application for interconnection to the electric company.

(3) A person with a contracted system who proposes to make any change to the facility, other than a minor equipment modification, must submit an application to the electric company. Changes affecting the nameplate capacity or the output capacity of the system authorized in the agreement governing the contract require that the applicant apply for an additional capacity reservation and for a new interconnection review.

(4) An application for interconnection must be submitted on a standard form, available from the electric company and posted on the electric company's website. The submission of a completed application initiates interconnection review. The application form must require the following types of information:

(a) The name of the applicant and the electric company involved;

(b) The type and specifications of the complete equipment package of the solar photovoltaic energy system, including the solar photovoltaic generator;

(c) The level of interconnection review sought; e.g. Level 1, Level 2, or Level 3;

(d) The contractor who will install the solar photovoltaic energy system;

(e) Equipment certifications;

ADMINISTRATIVE RULES

(f) The anticipated date the solar photovoltaic energy system will be operational; and

(g) Other information that the utility deems is necessary to determine compliance with these solar photovoltaic pilot program interconnection rules.

(5) Within three business days after receiving an application for Level 1, Level 2, or Level 3 interconnection review, the electric company must provide written or electronic mail notice to the applicant that it received the application and whether the application meets established criteria.

(a) If the application does not meet established criteria, the written notice must include a list of all of the information needed to complete the application.

(b) If the number of applications received in a week exceeds 20, the electric company may notify customers by electronic mail that the company will respond within ten business days.

(6) Each electric company must designate an employee or office from which an applicant can obtain basic application forms and information through an informal process; this process must be outlined and posted on the electric company's website. On request, the electric company must provide all relevant forms, documents, and technical requirements for submittal of an application that meets established criteria for an interconnection application under these solar photovoltaic pilot program rules, as well as specific information necessary to contact the electric company representative assigned to review the application.

(7) A person may also request information about the feasibility of interconnecting a qualifying system, in advance of filing an application for capacity reservation or interconnection. The information provided by the electric company in response to this request must include relevant existing studies and other materials that may be used to understand the feasibility of interconnecting a solar photovoltaic facility at a particular point on the electric company's distribution system. The electric company must comply with reasonable requests for access to or copies of such information, except to the extent that providing such materials would violate security requirements, confidentiality obligations to third parties, or be contrary to federal or state regulations. The electric company may require a person to sign a confidentiality agreement if required to protect confidential or proprietary information. A person requesting information under this section must reimburse the electric company for the reasonable costs of gathering and copying the requested information.

(8) The electric company is not responsible for the cost of determining the rating of equipment on the customer side of the meter.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0280

Interconnection Cost Responsibility

(1) For a Level 1 interconnection review, the electric company may not charge an application, or other fee, unless otherwise directed by the Commission. However, if an application for Level 1 interconnection review is denied because it does not meet the requirements for Level 1 interconnection review and the applicant resubmits the application under another review procedure, the electric company may impose a fee for the resubmitted application.

(2) For a Level 2 interconnection review, the electric company may charge fees of up to \$50.00 plus \$1.00 per kilowatt of the qualifying system's capacity, plus the reasonable cost of any required minor modifications to the electric distribution system or additional review. Costs for such minor modifications or additional review will be based on the electric company's non-binding, good faith estimates and the ultimate actual installed costs. Costs for engineering work done as part of any additional review will not exceed \$100.00 per hour. An electric company may adjust the \$100.00 hourly rate once in January of each year to account for inflation and deflation as measured by the Consumer Price Index.

(3) For a Level 3 interconnection review, the electric company may charge fees of up to \$100.00 plus \$2.00 per kilowatt of the qualifying system's capacity, as well as charges for actual time spent on any required impact or facilities studies. Costs for engineering work done as part of an impact study or interconnection facilities study will not exceed \$100.00 per hour. An electric company may adjust the \$100.00 hourly rate once in January of each year to account for inflation and deflation as measured by the Consumer Price Index. If the electric company must install facilities in order to accommodate the interconnection of the qualifying system, the cost of such facilities will be the responsibility of the applicant.

(4) Interconnected net metered systems must be equipped with two meters: metering equipment that can measure the flow of electricity in both

directions (complying with ANSI C12.1 standards and OAR 860-023-0015) to replace the existing customer meter, and a second meter that can measure the total output of the qualifying system. Interconnected stand-alone systems using the bidding process must be equipped with metering equipment that can measure the flow of electricity in both directions (complying with ANSI C12.1 standards and OAR 860-023-0015). The electric company will install the required metering equipment at the electric company's expense for both the net metered and stand-alone system.

(a) The electric company constructs, owns, operates, and maintains all meters and applicable interconnection facilities on the company side of the retail electric consumer's meter, including, the second meter installed to measure the total output of the qualifying system.

(b) The electric company must charge an additional monthly service charge to the retail electricity customer for the additional meter used to measure the total output of the qualifying system, as established by Commission order.

(5) An eligible participant who is reinstalling a contracted system and is eligible to continue in the solar photovoltaic pilot program under an existing standard contract must pay the expense of interconnection facilities, required additions or modifications to the electric distribution system, interconnection review, or system upgrades in the new location as applicable.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0300

Insurance

A contracted system must obtain liability insurance in order to interconnect with the electric company's distribution system.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0310

Level 1 System Interconnection Review

(1) An eligible system is eligible for Level 1 interconnection review if:

- (a) The facility is inverter-based; and
- (b) The facility has a capacity of 25 kilowatts or less.

(2) The electric company must approve interconnection under the Level 1 interconnection review procedure if:

(a) The aggregate generation capacity on the distribution circuit to which the eligible system will interconnect, including the capacity of the eligible system, may not contribute more than 10 percent to the distribution circuit's maximum fault current at the point on the high voltage (primary) level that is nearest the proposed point of common coupling;

(b) An eligible system's point of common coupling may not be on a transmission line, a spot network, or an area network;

(c) If an eligible system is to be connected to a radial distribution circuit, the aggregate generation capacity connected to the circuit, including that of the eligible system, may not exceed 15 percent of the circuit's total annual peak load, as most recently measured at the substation;

(d) If an eligible system is to be connected to a single-phase shared secondary, the aggregate generation capacity connected to the shared secondary, including the eligible system, may not exceed 20 kilovolt-amperes; and

(e) If a single-phase eligible system is to be connected to a transformer center tap neutral of a 240 volt service, the addition of the eligible system may not create a current imbalance between the two sides of the 240 volt service of more than 20 percent of nameplate rating of the service transformer.

(3) Within 10 business days after the electric company notifies a Level 1 applicant that the application is complete, the electric company must notify the applicant that:

(a) The eligible system meets all applicable criteria and the interconnection is approved upon installation of any required meter upgrade, completion of any required inspection of the facility, and execution of an interconnection agreement; or

(b) The eligible system has failed to meet one or more of the applicable criteria and the interconnection application is denied.

(4) If an electric company does not notify a Level 1 applicant in writing or by electronic mail whether the interconnection is approved or denied within 20 business days after the receipt of an application, the interconnection will be deemed approved. Interconnections approved under this section remain subject to section (7) of this rule.

ADMINISTRATIVE RULES

(5) Within three business days after sending the notice to an applicant that the proposed interconnection meets the Level 1 requirements, an electric company must notify the applicant:

(a) Whether an inspection of the eligible system for compliance with these interconnection rules is required prior to the operation of the system; and

(b) That an interconnection agreement is required for the eligible system. The electric company must also execute and send to the applicant a Level 1 interconnection agreement, unless the applicant has already submitted such an agreement with its application for interconnection.

(6) On receipt of an executed interconnection agreement from the applicant and satisfactory completion of any required inspection, the electric company must approve the interconnection, conditioned on compliance with all applicable building codes.

(7) The retail electric customer must notify the electric company of the anticipated start date for operation of the eligible system at least five business days prior to starting operation, either through the submittal of the interconnection agreement or in a separate notice. If the electric company requires an inspection of the eligible system, the applicant may not begin operating the facility until satisfactory completion of the inspection.

(8) If an application for Level 1 interconnection review is denied because it does not meet one or more of the applicable requirements in this rule, an applicant may resubmit the application under the Level 2 or Level 3 interconnection review procedure, as appropriate.

Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0320

Level 2 System Interconnection Review

(1) An electric company must apply the following Level 2 interconnection review procedure for an application to interconnect an eligible system that meets the following criteria:

(a) The facility has a capacity of 500 kilowatts or less; and

(b) The facility does not qualify for or failed to meet applicable Level 1 interconnection review procedures.

(2) The electric company must approve interconnection under the Level 2 interconnection review procedure if:

(a) The aggregate generation capacity on the distribution circuit to which the eligible system will interconnect, including the capacity of the eligible system, will not cause any distribution protective equipment (including, but not limited to, substation breakers, fuse cutouts, and line reclosers), or customer equipment on the electric distribution system, to exceed 90 percent of the short circuit interrupting capability of the equipment. In addition, an eligible system may not be connected to a circuit that already exceeds 90 percent of the short circuit interrupting capability, prior to interconnection of the facility;

(b) If there are posted transient stability limits to generating units located in the general electrical vicinity of the proposed point of common coupling, including, but not limited to within three or four transmission voltage level busses, the aggregate generation capacity, including the eligible system, connected to the distribution low voltage side of the substation transformer feeding the distribution circuit containing the point of common coupling may not exceed 10 megawatts;

(c) The aggregate generation capacity connected to the distribution circuit, including the eligible system, may not contribute more than 10 percent to the distribution circuit's maximum fault current at the point on the high voltage (primary) level nearest the proposed point of common coupling;

(d) If an eligible system is to be connected to a radial distribution circuit, the aggregate generation capacity connected to the electric distribution system by non-electric company sources, including the eligible system, may not exceed 15 percent of the total circuit annual peak load. For the purposes of this subsection, annual peak load will be based on measurements taken over the 12 months previous to the submittal of the application, measured for the circuit at the substation nearest to the eligible system;

(e) If an eligible system is to be connected to three-phase, three wire primary electric company distribution lines, a three-phase or single-phase generator must be connected phase-to-phase;

(f) If an eligible system is to be connected to three-phase, four wire primary electric company distribution lines, a three-phase or single-phase generator must be connected line-to-neutral and must be effectively grounded;

(g) If an eligible system is to be connected to a single-phase shared secondary, the aggregate generation capacity on the shared secondary, including the eligible system, may not exceed 20 kilovolt-amperes;

(h) If an eligible system is single-phase and is to be connected to a transformer center tap neutral of a 240 volt service, the addition of the eligible system may not create a current imbalance between the two sides of the 240 volt service that is greater than 20 percent of the nameplate rating of the service transformer;

(i) An eligible system's point of common coupling may not be on a transmission line; and

(j) If an eligible system's proposed point of common coupling is on a spot or area network, the interconnection must meet the following additional requirements:

(A) For an eligible system that will be connected to a spot network circuit, the aggregate generation capacity connected to that spot network from the eligible system, and any generating facilities, may not exceed five percent of the spot network's maximum load;

(B) For an eligible system that utilizes inverter-based protective functions, which will be connected to an area network, the eligible system, combined with any other generating facilities on the load side of network protective devices, may not exceed 10 percent of the minimum annual load on the network, or 500 kilowatts, whichever is less. The percent of minimum load must be calculated based on the minimum load occurring during an off-peak daylight period; and

(C) For an eligible system that will be connected to a spot or an area network that does not utilize inverter-based protective functions, or for an inverter-based eligible system that does not meet the requirements of paragraphs (A) or (B) of this subsection, the eligible system must utilize low forward power relays or other protection devices that ensure no export of power from the eligible system, including inadvertent export (under fault conditions) that could adversely affect protective devices on the network.

(3) Within 15 business days after notifying a Level 2 applicant that the application is complete, the electric company must perform an initial review of the proposed interconnection to determine whether the interconnection meets the applicable criteria. During this initial review, the electric company may, at its own expense, conduct any studies or tests it deems necessary to evaluate the proposed interconnection and provide notice to the applicant of one of the following determinations:

(a) The eligible system meets the applicable requirements and that interconnection will be approved following any required inspection of the facility and fully executed interconnection agreement. Within three business days after this notice, the electric company must provide the applicant with an executable interconnection agreement;

(b) The eligible system failed to meet one or more of the applicable requirements, but the electric company determined that the eligible system may be interconnected consistent with safety, reliability, and power quality. In this case, the electric company must notify the applicant that the interconnection will be approved following any required inspection of the facility and fully executed interconnection agreement. Within five business days after this notice, the electric company must provide the applicant with an executable interconnection agreement; or

(c) The eligible system failed to meet one or more of the applicable requirements, and that additional review would not enable the electric company to determine that the eligible system could be interconnected consistent with safety, reliability, and power quality. In such a case, the electric company must notify the applicant that the interconnection application has been denied and must provide an explanation of the reason(s) for the denial, including a list of additional information, or modifications to the eligible system, or both, which would be required in order to obtain an approval under Level 2 interconnection procedures.

(4) An applicant that receives an interconnection agreement under subsection (3)(a) or (3)(b) of this rule must:

(a) Execute the agreement and return it to the electric company at least 10 business days prior to starting operation of the eligible system (unless the electric company does not so require); and

(b) Indicate to the electric company the anticipated start date for operation of the eligible system.

(5) The electric company may require an electric company inspection of an eligible system for compliance with these solar photovoltaic rules prior to operation, and may require and arrange for witness of commissioning tests as set forth in IEEE standards. The electric company must schedule any inspections or tests under this section promptly and within a reasonable time after submittal of the application. The applicant may not begin operating the eligible system until after the inspection and testing is completed.

(6) Approval of interconnected operation of any Level 2 eligible system must be conditioned on all of the following occurring:

ADMINISTRATIVE RULES

(a) Approval of the interconnection by the electrical code official with jurisdiction over the interconnection;

(b) Successful completion of any electric company inspection or witnessing of commissioning tests, or both, requested by the electric company; and

(c) Passing of the planned start date provided by the applicant.

(7) If an application for Level 2 interconnection review is denied because it does not meet one or more of the requirements of this rule, the applicant may resubmit the application under the Level 3 interconnection review procedure.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0330

Level 3 System Interconnection Review

(1) The electric company must apply the Level 3 review procedure for an application to interconnect an eligible system that meets the following criteria:

(a) The facility has a capacity of 500 kilowatts or less; and

(b) The facility does not qualify or failed to meet Level 2 interconnection review procedures.

(2) Following receipt of a Level 3 application and within three business days of a request from the applicant, the electric company must provide pertinent information to the applicant, such as the available fault current at the proposed interconnection location, the existing peak loading on the lines in the general vicinity of the eligible system, and the configuration of the distribution lines at the proposed point of common coupling.

(3) Within seven business days after receiving a complete application for Level 3 interconnection review, the electric company must conduct an impact study which will include a non-binding, good faith cost estimate. The impact study must be conducted in accordance with good utility practice and must:

(a) Detail the impacts to the electric distribution system that would result if the eligible system were interconnected without modifications to either the eligible system or to the electric distribution system;

(b) Identify any modifications to the electric company's electric distribution system that would be necessary to accommodate the proposed interconnection; and

(c) Focus on power flows and utility protective devices, including control requirements; and

(d) Include the following elements, as applicable:

(A) A load flow study;

(B) A short-circuit study;

(C) A circuit protection and coordination study;

(D) The impact on the operation of the electric distribution system;

(E) A stability study, along with the conditions that would justify including this element in the impact study;

(F) A voltage collapse study, along with the conditions that would justify including this element in the impact study.

(4) The electric company must complete the impact study and must notify the applicant within 30 calendar days of one of the following results:

(a) Only minor modifications to the electric company's electric distribution system are necessary to accommodate interconnection. In such a case, the electric company will send the applicant an interconnection agreement that details the scope of the necessary modifications and a non-binding, good faith estimate of its cost; or

(b) Substantial modifications to the electric company's electric distribution system are necessary to accommodate the proposed interconnection. In such a case, the electric company must provide a non-binding, good faith estimate of the cost of the modifications, which must be accurate to within plus or minus 25 percent. In addition, the electric company must offer to conduct, at the applicant's expense, an interconnection facilities study that must identify the types and cost of equipment needed to safely interconnect the applicant's eligible system.

(5) If the proposed interconnection may affect electric transmission or delivery systems other than those controlled by the electric company, operators of those other systems may require additional studies to determine the potential impact of the interconnection on those systems. If such additional studies are required, the electric company must coordinate the studies but is not responsible for their timing.

(6) If an applicant requests a facilities study under subsection (4)(b), the electric company must provide an interconnection facilities study agreement. The interconnection facilities study agreement must describe the work to be undertaken in the interconnection facilities study and must include a non-binding, good faith estimate of the cost to the applicant for

completion of the study. Upon the execution by the applicant of the interconnection facilities study agreement, the electric company will conduct an interconnection facilities study to identify the facilities necessary to safely interconnect the eligible system with the electric company's electric distribution system, and to propose a non-binding, good faith estimate of the cost of those facilities and the time required to build and install those facilities.

(7) Upon completion of an interconnection facilities study, the electric company must provide the applicant with the results of the study and an executable interconnection agreement. The agreement must list the conditions and facilities necessary for the eligible system to safely interconnect with the electric company's electric distribution system, and must include a non-binding, good faith estimate of the cost of those facilities and the estimated time required to build and install those facilities.

(8) If the applicant wishes to interconnect, it must execute the interconnection agreement and return it to the electric company at least 10 business days prior to starting operation of the eligible system (unless the electric company does not so require), pay a deposit of not more than 50 percent of the estimated cost of the facilities identified in the interconnection facilities study, complete installation of the eligible system, and agree to pay the public utility the actual installed cost of the facilities needed to interconnect as identified in the interconnection facilities study.

(9) Within 15 business days after notice from the applicant that the eligible system has been installed, the electric company must inspect the eligible system and must arrange to witness any commissioning tests required under IEEE standards. The electric company and the applicant must select a date by mutual agreement for the electric company to witness commissioning tests.

(10) If the eligible system satisfactorily passes required commissioning tests, if any, the electric company must notify the applicant in writing, within three business days after the tests, of one of the following:

(a) The interconnection is approved and the eligible system may begin operation; or

(b) The interconnection facilities study identified necessary construction that has not been completed, the date upon which the construction must be completed, and the date when the eligible system may begin operation.

(11) If the commissioning tests are not satisfactory, the applicant must repair or replace the unsatisfactory equipment to reschedule a commissioning test.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0340

Installation, Operation, Maintenance, and Testing of Contracted Systems

A contracted system must include and maintain a manual disconnect switch that will disconnect the solar photovoltaic energy system from the electric company's system.

(1) The disconnect switch must be a lockable, load-break switch that plainly indicates whether it is in the open or closed position.

(2) The disconnect switch must be readily accessible to the electric company at all times and be located within 10 feet of the electric company meter. The disconnect switch may be located more than 10 feet from the electric company meter if permanent instructions are posted at the meter indicating the precise location of the disconnect switch. The electric company must approve the location of the disconnect switch prior to the installation of the facility.

(3) The retail electricity consumer must install and maintain the required disconnect switch at the retail electricity consumer's expense.

(4) For customer services of 600 volts or less, an electric company may not require a disconnect switch for an eligible system that is inverter-based with a maximum rating as shown below.

(a) Service type: 240 Volts, Single-phase, 3 Wire — Maximum size 7.2 kilowatts

(b) Service type: 120/208 Volts, 3-Phase, 4 Wire — Maximum size 10.5 kilowatts

(c) Service type: 120/240 Volts, 3-Phase 4 Wire — Maximum size 12.5 kilowatts

(d) Service type: 277/480, 3-Phase, 4 Wire — Maximum size 25.0 kilowatts

(e) For other service types, the eligible system must not impact the retail electric consumers' service conductors by more than 30 amperes.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

ADMINISTRATIVE RULES

860-084-0350

Requirements after Approval of a Solar Photovoltaic Interconnection

(1) Once a contracted system has been approved under these solar photovoltaic interconnection rules, the electric company may not require a retail electricity consumer to test or perform maintenance on its facility except for:

(a) An annual test in which the contracted system is disconnected from the electric company's equipment to ensure that the inverter stops delivering power to the grid;

(b) Any manufacturer-recommended testing or maintenance;

(c) Any post-installation testing necessary to ensure compliance with IEEE standards or to ensure safety; and

(d) Testing required if the retail electricity customer replaces a major equipment component that is different from the originally installed model.

(2) When a contracted system undergoes maintenance or testing in accordance with the requirements of these solar photovoltaic interconnection rules, the retail electricity consumer must retain written records for seven years documenting the maintenance and the results of testing.

(3) An electric company has the right to inspect a contracted system after interconnection approval is granted, at reasonable hours and with reasonable prior notice to the retail electricity consumer. If the electric company discovers that the contracted system is not in compliance with the requirements of these solar photovoltaic interconnection rules, the electric company may require the retail electricity consumer to disconnect the contracted system until compliance is achieved.

(4) The retail electricity customers' electric service may be disconnected by the public utility entirely if the contracted system must be physically disconnected for any reason.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0360

Volumetric Incentive Rates and Payments – Net Metering Option

(1) Each electric company must pay the retail electricity consumer on a monthly basis for eligible generation up to the consumer's actual usage in the month. Any excess generation in the month transfers to the next month's eligible generation. At the end of a generation year, any remaining excess generation is donated to the low income bill assistance.

(2) The default generation year is April 1 to March 31. At the time of entering into the standard contract for the net metering option, a retail electricity consumer may choose an alternative generation year.

(3) The monthly incentive payment equals the product of the volumetric incentive rate specified in the standard contract minus the retail rate in effect at the time of payment eligible generation for the month.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0365

Volumetric Incentive Rate Bidding Option

(1) A retail electricity consumer participating under the volumetric incentive rate bidding option of the pilot program receives a payment that equals the product of the eligible kilowatt-hours of electricity delivered to the electric company and the volumetric incentive rate per kilowatt-hour established through the consumer's successful bid in the volumetric incentive rate bidding process that secured a capacity reservation.

(2) Each company will conduct a volumetric incentive rate bidding process with capacity awarded in the second month of each pilot year, or as otherwise directed by the Commission, through a Request for Proposal process approved by the Commission.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0370

Resource Value

(1) On November 1 of 2010, 2012, and 2014, each electric company must file, for review in a Commission proceeding, its estimate of the 15-year leveled resource value for the company, along with supporting work papers.

(2) For the purpose of determining payments to retail electricity consumers at the end of the 15-year contract term, each electric utility must file, beginning January 1, 2025, and every January 1 thereafter, its estimates of the annual resource value for the company for each of the next five years.

(3) A resource value may be established for small-scale, medium-scale, and large-scale systems and may be differentiated by remote location or location central to the system load, as directed by the Commission.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0380

Cost Recovery and Rate Impacts

(1) An electric company may recover in rates all costs prudently incurred to offer the pilot program established under these rules, including, but not limited to, costs not otherwise reflected in rates for electricity usage related to:

(a) Payments for the output of contracted systems, and

(b) Data collection and analysis for assessment of the company's pilot program.

(2) On November 1 of 2010, 2012, and 2014, and as otherwise directed by the Commission, each electric company must file for review, in a Commission proceeding, its estimates of the rate impact of pilot program participation, for each customer class, along with supporting work papers.

(3) The Commission may establish total generator nameplate capacity limits for an electric company so that the rate impact of the pilot program for any customer class does not exceed 0.25 percent of the company's revenue requirement for the class in any year.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0390

Cost Recovery Mechanism

An electric company may request recovery of prudently incurred costs associated with compliance with the solar photovoltaic pilot program requirements. Mechanisms for recovery of cost associated with compliance will be established by Commission order.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0400

Data Collection

Except as provided in OAR 860-084-0440, each electric company must collect from the retail electricity consumer participating in the pilot program data on the installed solar photovoltaic energy system. The collected data elements must include, but are not limited to:

(1) Nameplate Capacity;

(2) Total Installed Cost;

(3) Photovoltaic module cost;

(4) Non-photovoltaic module cost (including inverters, other hardware, labor, overhead, and regulatory compliance costs);

(5) Total financing cost;

(6) Financing terms (including fees paid, loan term, and interest rate secured);

(7) System location, including street address and GPS location;

(8) Technology type (building-integrated versus rack-mounted, crystalline silicon versus thin-film, solar tracking versus rack-mounted, etc.);

(9) Federal tax credit;

(10) In-service date;

(11) Expected annual energy output;

(12) Date of certification of compliance; and

(13) Class of service of retail electricity consumer.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0420

Compliance with Pilot Program Requirements

(1) The participant agrees to the confidential release of information from participant surveys and pilot program applications to the organizations given in section (2) of this rule.

(2) Each electric company must send a list of all reserved and contracted systems that have completed this certification to the Energy Trust of Oregon, the Oregon Department of Revenue, or the Oregon Department of Energy, upon request by each organization. Data in this listing includes, but is not limited to:

(a) Name and address of retail electricity consumer;

(b) Name and address of individual receiving volumetric incentive rate payments;

(c) Installation location of system;

(d) Nameplate capacity of installed system;

(e) Name, business name and business address of contractor installing system;

(f) Financier of system;

ADMINISTRATIVE RULES

- (g) In-service date; and
 - (h) Date of certification of Compliance.
- Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0430

Data Availability

(1) Each electric company must verify that the data collected pursuant to OAR 860-084-0400 and OAR 860-084-0420 has been recorded in an appropriate electronic database prior to making volumetric incentive rate payments to participating retail electricity consumers.

(2) Each electric company must provide the data collected pursuant to OAR 860-084-0400 and OAR 860-084-0420, in a format established by the Commission, upon request. Reports that include this raw data and a summary of this data for the pilot program to date, must be provided to the Oregon Department of Energy, the Energy Trust of Oregon, the Oregon Department of Revenue, and to the Commission, quarterly, on the 15th day of the first month of each calendar quarter.

(3) Each electric company must provide the Commission or the Oregon Department of Energy location information that will enable one of these state agencies to make graphically visible, on a publically accessible website, the general locations and sizes of reserved and contracted systems of all electric companies within the state of Oregon. This information must not include consumer names or installation addresses or total capacity deployed to date.

- Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0440

Pilot Program Overhead

(1) Electric companies must develop and submit for Commission approval, evaluations of solar photovoltaic pilot programs including, but not limited to:

(a) Proposals for the design and execution of surveys to measure participant satisfaction with and recommendations for improving the pilot program processes;

(b) Proposals for the design and execution of surveys to understand participant decision processes in choosing between the volumetric incentive rate program and the existing net metering program;

(c) Comments on Commission recommendations for regulatory policy changes that may lead to the increased use of solar photovoltaic energy systems, making solar photovoltaic systems more affordable, reducing the cost of incentives to utility customers, and promoting the development of the solar industry in Oregon; and

(d) Additions to the list of required data to be collected under OAR 860-084-0400.

(2) Each electric company may enter into a contract with the Energy Trust of Oregon to provide data collection and summary services required by OAR 860-084-0400 through 860-084-0440. An electric company may also contract with the Energy Trust of Oregon to administer pilot programs, including capacity reservation services, survey execution or program evaluation. The Commission may direct the electric companies to contract with the Energy Trust of Oregon, if the Commission judges that the costs to administer individual pilot programs are unreasonable.

- Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

860-084-0450

Reports to the Legislature

The Commission must open a docket on or before November 1 of 2010, 2012, and 2014 to receive public comment and recommendations on the draft reports prepared by Commission staff regarding the pilot programs.

- Stat Auth: ORS 757.360 - 757.380
Stats. Implemented: ORS 757.360 - 757.380
Hist.: PUC 2-2010, f. & cert. ef. 6-1-10

.....
Real Estate Agency
Chapter 863

Rule Caption: Legislation requires rules for continuing education provider certification and licensee education and examination requirements.

Adm. Order No.: REA 1-2010

Filed with Sec. of State: 6-14-2010

Certified to be Effective: 7-1-10

Notice Publication Date: 2-1-2010

Rules Adopted: 863-020-0000, 863-020-0005, 863-020-0007, 863-020-0008, 863-020-0010, 863-020-0015, 863-020-0020, 863-020-0025, 863-020-0030, 863-020-0035, 863-020-0040, 863-020-0045, 863-020-0050, 863-020-0055, 863-020-0060, 863-020-0065, 863-022-0000, 863-022-0005, 863-022-0010, 863-022-0015, 863-022-0020, 863-022-0025, 863-022-0030, 863-022-0035, 863-022-0040, 863-022-0045, 863-022-0050, 863-022-0055

Rules Amended: 863-014-0020, 863-014-0035, 863-014-0040, 863-014-0050, 863-014-0065, 863-024-0045, 863-024-0050, 863-024-0065

Rules Repealed: 863-014-0005, 863-014-0055, 863-024-0005, 863-024-0055

Subject: These new rules and amendments are in response to Senate Bill 640 (Chapter 502, Oregon Laws 2009) that becomes effective January 1, 2011. The legislation allows the Real Estate Agency and the Real Estate Board to take any action before the operative date of the bill that is necessary to carry out the duties and functions required. The Agency anticipates filing permanent rules in this matter that will become effective on July 1, 2010. The rules implement the legislation which created a structure for certifying continuing education course providers; changing the continuing education requirements for renewal of real estate broker, principal broker and property managers; establishing eligible continuing education course topics and learning objectives; requiring all license applicants to have a high school diploma or equivalent; and requiring principal broker applicants to pass an examination. Although the effective date of SB 640 is January 1, 2011, the rules will be effective July 1, 2010 in order to allow continuing education providers to apply for certification and establish eligible continuing education courses. Licensees renewing after January 1, 2011 must comply with the new continuing education requirements.

New Division 20 contains all the continuing education requirements for licensees and course provider rules. New Division 22 contains the requirements for Agency and Board approval of specific pre-license and post-license education courses including advanced practices, broker administration and sales supervision, three-hour law and rule update and all pre-license courses.

Rules Coordinator: Laurie Skillman—(503) 378-4630

863-014-0020

Examinations

(1) In addition to any other licensing eligibility requirements, a real estate broker license applicant must pass a real estate broker examination that includes subject matter determined by the Board.

(2) Effective January 1, 2011, in addition to any other licensing eligibility requirements, a principal real estate broker license applicant must pass a principal real estate broker examination that includes subject matter determined by the Board.

(3) A real estate broker applicant may apply for an examination whether or not the Agency has finished processing the applicant's fingerprint card and background check or has received documentation on the applicant's licensing educational courses. However, the Agency will not consider an applicant for a license until the Agency has completed such processing and review.

(4) A real estate licensee who was licensed as a salesperson before July 1, 2002 must apply for and pass a real estate broker examination and a principal real estate broker examination in order to be licensed as a principal real estate broker.

(5) An applicant must apply for an examination by submitting to the Agency:

- (a) An Agency-approved license examination application form; and
- (b) An examination application fee authorized by ORS 696.270.

(6) If a real estate broker or principal real estate broker license has not been active for two or more consecutive years, before applying to reactivate such license under OAR 863-014-0065, the licensee must apply for and pass a reactivation examination. To apply for the reactivation examination, the licensee must submit to the Agency:

(a) An Agency-approved license reactivation examination application form; and

ADMINISTRATIVE RULES

- (b) The examination application fee authorized by ORS 696.270.
- (6) Examination fees are not refundable if an applicant:
 - (a) Fails to appear for a scheduled examination;
 - (b) Fails to cancel or reschedule an examination appointment at least two business days before the appointment; or
 - (c) Fails to pass an examination.
- (7) If an applicant for a real estate broker license examination passes both the national and the state portions of an examination but is not issued a license within one year from the date of the examination:
 - (a) The applicant is no longer qualified for the license on the basis of the examination; and
 - (b) The applicant must reapply for the examination as required by this rule.

(8) An applicant who passes only one portion of a license examination must reapply for and pass the remaining portion within 12 months of the examination date of the passed portion in order to qualify for a license on the basis of the examination.

(9) In lieu of the national portion of the examination required in this rule, the Board may accept an applicant's passing results of the national portion of a broker examination taken in another state if:

- (a) The examination was taken after November 1, 1973 and the license issued as a result of that examination has not been expired for more than one year; or
- (b) The examination was taken within the 12 months before the application date and the Agency has received the required forms and fees; and
- (c) The applicant provides the Agency with the applicant's certified license history from the state where such examination was taken.

Stat. Auth.: ORS 696.385 & 696.425

Stats. Implemented: ORS 696.020, 696.022 & 696.425

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 3-2004, f. 4-28-04, cert. ef. 5-3-04; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2005(Temp), f. 6-9-05, cert. ef. 7-1-05 thru 12-26-05; Administrative correction 1-20-06; REA 2-2007(Temp), f. & cert. ef. 3-21-07 thru 9-16-07; REA 4-2007, f. & cert. ef. 9-26-07; Renumbered from 863-015-0020, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-014-0035

Real Estate Broker Licensing Requirements

- (1) To be eligible for a real estate broker's license, an individual must:
 - (a) Submit a complete license application and background check application as required by OAR 863-014-0010 and 863-014-0015;
 - (b) Pass the real estate broker licensing examination required by OAR 863-014-0020;
 - (c) Pay the licensing fees authorized by ORS 696.270; (d) Submit a certificate of completion or transcripts documenting that the applicant successfully completed the required courses of study for a real estate broker license applicant described in OAR 863-022-0010;
 - (e) Furnish proof that the applicant is 18 years of age or older; and
 - (f) Effective January 1, 2011, certify that the applicant has obtained a high school diploma or General Educational Development (GED) or the international equivalent.

(2) A real estate broker must be associated with a principal real estate broker. A real estate broker applicant must submit the license application form signed by a principal real estate broker.

(3) If the applicant's qualifications are based wholly or partially upon an active real estate license held in another state, the applicant must furnish with the application a certification of active licensing from the other state's licensing agency.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; Renumbered from 863-015-0035, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-014-0040

Principal Real Estate Broker Licensing Requirements

(1) Except as allowed by OAR 863-014-0042 concerning waiver of experience requirements, to be eligible for a principal real estate broker's license, an individual must:

(a) Submit a complete license application and background check application as required by OAR 863-014-0010 and 863-014-0015;

(b) Pass the real estate broker licensing examination required by OAR 863-014-0020;

(c) Effective January 1, 2011, in addition to real estate broker examination required in section (1)(b) of this rule, pass the principal real estate broker examination required by OAR 863-014-0020;

(d) Pay the licensing fees authorized by ORS 696.270;

(e) Submit a certificate of completion for the required brokerage administration and sales supervision course described in OAR 863-022-0025;

(f) Provide proof satisfactory to the Agency that the applicant has three years of active experience as a licensed real estate broker or as a licensed real estate salesperson;

(g) Furnish proof that the applicant is 18 years of age or older; and

(h) Effective January 1, 2011, certify that the applicant has obtained a high school diploma or General Educational Development (GED) or the international equivalent.

(2) If the applicant's qualifications are based wholly or partially upon an active real estate license held in another state, the applicant must furnish with the application a certification of active licensing from the other state's licensing agency.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 2-2005(Temp), f. 6-9-05, cert. ef. 7-1-05 thru 12-26-05; Administrative correction 1-20-06; Renumbered from 863-015-0040, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-014-0050

License Renewal

(1) For purposes of this rule, "received by the Agency" means the date a license renewal is received by the Agency or the postmarked date.

(2) A real estate broker or principal real estate broker license expires if a licensee fails to renew the license on or before the license expiration date. A real estate licensee may not engage in any professional real estate activity after a license expires. A real estate licensee may renew an expired license as provided in section (9) through (11) of this rule.

(3) For a license renewal received by the Agency on or before December 31, 2010, the licensee must meet the continuing education requirements under OAR 863-020-0008.

(4) For a license renewal received by the Agency on or after January 1, 2011, the licensee must meet the continuing education requirements under OAR 863-020-0010.

(5) The Agency will renew an active real estate license to active status for the term prescribed in OAR 863-014-0030 when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An Agency-approved active renewal application form that includes certification by the licensee that the licensee has met the real estate continuing education renewal requirements under section (3) or (4) of this rule.

(6) The Agency will renew an active real estate license to inactive status for the term prescribed in OAR 863-014-0030, when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An Agency-approved inactive renewal application form.

(7) The Agency will renew an inactive active real estate license to inactive status for the term prescribed in OAR 863-014-0030, when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An Agency-approved inactive renewal application form.

(8) The Agency will renew an inactive active real estate license to active status for the term prescribed in OAR 863-014-0030, when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An Agency-approved active renewal application form that includes certification by the licensee that the licensee has met the real estate continuing education renewal requirements under section (3) or (4) of this rule.

(9) The Agency will renew an expired real estate license to active status when the Agency receives, within one year of the date the license expired, the following: (a) The renewal fee and a late fee authorized by ORS 696.270; and

(b) An Agency-approved active renewal application form that includes certification by the licensee that the licensee met the real estate continuing education renewal requirements under section (3) or (4) of this rule.

(10) The Agency will renew an expired real estate license to inactive license status when the Agency receives, within one year of the date the license expired, the following:

(a) The renewal fee and a late fee authorized by ORS 696.270; and

(b) An Agency-approved inactive renewal application form.

(11) When the Agency renews an expired license, the renewed license is effective the date the renewal requirements are met. The renewal is not

ADMINISTRATIVE RULES

retroactive to the date the license expired and an expired license retains the status of expired during the expiration period.

(12) A license renewed under this rule expires two years from the date of the original expiration date.

(13) A real estate license that has expired for more than one year is lapsed, as defined in ORS 696.010.

(14) A license may not be renewed if it is lapsed, surrendered, suspended, or revoked. Except as provided in 863-014-0075, the former licensee must reapply and meet all the licensing qualifications required of new license applicants.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2007(Temp), f. & cert. ef. 3-21-07 thru 9-16-07; REA 4-2007, f. & cert. ef. 9-26-07; Renumbered from 863-015-0050, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-014-0065

Inactive License, Change License Status to Active, Change License Category, License Reactivation

(1) A real estate licensee whose license is on inactive status may not engage in professional real estate activity.

(2) The commissioner may reprimand, suspend, revoke, or impose a civil penalty against an inactive licensee under ORS 696.301.

(3) The Agency will change an active real estate license to inactive license status when the Agency actually receives the following:

(a) The license;

(b) A request by the licensee submitted on an Agency-approved form to change the license status to inactive; or

(c) An Agency-approved form submitted by the licensee terminating the relationship with the principal real estate broker under this rule.

(4) The Agency will change the status of an active real estate broker who is associated with a principal real estate broker to inactive status when the Agency receives one of the following:

(a) The real estate broker license, submitted by the licensee;

(b) The real estate broker license, submitted by the principal real estate broker;

(c) An Agency-approved form, submitted by the principal real estate broker, terminating the principal real estate broker's relationship with the real estate broker; or

(d) An Agency-approved form submitted by the real estate broker terminating the relationship with the principal real estate broker.

(5) An inactive real estate licensee may renew such license under OAR 863-014-0050.

(6) For a period of 30 days after a real estate broker license becomes inactive, the licensee may change such license status from inactive to active and transfer the license to a principal real estate broker under OAR 863-014-0063.

(7) Except as provided in section (8) of this rule, for a period of 30 days after the real estate license becomes inactive, the licensee may change such license category to an active principal real estate broker only if:

(a) The licensee is qualified for such license and

(b) The licensee submits to the Agency:

(A) An Agency-approved application form to change the license category and to change the license status to active,

(B) A license transfer form under OAR 863-014-0063, if applicable, and

(C) Payment of the transfer fee authorized by ORS 696.270.

(8) If the licensee under section (7) of this rule is changing license category to a principal real estate broker and has never been licensed as a principal real estate broker, the licensee must submit to the Agency:

(a) An Agency-approved broker license application form and

(b) The licensing fee authorized by ORS 696.270.

(9) If a license has not been on active status for two or more consecutive years, before applying for reactivation of such license under sections (10) and (11) of this rule:

(a) The licensee must submit to the Agency:

(A) An application for licensing reactivation examination; and

(B) The examination fee authorized by ORS 696.270; and

(b) The licensee must pass the reactivation examination.

(10) After the 30-day period specified in sections (6) and (7) of this rule, and subject to the examination requirements in section (9) of this rule, a licensee may change the license status from inactive to active only by submitting to the Agency:

(a) An application for license reactivation; and

(b) Payment of the reactivation fee authorized by ORS 696.270.

(11) Subject to the examination requirements in section (9) of this rule, if an inactive licensee renews a license and maintains inactive status under section (5) of this rule, the licensee may, within 60 days of the date of renewal, change the license status to active by submitting to the Agency:

(a) An Agency-approved application for license reactivation that includes certification that the licensee met the real estate continuing education renewal requirements under OAR 863-020-0008 or 863-020-0010; and

(b) Payment of the active renewal fee authorized by ORS 696.270, less the amount of the inactive renewal fee already paid by the licensee.

(12) The change of license status, transfer, or change of license category under sections (6) and (7) of this rule, or the reactivation of a license under sections (10) and (11) of this rule, are effective when the Agency actually receives all required forms and fees.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-1991, f. & cert. ef. 11-4-91; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0081; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2007(Temp), f. & cert. ef. 3-21-07 thru 9-16-07; REA 4-2007, f. & cert. ef. 9-26-07; Renumbered from 863-015-0065, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0000

Applicability and Purpose

(1) This division applies to licensed real estate brokers, principal real estate brokers, real estate property managers, continuing education providers, and instructors who teach courses for continuing education providers.

(2) For all real estate licensees, the purposes of this division are to set forth continuing education requirements for licensee renewals effective through December 31, 2010;

(3) For all real estate licensees, the purposes of this division are to set forth continuing education requirements for licensee renewals effective beginning January 1, 2011, including:

(a) Courses eligible for continuing education credit completed before January 1, 2011, and

(b) Courses eligible for continuing education credit completed on or after January 1, 2011 taken from continuing education course providers, including:

(A) Courses that meet the requirements for course topics and learning objectives in this Division 20,

(B) A Board-approved three-hour law and rule required course on recent changes in rule and law, described in OAR 863-022-0055, required for all licensees,

(C) A 30-hour advanced course in real estate practices described in OAR 863-022-0020 required for real estate brokers before the first active renewal of the real estate broker's license or before the first license reactivation following an inactive first renewal,

(D) The 40-hour brokerage administration and sales supervision course described in OAR 863-022-0025 for an initial principal real estate broker license application, and

(E) Continuing education record-keeping requirements for all licensees.

(4) For continuing education providers, the purposes of this division are to set forth:

(a) The application requirements for certification as a real estate continuing education course provider, and

(b) The responsibilities of continuing education course providers, including:

(A) Ensuring that courses offered by the provider meet the eligible course topics, learning objectives, and length of course requirements,

(B) Maintaining required records,

(C) Providing real estate licensees with certificates of completion for each course that meet the requirements for certificates of completion, and

(D) Ensuring that each instructor who will teach a course offered by a provider meets instructor qualifications and completes a continuing education instructor form.

(5) For instructors who teach courses for continuing education providers, the purposes of this division are to set forth the instructor qualifications set out on the instructor form that is completed by the instructor and given to the continuing education provider.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.010, 696.174, 696.182, 696.184 & 696.186

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

ADMINISTRATIVE RULES

863-020-0005

Definitions

As used in this division, unless the context requires otherwise:

- (1) "Agency" means the Oregon Real Estate Agency.
- (2) "Applicant" means either an individual as defined in section (7) of this rule, or a person as defined in section (9) of this rule.
- (3) "Board" means the Oregon Real Estate Board.
- (4) "Commissioner" means the Real Estate Commissioner.
- (5) "Continuing education provider" means a person certified by the Agency under OAR 863-020-0030 to offer real estate continuing education courses that are eligible for credit. The continuing education courses are taught by an instructor.
- (6) "Course identification number" means a unique four-digit identifying course number assigned by a continuing education provider.
- (7) "Individual" means a human being, not a legal entity.
- (8) "Instructor" means an individual who teaches, for a continuing education provider, a real estate continuing education course that is eligible for credit. An instructor must meet the qualifications in ORS 696.186 and OAR 863-020-0060. The Agency does not certify instructors.
- (9) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a government agency.
- (10) "Principal real estate broker" is defined in ORS 696.010.
- (11) "Provider number" means a unique identifying number assigned by the Agency to a certified continuing education provider under OAR 863-020-0030.
- (10) "Real estate broker" is defined in ORS 696.010.
- (11) "Real estate licensee" is defined in ORS 696.010 and includes a real estate broker, principal real estate broker, and a real estate property manager.
- (12) "Real estate property manager" is defined in ORS 696.010.

Stat. Auth.: ORS 696.385
Stat. Implemented: ORS 696.174, 696.182, & 696.186
Hist.: REA 1-2010, f. 6-14-10, cert. eff. 7-1-10

863-020-0007

Length of Continuing Education Courses

- (1) This rule is effective July 1, 2010 and applies to courses offered by certified continuing education providers.
- (2) The minimum length of each continuing education course offered by a continuing education provider is one hour.
- (3) A continuing education provider or course instructor may allow a break of no more than 10 minutes as part of each hour of instruction.
- (4) A provider may offer a course that is longer than one hour, in additional half hour increments.

Stat. Auth.: ORS 696.385
Stat. Implemented: ORS 696.182
Hist.: REA 1-2010, f. 6-14-10, cert. eff. 7-1-10

863-020-0008

License Renewal Continuing Education Requirements Until December 31, 2010

- (1) This rule applies to all real estate licensees and is effective only until December 31, 2010. Beginning January 1, 2011, the requirements under OAR 863-020-0010 apply.
- (2) To renew an active license, a real estate licensee must have completed at least 30 clock-hours of certified real estate oriented continuing education during the preceding two license years. Except as provided in section (3) of this rule:
 - (a) A licensee must complete 15 clock-hours of continuing education in one or more of the following required topics:
 - (A) Trust Accounts;
 - (B) Misrepresentation;
 - (C) Anti-Trust;
 - (D) Rule and Law Update;
 - (E) Property Management;
 - (F) Commercial Brokerage and Leasing;
 - (G) Real Estate Taxation: Federal, State, and Local;
 - (H) Agency;
 - (I) Fair Housing;
 - (J) Contracts;
 - (K) Property Evaluation;
 - (L) Brokerage Management;
 - (M) Land;
 - (N) Business Ethics; or
 - (O) Compliance Review.

(b) A licensee must complete the remaining 15 hours in any combination of the above course topics or in other elective real estate oriented continuing education courses.

(c) Courses related to personal skills, such as time management, and routine meetings and luncheons are not considered real estate oriented continuing education courses and do not qualify as such.

(d) Courses must be a minimum of one clock-hour in length. A clock-hour is measured in 60-minute increments, excluding meal or rest breaks.

(e) Credit will not be given for repeating a continuing education course with the same content during a two-year renewal period.

(3) Continuing education courses taken from a certified continuing education provider on or after July 1, 2010 through December 31, 2010 that meet the requirements of ORS 696.174 and OAR 863-020-0035 are eligible for continuing education credit.

(4) As provided in sections (5), (6), and (10) of this rule, a licensee or certifying licensee must complete a standard Certificate of Attendance developed by the Agency for each course completed.

(5) "Certifying licensee" for real estate brokers means a principal real estate broker who certifies on an Agency-approved form that a real estate broker completed the continuing education requirements.

(6) "Certifying licensee" for property managers associated with a principal real estate broker means the principal real estate broker who certifies on an Agency-approved form that the property manager completed the continuing education requirements.

(7) In completing the standard Certificate of Attendance, the certifying licensee must decide:

(a) Whether a continuing education course meets the continuing education requirements; and

(b) Whether to classify the course as a required topic or an elective topic.

(8) A certifying licensee may approve continuing education courses completed outside of Oregon. However, for courses completed outside of Oregon, the number of approved credit hours must reflect the clock-hours of course content related to the practice of real estate in Oregon. Credit hours will not be approved for courses with content specific to another state or jurisdiction.

(9) The certifying licensee must retain the Certificate of Attendance in its records as prescribed in OAR 863-015-0260. The certifying licensee must produce a copy of the Certificate of Attendance if the associated licensee or the Agency so requests.

(10) Principal real estate brokers and property managers not associated with a principal broker must:

(a) Self-certify that they have completed their continuing education requirements;

(b) Retain their Certificate of Attendance as prescribed in OAR 863-015-0260; and

(c) Produce a copy of the Certificate of Attendance if the Agency so requests.

(11) Providing false information on an Agency license renewal form or Certificate of Attendance or falsely certifying such information is prima facie evidence of a violation of ORS 696.301.

(12) In certifying a continuing education course, the certifying licensee must consider the totality of the information provided and the class content and may consider additional criteria including, but not limited to:

(a) Evidence of the instructor's qualifications to teach the course;

(b) Whether the course content is current and accurate, the learning objectives for the course, and whether the course content fulfills the learning objectives;

(c) Whether the course includes ways of measuring learning outcome, such as a final examination; and

(d) Whether students get to evaluate the course and instructor.

(13) A real estate broker first licensed on or after July 1, 2002 must complete the 30-hour advanced course in real estate practices that meets the requirements in OAR 863-022-0020 before the first active renewal of the real estate broker's license or before the first license reactivation following an inactive first renewal. This requirement does not apply to principal real estate brokers. An approved advanced course in real estate practices satisfies the continuing education requirements for a real estate broker licensee's renewal.

(14) Certifying licensees may approve continuing education courses completed through alternative delivery methods. "Alternative delivery" means presentation of continuing education material in a method other than classroom lecture. This includes, but is not limited to, correspondence and electronic means such as satellite broadcast, videotape, computer disc, and Internet.

ADMINISTRATIVE RULES

(a) In addition to the certification criteria in section (12) of this rule, in determining whether to certify an alternative delivery method course, the certifying licensee may consider:

(A) Whether the course offers operational or electronic security measures;

(B) The students' ability to interact with an instructor or access other resources to support their learning;

(C) Whether the learning environment and technical requirements are explained to students in advance of the course; and

(D) Whether the course includes a proctored final examination.

(b) In determining the number of credit hours to approve for an alternative delivery course, the certifying licensee may consider:

(A) The number of questions in the examination, with a minimum standard of 10 questions per hour of credit;

(B) The number of pages for Internet, Computer-Based Training, CD-ROM, and book courses, with a minimum standard of 10 pages per hour of credit; and

(C) The clock hours elapsed for videocassette, audiotape, or teleconference courses.

(15) Continuing education course sponsors may:

(a) State in their advertising that the licensee's principal broker must approve the continuing education requirements, e.g., course content, topics, and hours; and

(b) Complete the following information on a Certificate of Attendance:

(A) Real estate licensee's name;

(B) Continuing education course title and date of completion;

(C) Instructor's name and location of course; and

(D) Method of course delivery and whether a final examination was administered.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174 & 696.301

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0010

License Renewal Continuing Education Requirements Effective January 1, 2011

(1) This rule applies to all real estate licensees and is effective January 1, 2011. The requirements under OAR 863-020-0008 only apply until December 31, 2010.

(2) To renew an active license, a real estate licensee must truthfully certify on an Agency-approved form under OAR 863-014-0050 (for real estate brokers and principal brokers) or 863-024-0050 (for property managers) that the licensee:

(a) Has completed at least 30 hours of real estate continuing education that are eligible for credit under OAR 863-020-0035 and 863-020-0040 during the two years preceding renewal, or

(b) Has complied with section (5) of this rule, if applicable.

(3) The 30 hours of continuing education must include a Board-approved three-hour law and rule required course on recent changes in real estate rule and law as provided in OAR 863-022-0055.

(4) A real estate licensee will not be given credit for repeating a continuing education course with the same content during a two-year renewal period.

(5) A real estate broker must complete the 30-hour advanced course in real estate practices described in OAR 863-022-0020 before the first active renewal of the real estate broker's license or before the first license reactivation following an inactive first renewal. The 30-hour advanced practices course includes the three-hour law and rule required course on recent changes in real estate rule and law referred to in section (3) of this rule.

(6) Falsely certifying that the licensee has completed the required continuing education is a violation of section (2) of this rule and is grounds for discipline under ORS 696.301.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.022, 696.174, 696.301

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0015

Licensee Records

(1) Effective January 1, 2011, a real estate licensee must maintain the licensee's own continuing education records described in sections (3) and (4) of this rule for three years after the renewal date for which the continuing education credit applies.

(2) Beginning January 1, 2011, a principal broker is not required to maintain the continuing education records of a real estate broker or a property manager associated with the principal broker. However, the principal broker must maintain the continuing education records that pre-date

January 1, 2011 as required by OAR 863-015-0260 and produce a copy of such records if the associated licensee or the Agency so requests.

(3) A real estate licensee must complete and maintain an Agency-approved form that contains the following information, taken from the certificate of completion provided by the continuing education provider:

(a) The licensee's name and license number;

(b) The name of the course;

(c) The name of the certified course provider and the provider number;

(d) The course identification number assigned by the course provider;

(e) The eligible course topic(s) under OAR 863-020-0035 or whether the course is the three-hour law and rule required course under OAR 863-022-0055, the advanced practices course under OAR 863-022-0020, or the brokerage administration and sales supervision course under OAR 863-022-0025.

(f) The date and location of the course;

(g) The length of time of the course; and

(h) The name of the instructor who taught the course.

(4) A licensee must maintain all certificates of completion the licensee received from continuing education providers upon completion of each course.

(5) A licensee must produce a copy of the records required under this rule if the Agency so requests.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0020

Continuing Education Provider Qualifications

(1) Effective July 1, 2010, an applicant for certification as a continuing education provider must be one of the following:

(a) A registered business name registered with the Agency under ORS 696.026 and OAR 863-014-0095 or 863-024-0095;

(b) A licensed title or escrow company conducting business in this state;

(c) A real estate trade association as defined in section (2) of this rule or a trade association in a related field as defined in section (3) of this rule, but not the individual members of those associations;

(d) A real estate multiple listing service;

(e) A private career school approved by the Agency to teach continuing education courses as defined in section (4) of this rule;

(f) An accredited community college or an accredited state institution of higher education;

(g) A distance learning provider approved by the Agency as defined in section (5) of this rule; or

(h) A person who does not meet the requirements of section (1)(a) through (g) of this rule but whose qualifications have been approved by the Real Estate Board under OAR 863-020-0025.

(2) "Real estate trade association," as used in section (1) of this rule, means a local, state, regional, or national organization with members that include real estate licensees, licensed escrow agents, or licensed title companies.

(3) "Trade association in a related field," as used in section (1) of this rule, means a local, state, regional, or national organization with a members that include licensed, certified, or registered:

(a) Appraisers,

(b) Architects,

(c) Attorneys,

(d) Contractors,

(e) Home inspectors,

(f) Mortgage bankers,

(g) Mortgage brokers,

(h) Professional engineers,

(i) Securities broker-dealers or salespersons,

(j) Surveyors, or

(k) Tax professionals.

(4) "Private career school approved by the Agency to teach continuing education courses," as used in section (1) of this rule, means a private career school licensed by the Oregon Department of Education and approved by the Agency to provide the 150-hour real estate license applicant course of study, the 60-hour property manager license applicant course, or both.

(5) "Distance learning provider approved by the Agency," as used in section (1) of this rule, means a person whose course has been certified by the Association of Real Estate License Law Officials.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.182

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

ADMINISTRATIVE RULES

863-020-0025

Board Approval of Continuing Education Provider Qualification

(1) Effective July 1, 2010, a person not otherwise qualified under OAR 863-020-0020(1)(a) through (g) seeking the Board's approval as an applicant for certification must petition the Board under this rule.

(2) The person must submit a petition for approval to the Agency on an Agency-approved form at least 21 days before the scheduled Board meeting at which the applicant wishes the Board to act. The petition must include the following:

- (a) The petitioner's name, address, and phone number, and
- (b) Sufficient information to allow the Board to determine whether the person qualifies for certification.

(3) The Board may approve the person's petition if the person's qualifications are substantially similar to the qualifications for continuing education provider applicants under OAR 863-020-0020(1)(a) through (g).

(4) If the Board approves the petition, the Agency will mail a letter to the petitioner confirming the Board's approval, and the petitioner may apply for certification as a course provider under OAR 863-020-0030.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.182
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0030

Application for Continuing Education Provider Certification and Renewal

(1) Effective July 1, 2010, an applicant for certification as a continuing education provider must submit to the Agency an application on an Agency-approved form containing the following. No application fee is required.

(a) The applicant's name, mailing address, physical address, and phone number;

(b) The date of the application;

(c) The applicable qualification listed in OAR 863-020-0020(1) and, if the Real Estate Board approved the applicant's qualifications under OAR 863-020-0025, the applicant must also submit the Agency's confirmation letter;

(d) The name and signature of the individual authorized by the applicant to submit the application;

(e) The applicant's authorized contact person, title, phone number, and e-mail address;

(f) The applicant's website address;

(g) Information concerning the course presentation formats, such as classroom instruction, online, etc.; and

(h) An affirmation that the applicant:

(A) Will comply with the statutory and administrative rule provisions applicable to continuing education providers, and

(B) Understands that the continuing education provider certification does not authorize the provider to offer an advanced course in real estate practices or the brokerage administration sales and supervision course. If the provider wishes to offer those courses, the provider may seek separate approval under OAR chapter 863, division 22.

(2) The Agency will assign a provider number and mail a confirmation of certification to the applicant upon receiving a completed application.

(3) The Agency will publish on its website and have available at the Agency a list of certified course providers and include the following information:

(a) The provider's name, mailing address, physical address, and phone number;

(b) The provider's authorized contact person, title, phone number, and e-mail address;

(c) The provider's website address;

(d) The course presentation formats offered by the provider, such as classroom instruction, online, etc.; and

(e) The date of certification and provider number.

(4) Once certified, the continuing education provider must submit on an Agency-approved form any changes in the information provided on the application.

(5) If a provider no longer wishes to be certified or no longer meets the qualifications contained in OAR 863-020-0020, it must inform the Agency in writing within five business days.

(6) A continuing education provider certification expires on December 31, 2013 and is subject to renewal by submitting an application for renewal on an Agency-approved form at least 60 days before the certification expires.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.182
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0035

Courses Offered by Continuing Education Providers Effective July 1, 2010

(1) This rule is effective July 1, 2010 and applies to continuing education courses offered by continuing education providers except for the advanced course in real estate practices and the brokerage administration sales and supervision course. If the provider wishes to offer those courses, the provider may seek separate approval under OAR chapter 863, division 22.

(2) A continuing education provider must ensure that a specific class or course offered is within the scope of one or more course topics listed in section (4) or (5) of this rule. The provider must also identify to real estate licensees which course topic(s) is covered by the course. The Agency will not determine whether individual courses or classes are within the scope of an eligible course topic.

(3) Each course offered for continuing education credit:

(a) Must meet all course requirements under this rule,

(b) Must meet the requirements for the length of the course under OAR 863-020-0007,

(c) Must meet the requirements for learning objectives in OAR 863-020-0045, and

(d) May be presented in a classroom setting, online, or in another format of the provider's choosing.

(4) The following course topics are eligible for real estate continuing education credit required by ORS 696.174 and OAR 863-020-0010:

(a) Principal broker or property manager record-keeping

(b) Principal real estate broker supervision responsibilities

(c) Principal broker or property manager clients' trust accounts

(d) Agency relationships and responsibilities for brokers, principal brokers, or property managers

(e) Misrepresentation in real estate transactions

(f) Property management

(g) Advertising regulations

(h) Real estate disclosure requirements

(i) Real estate consumer protection

(j) Anti-trust issues in real estate transactions

(k) Commercial real estate

(l) Real estate contracts

(m) Real estate taxation

(n) Real estate property evaluation, appraisal, or valuation

(o) Fair Housing laws or policy

(p) Managing a real estate brokerage

(q) Business ethics

(r) Risk management

(s) Dispute resolution

(t) Real estate finance

(u) Real estate title

(v) Real estate escrows

(w) Real estate development

(x) Condominiums

(y) Subdivisions

(z) Unit owner or home owner associations

(aa) Timeshares

(bb) Water rights

(cc) Environmental protection issues in real estate

(dd) Land use planning, zoning, or other public limitations on use

(ee) Real estate economics

(ff) Real estate law or regulation

(gg) Negotiation

(5) A three-hour law and rule required course on recent changes in real estate rule and law under OAR 863-022-0055 is eligible for three hours of continuing education credit.

(6) The following do not fall within the scope of an eligible continuing education course topic listed under section (4) of this rule:

(a) Real estate broker or property manager pre-licensing courses

(b) Examination preparation classes

(c) Sales meetings

(d) Motivational classes or seminars

(e) Time management classes or seminars

(f) Sales and marketing classes or seminars

(g) Psychology classes or seminars

(h) Trade association orientation courses

(i) Courses in standardized computer software programs not specifically related to the topics listed in section (4) of this rule

(j) Courses with content that is specific to another state or jurisdiction.

Stat. Auth.: ORS 696.385

ADMINISTRATIVE RULES

Stats. Implemented: ORS 696.174 & 696.184
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0040

Continuing Education Courses Required for License Renewal Effective January 1, 2011

(1) Effective January 1, 2011, in addition to the eligible courses under OAR 863-020-0035 completed on or after July 1, 2010, the following courses are eligible for continuing education credit:

(2) For a real estate broker who is renewing an active license for the first time or who is reactivating a license following an inactive first renewal, a Board-approved 30-hour advanced course in real estate practices that meets the requirements of OAR 863-022-0020;

(3) For an initial principal real estate broker license, an Agency-approved 40-hour brokerage administration and sales supervision course that meets the requirements of OAR 863-022-0015; and

(4) A continuing education course completed between January 1, 2009 and December 31, 2010 that is in one of the following topics or combination of course topics:

- (a) Trust Accounts
- (b) Misrepresentation
- (c) Anti-Trust
- (d) Rule and Law Update
- (e) Property Management
- (f) Commercial Brokerage and Leasing
- (g) Real Estate Taxation: Federal, State, and Local
- (h) Agency
- (i) Fair Housing
- (j) Contracts
- (k) Property Evaluation
- (l) Brokerage Management
- (m) Land
- (n) Business Ethics
- (o) Compliance Review
- (p) Real estate oriented continuing education.

(5) Courses taken under section (4) of this rule:

(a) May not be related to personal skills, such as time management or routine meetings and luncheons;

(b) Must be a minimum of 60 minutes, excluding meal or rest breaks; and

(c) May not be a course with the same content as another course taken during the renewal period.

(6) Certification as a continuing education provider does not authorize the provider to offer an advanced course in real estate practices or the brokerage administration sales and supervision course. If the provider wishes to offer those courses, the provider may seek separate approval under OAR chapter 863, division 22.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.022, 696.174, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0045

Course Learning Objectives

(1) This rule is effective July 1, 2010.

(2) The Agency does not review or approve a continuing education provider's learning objectives.

(3) As used in ORS chapter 696 and this Division 20, the term "learning objective" means a statement of a continuing education provider's goal for what a licensee will know or be able to do when the course is completed.

(4) In addition to any other learning objectives a continuing education provider may develop for a course, the provider must ensure that each course within a course topic offered under OAR 863-020-0035(4) and (5) meets at least one of the learning objectives contained in section (6) of this rule.

(5) For course learning objectives relating to laws, statutes, and rules, only existing laws, statutes, and rules or those that have been adopted or enacted but are not yet in effect meet the requirements of this rule. Learning objectives related to proposed legislation or proposed regulations do not meet the requirements of this rule.

(6) At the end of the course, the licensee will be able to describe and, where appropriate, identify:

(a) Provisions in laws, statutes or administrative rules relevant to the course topic;

(b) The licensee's responsibilities under laws, statutes or administrative rules relevant to the course topic;

(c) Consumer protections relevant to the course topic;

(d) Governmental agencies with primary responsibility for regulating the course topic and the agencies' role in relation to consumers and licensees; or

(e) The principles, practices, or procedures relevant to the course topic and their impact on at least one of the following:

(i) Licensees,

(ii) Consumers,

(iii) Parties to the real estate transaction or property management agreement,

(iv) The real estate marketplace,

(v) Real estate brokerage or property management practices,

(vi) The licensees' real estate business, or

(vii) A licensee's professional competence.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.182

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0050

Continuing Education Provider Responsibilities

(1) This rule is effective July 1, 2010.

(2) For each course offered, a continuing education provider must:

(a) Ensure that a course offered for continuing education credit is within the scope of one or more course topics listed in OAR 863-020-0035(3) or is a three-hour law and rule required course on recent changes in real estate rule and law under OAR 863-022-0055;

(b) Identify to real estate licensees which course topic(s) the offered course covers or whether the course is a three-hour rule and law required course under OAR 862-022-0055, the advanced course in real estate practices course under OAR 863-022-0020, or the brokerage administration and sales supervision course under OAR 863-022-0025;

(c) Ensure that the course meets the requirements for the length of a course under OAR 863-022-0007;

(d) Assign to each course a four-digit identifying course number;

(e) Ensure that courses offered under OAR 863-020-0035 meet the learning objective requirements contained in OAR 863-020-0045; and

(f) Ensure that the instructor who teaches a continuing education course offered for credit:

(A) Meets the requirements set forth in ORS 696.186, and

(B) Completes and signs the form required by OAR 863-020-0060.

(3) A continuing education provider may provide the advanced course in real estate practices or the brokerage administration and sales supervision course only if the provider and the course have been approved under OAR 863, division 22.

(4) A continuing education provider must keep records as required by OAR 863-020-0055; and

(5) A continuing education provider must give each licensee who completes a course a completed certificate of attendance that includes:

(a) The licensee's name and license number;

(b) The name of the course;

(c) The name of the certified course provider and provider number;

(d) The course identification number assigned by the course provider;

(e) The eligible course topic(s) under OAR 863-020-0035 or whether the course is the three-hour law and rule required course under OAR 862-022-0055, the advanced practices course under OAR 863-022-0020, or the brokerage administration and sales supervision course under OAR 863-022-0025;

(f) The date and location of the course;

(g) The length of time of each course; and

(h) The name of the instructor who taught the course.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0055

Continuing Education Provider Record-keeping Requirements

(1) This rule is effective July 1, 2010.

(2) A real estate continuing education provider must keep records of each course provided for three years from the date the course was provided. These records must include:

(a) The name of the course,

(b) The course identification number assigned by the course provider,

(c) The eligible course topic(s) under OAR 863-020-0035 or whether the course is a three-hour law and rule required course under OAR 862-022-0055, the advanced practices course under OAR 863-022-0020, or the brokerage administration and sales supervision course under OAR 863-022-0025

(d) The date and location of the course,

ADMINISTRATIVE RULES

- (e) The length of time of each course,
 - (f) The name of the instructor who taught the course,
 - (g) The signed form required by OAR 863-020-0060 containing the statement of instructor qualifications, and
 - (h) The licensee's name and license number for each licensee attending the course on that date.
- (3) All continuing education providers, whether located within or outside of this state, must keep the required records at the address provided on the application form.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.184
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0060

Continuing Education Instructor Form

- (1) This rule is effective July 1, 2010.
- (2) As provided in OAR 863-020-0050, a continuing education provider must ensure that the instructor who teaches a continuing education course offered for credit meets the requirements contained in ORS 696.186. The Agency does not certify instructors.

(3) A continuing education provider must ensure that the instructor completes and signs a form containing the following information:

- (a) The instructor's name, address, and phone number;
- (b) The continuing education provider name and provider number;
- (c) A description of the instructor's qualifications in sufficient detail that would enable the reader to know how the instructor has met those qualifications; and

(d) An attestation signed and dated by the instructor, identifying the instructor's qualifications under section (4) of this rule and affirming that the instructor:

(A) Has not had a professional or occupational license related to the topic of the course revoked for disciplinary reasons;

(B) Has not had a professional or occupational license related to the topic of the course that is currently suspended for disciplinary reasons; and

(C) Has not been determined by a state court, an administrative law judge, or a final agency order to have violated any statute, rule, regulation, or order pertaining to real estate activity in this or any other state in the preceding five years.

(4) The instructor must indicate on the form which of the following qualifications applies to the instructor:

(a) A bachelor's degree and two years of experience working in a field related to the course topic;

(b) Six years of experience working in a field related to the topic of the course;

(c) A total of six years of any combination of college-level coursework and experience working in a field related to the topic of the course;

(d) A designation by a professional real estate organization, as defined in section (5) of this rule, and two years of college-level coursework;

(e) A designation as a Distinguished Real Estate Instructor by the Real Estate Educators' Association;

(f) Successful completion of an instructor training course approved by the Board and two years of experience working in a field related to the topic of the course; or

(g) Certification or approval in good standing as a real estate instructor for the same or a similar course topic in any other state or jurisdiction.

(5) "Professional real estate organization," as used in section (4) of this rule, means a group of individuals with a formal membership whose membership includes real estate licensees or licensed escrow agents.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.184 & 696.186
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-020-0065

Certification Revocation

The Agency may revoke the provider's certification if the provider disregards or violates any applicable provision of ORS chapter 696 or this rule division. Such revocation is an agency order subject to the contested case provisions contained in ORS chapter 183.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.182
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0000

Applicability and Purpose

- (1) This division applies to:
- (a) Real estate license applicants,
 - (b) Real estate licensees,
 - (c) Persons seeking Agency approval of the following courses:

- (A) The education courses for real estate broker license applicants and
 - (B) The education course for property manager license applicants.
- (d) Certified continuing education providers seeking approval of the following courses:

(A) The brokerage administration and sales supervision course for principal broker license applicants or

(B) The advanced practices course required for real estate brokers seeking their first active license renewal.

(e) Certified continuing education providers who offer the Board-approved three-hour course on recent changes in real estate law and rule.

(2) This division sets forth the following course requirements for license applicants and licensees:

(a) The courses required by OAR 863-014-0035 for real estate broker license applicants;

(b) The courses required by OAR 863-024-0045 for property manager license applicants;

(c) The brokerage administration and sales supervision course required by OAR 863-014-0040 for principal broker license applicants; and

(d) The advanced practices course required by OAR 863-020-0008 or 863-020-0010 for real estate brokers seeking their first active license renewal.

(3) This division sets forth the application processes for Agency or Board approval of the following:

(a) The course of study required by OAR 863-014-0035 for real estate broker license applicants or the education courses required by OAR 863-024-0045 for property manager license applicants;

(b) The brokerage administration and sales supervision course required by OAR 863-014-0040 for principal broker license applicants;

(c) The advanced practices course required by OAR 863-020-0008 or 863-020-0010 for real estate brokers seeking their first active license renewal; and

(d) The three-hour course on recent changes in law and rule required for all renewing licensees under OAR 863-020-0010.

(4) This division sets forth provisions relating to all courses approved by the Agency on or before June 30, 2010.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.174, 696.182, & 696.184
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0005

Definitions

As used in this division, unless the context requires otherwise:

(1) "Agency" means the Oregon Real Estate Agency.

(2) "Associated brokers" means a broker that is "associated with," as that term is defined in ORS 696.010, a principal real estate broker.

(3) "Board" means the Oregon Real Estate Board.

(4) "Certified continuing education provider" means a person certified by the Agency under OAR 863-020-0030 to offer real estate continuing education that are eligible for credit under OAR 863-020-0035 and 863-020-0040. The continuing education courses are taught by an instructor.

(5) "Clock-hour" is a 60-minute hour, excluding meal or rest breaks.

(6) "Commissioner" means the Real Estate Commissioner.

(7) "Individual" means a human being, not a legal entity.

(8) "In-state community colleges, colleges, and universities" means:

(a) Campuses and centers that are part of the Oregon University System under ORS chapter 352;

(b) Oregon community colleges established and operated under ORS chapter 341; and

(c) Accredited private and independent institutions of higher education, as that term is defined in ORS 352.720, that are located in Oregon.

(9) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a government agency.

(10) "Private career schools" means private career schools licensed by the Oregon Department of Education and approved by the Agency to provide the 150-hour real estate license applicant course of study, the 60-hour property manager license applicant course, or both.

(11) "Principal broker" means "principal real estate broker," as defined in ORS 696.010.

(12) "Property manager" means "real estate property manager," as defined in ORS 696.010.

(13) "Real estate broker" is defined in ORS 696.010.

(14) "Real estate licensee" is defined in ORS 696.010.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.174, 696.182, & 696.184
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

ADMINISTRATIVE RULES

863-022-0010

Course Requirements for Real Estate Broker License Applicants

(1) The real estate broker license applicant course of study required by OAR 863-014-0035 must include 150 clock-hours in the seven courses listed in section (2) of this rule.

(a) Courses offered by private career schools must be approved by the Agency under OAR 863-022-0030.

(b) Courses offered by community colleges, colleges, and universities must be approved by the Agency under OAR 863-022-0035.

(c) To be eligible for credit, all courses must be presented for the designated number of hours and according to the percentages allocated for each topic.

(2) The courses required for real estate broker license applicants are:

(a) Real Estate Law (30 hours).

(b) Oregon Real Estate Practice (30 hours).

(c) Real Estate Finance (30 hours).

(d) Contracts (15 hours).

(e) Agency Law (15 hours).

(f) Property Management (10 hours).

(g) Real Estate Brokerage (20 hours).

(3) The seven required courses must include the following number of hours and percentages allocated for the topics within each course:

(a) Real Estate Law Course (30 hours). This course covers general real estate law with an emphasis on Oregon real property law and includes the following topics:

(A) (20% or 6 hours) Basic real property law, types of estates and forms of ownership, such as fee simple absolute, severalty, various concurrent estates, trust, by business organizations; the nature of real property versus the nature of personal property; fixtures, emblements, water rights (riparian rights, natural drainage rights, state ownership of navigable riverbed), estoppel, condemnation, and severance.

(B) (10% or 3 hours) Ways to legally describe real property, including the proper and complete writing of legal descriptions for real estate transaction documents commonly used in Oregon.

(C) (10% or 3 hours) Transfer of title, including voluntary and involuntary transfers and proper deed conveyance (types and their requirements, statutory deed forms, recording requirements, acknowledgment).

(D) (15% or 4.5 hours) Encumbrances, including easements, such as easement appurtenant, easements in gross, easement by necessity, easements by prescription, as well as how easements are created and terminated; voluntary and involuntary encumbrances, especially statutory liens, such as mechanic's liens, tax liens, judgment liens, and federal income tax liens.

(E) (10% or 3 hours) Title insurance and escrow recording, including types of coverage and exclusions in title insurance policies; escrow procedures; requirements for recording documents.

(F) (10% or 3 hours) Taxes and assessments, especially the levy and collection process; foreclosure and redemption rights, exemptions, special assessments, and the Bancroft Bonding Act.

(G) (25% or 7.5 hours) Land use control, including private controls such as covenants, conditions and restrictions; public controls such as planning, zoning, city and county subdivision platting, building regulations, implied warranties on new homes, consumer protection in land sales through recording land sales contracts, public reporting under Oregon Subdivision Control Law; and condominiums, including their creation and statutory obligations of condominium developers.

(b) Oregon Real Estate Practice Course (30 hours). This course covers the requirements for Oregon real estate licensees contained in the Oregon Revised Statutes chapter 696 and the Oregon Administrative Rules chapter 863 and includes the following topics:

(A) (5% or 1.5 hours) The basic business relationships between principal brokers and associated brokers including, for example, the agency relationship and the principal broker's supervisory responsibilities, duties, and liabilities to third parties.

(B) (25% or 7.5 hours) The Oregon real estate license requirements and the limitations on licensing as set forth in the Oregon Real Estate License Law; also the rules and regulations, especially their applications to real estate transactional documents, advertising, competitive market analyses, property management, and licensees.

(C) (20% or 6 hours) Listing agreements, specifically the Oregon administrative rules concerning marketing and advertising listed properties.

(D) (20% or 6 hours) Sale agreements, such as offers to purchase and seller's counter offers, earnest money agreements, options to buy real property, the statutes and rules affecting sale agreements.

(E) (15% or 4.5 hours) The Civil Rights Act and real estate-related provisions of the Americans with Disabilities Act and their administration and enforcement.

(F) (15% or 4.5 hours) The basic roles of the real estate broker, including additional requirements, liabilities, and needs for advanced training in related activities, such as competitive market analyses, property management (including renting and leasing), exchanging, securities, business opportunities (i.e., business chance brokering.); auctions, farms, vacation homes, and campgrounds.

(c) Real Estate Finance Course (30 hours). This course covers real estate finance and appraisal methods, including the methods for performing mathematical computations commonly required of real estate licensees, and includes the following topics:

(A) (10% or 3 hours) Lending laws, including federal laws and regulations such as Regulation Z, the Federal Equal Credit Opportunity Act, and the Real Estate Settlement Procedures Act.

(B) (10% or 3 hours) The money market and sources of financing; private versus government sources, the primary and secondary mortgage market, the federal money market, and federal monetary controls.

(C) (10% or 3 hours) Financing documents, including mortgages, trust deeds, and land sale contracts.

(D) (10% or 3 hours) Foreclosure; terms, methods, procedures and remedies.

(E) (10% or 3 hours) Governmental loan programs; FHA, federal VA, Oregon DVA.

(F) (10% or 3 hours) Non-governmental loan programs, such as conventional loans, construction loans, and mobile home loans.

(G) (10% or 3 hours) Competitive market analyses; principles, terminology, processes, and approaches commonly used.

(H) (15% or 4.5 hours) Mathematical calculations used in financing real estate transactions.

(I) (10% or 3 hours) Other methods of financing, including wrap-around mortgages, second mortgages, sale-leasebacks, collateral assignments, and use of personal property.

(J) (5% or 1.5 hours) Taxation and its impact in financing arrangements.

(d) Contracts Course (15 hours). This course covers the basic requirements for common real estate contracts, including listings, offers to purchase, leases, and land sales contracts. The course highlights Oregon-specific contract requirements and includes the following topics:

(A) (40% or 6 hours) Basic contract law, including the elements necessary to form a contract, breaches, and interference with an existing contract.

(B) (40% or 6 hours) Real estate contracts, especially required provisions and suggested language for listing agreements, earnest money/sale agreements, options land sales contracts, leases, and escrow agreements.

(C) (20% or 3 hours) Special requirements and limitations on contracts for the sale of subdivided lands, condominiums, and planned developments under Oregon law.

(e) Agency Law Course (15 hours). This course covers agency law, both its common law aspects and Oregon's statutory requirements for real estate licensees and includes the following topics:

(A) (40% or 6 hours) The common law of agency, including an in-depth study of the fiduciary requirements and its application to real estate brokerage.

(B) (60% or 9 hours) ORS 696.800 to 696.880 generally, with an emphasis on the obligations and duties of an agent to clients and others, as set out in ORS 696.805 to 696.815.

(f) Property Management Course (10 hours). This course covers basic property management law and includes the following topics:

(A) (35% or 3.5 hours) Oregon real estate license statutes and administrative rules as applied to property management activity.

(B) (10% or 1 hour) Oregon Residential Landlord and Tenant Act, including tenants' and landlords' rights and obligations; evictions, forcible entry, and detainer procedures.

(C) (10% or 1 hour) Economics of property management, including analysis of markets, properties, and evaluating the owner's objectives.

(D) (5% or .5 hours) Leases, including leaseholds, types of leases, and common lease clauses.

(E) (10% or 1 hour) Agency relationship between property owner and property manager.

(F) (5% or .5 hours) Tenant relations, including maintenance.

(G) (20% or 2 hours) Property management recordkeeping, including operating reports, budgets, income tax records, types of insurance, trust accounts, and trust account reconciliation.

ADMINISTRATIVE RULES

(H) (5% or .5 hours) Anti-discrimination statutes, federal and state, that apply to tenant selection and advertising; Fair Credit Reporting Act and its application to tenant selection.

(g) Real Estate Brokerage Course (20 hours). This covers basic real estate brokerage, including the legal requirements for record-keeping and clients' trust account reconciliation and includes the following topics:

(A) (10% or 2 hours) Advertising, including supervising content, format, and layout; public relations, image development, the Internet, and relations between competitors; office policy on private transactions of licensees; effect of disciplinary action on licensees.

(B) (20% or 4 hours) Financial records, such as general checking account and its use for paying commissions; receipt of competitive market analysis fees; legal requirements for the clients' trust account, including documentation required, reconciliation, use of interest-bearing accounts, commingling of funds, the trust account's use in cooperative transactions, earnest money, advance fees, and rental fees.

(C) (10% or 2 hours) Office facilities and the regulatory requirement for real estate offices, including site selection, space and office layout, furniture and equipment; broker license requirements; regulations affecting the office, such as signs; requirements for branch offices, limitations on licenses, effect of actions on licenses, and reporting of adverse litigation.

(D) (15% or 3 hours) The legal requirements for neutral escrows and co-op transactions; the mathematics of a real estate closing, such as tax prorations, computing commission splits, and making closing estimates; closing procedures, such as title insurance, recording, and acknowledging documents.

(E) (10% or 2 hours) Financial reports, such as income statements, balance sheets, tax returns, and payroll records.

(F) (15% or 3 hours) Non-financial records, such as listing files, transaction records, cooperative transaction records, advertising folders, showing reports, competitive market analysis records and reports; legal requirements, such as management review of broker transactions.

(G) (10% or 2 hours) Office manuals that specify office policy and procedures; use of the manual in training and to set out grievance procedures.

(H) (10% or 2 hours) Office activity other than real estate sales; property management, competitive market analyses, investment counseling, construction and development, including supervisory requirements, as well as the nature of the activities in relation to real estate law and rules.

(4) Except for Real Estate Finance courses, as provided in section (7) of this rule, an applicant must complete the required courses through Agency-approved private career schools or in-state community colleges, colleges, or universities, as those terms are defined in OAR 863-022-0005.

(5) To receive credit for courses provided by private career schools, the following provisions apply:

(a) License applicants must complete the course of study and receive a passing score of at least 75% on a final examination for each course.

(b) Except for Real Estate Finance, only courses completed on or after July 1, 2002 are eligible for credit.

(c) Real Estate Finance courses must have been completed on or after July 1, 1978 to be eligible for credit.

(d) The applicant must obtain a certificate of completion and submit it to the Agency as part of the application process.

(6) To receive credit for courses provided by in-state community colleges, colleges, and universities, the following provisions apply:

(a) License applicants must complete the course of study, including a final examination for each course and achieve a minimum grade of "C."

(b) Except for Real Estate Finance, only courses completed on or after July 1, 2002 are eligible for credit.

(c) Real Estate Finance courses must have been completed on or after July 1, 1973 to be eligible for credit.

(d) The applicant must obtain a transcript or certificate of completion and submit it to the Agency as part of the application process.

(7) To receive credit for Real Estate Finance courses taken through out-of-state community colleges, colleges, and universities:

(a) The courses must have been completed on or after July 1, 1973,

(b) The applicant must have achieved a minimum grade of "C;" and

(c) The applicant must obtain a transcript and submit it to the Agency as part of the application process.

(8) The real estate broker license applicant course of study is not eligible for continuing education credit under OAR 863-020-0008 or 863-020-0010.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0015

Course Requirements for Property Manager License Applicants

(1) The course required by OAR 863-024-0045 for real estate property manager license applicants consists of a 60-hour Agency-approved real estate property manager course. The property manager course covers the specialized area of the management of rental real estate, including Oregon's legal requirements.

(2) To be eligible for credit, the 60-hour course must include 60 clock-hours allocated among topics in the number of hours and percentages as follows:

(a) (30% or 18 hours) Oregon real estate license statutes and administrative rules applicable to the management of rental real estate.

(b) (15% or 9 hours) Clients' trust accounts and account reconciliation.

(c) (10% or 6 hours) Oregon Residential Landlord and Tenant Act, including tenants' and landlords' rights and obligations; evictions, forcible entry and detainer procedures.

(d) (5% or 3 hours) Economics of property management, including analysis of markets, properties, and evaluating the owner's objectives.

(e) (5% or 3 hours) Leases, including leaseholds, types of leases and common lease clauses.

(f) (5% or 3 hours) Agency relationship between property owner and property manager and tenant relations, including maintenance.

(g) (15% or 9 hours) Management recordkeeping, including operating reports, budgets, income tax records, insurance types.

(h) (5% or 3 hours) Federal and state anti-discrimination laws and their applicability to tenant selection and advertising; the Fair Credit Reporting Act and its applicability to tenant selection.

(i) (10% or 6 hours) General real estate law applicable to property management activity, including types of estates and forms of ownership; transfer of title; taxes and assessments, including the levy and collection process, foreclosure and redemption rights, exemptions, and special assessments; land use controls, including private controls such as covenants, conditions, and restrictions, and public controls such as planning and zoning.

(3) The course must be completed through either Agency-approved private career schools or in-state community colleges, colleges, and universities, as those terms are defined in OAR 863-022-0005.

(4) To receive credit for a course provided by a private career school, applicants must complete the course, including a final examination, and receive a passing score of at least 75% on a final exam.

(5) To receive credit for a course provided by an in-state community college, college, or university, applicants must complete the course, including a final examination and achieve a minimum grade of "C."

(6) The license applicant must obtain a transcript or certificate of course completion and submit it to the Agency as part of the application process.

(7) Only courses completed on or after July 1, 2002 are eligible for credit.

(8) The property manager license applicant course is not eligible for continuing education credit under OAR 863-020-0008 or 863-020-0010.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0020

Advanced Practices Course Requirement for the First Active Renewal of Broker License

(1) The course required by OAR 863-020-0008 or 863-020-0010 before the first active renewal of the real estate broker's license or before the first license reactivation following an inactive first renewal is an approved 30-hour advanced course in real estate practices.

(2) To be eligible for credit, an advanced practices course completed on or before December 31, 2010 must:

(a) Meet the requirements under section (4) of this rule and be provided by a person whose advanced practices course has been approved by the Agency on or before June 30, 2010, or

(b) Meet the requirements under section (5) of this rule and be provided by a certified continuing education provider whose advanced practices course has been approved by the Board on or after July 1, 2010.

(3) To be eligible for credit, an advanced practices course completed on or after January 1, 2011 must meet the requirements under section (5) of this rule and be provided by a certified continuing education provider whose advanced practices course has been approved by the Board on or after July 1, 2010.

ADMINISTRATIVE RULES

(4) A 30-hour advanced practices course approved by the Agency on or before June 30, 2010 must include 30 clock-hours allocated among topics in the number of hours and percentages as follows:

- (a) (30% or 10 hours) Business ethics,
 - (b) (10% or 3 hours) Recent changes in real estate law and rule, including Oregon Real Estate License Law and administrative rule changes from the most recent legislative session and other legislative changes affecting real estate,
 - (c) (10% or 3 hours) Review of recent administrative actions issued by the Agency,
 - (d) (15% or 4.5 hours) Property management,
 - (e) (10% or 3 hours) Business economics (3 hours),
 - (f) (10% or 3 hours) Advanced agency relationship, including dual representation, and
 - (g) (15% or 4.5 hours) Misrepresentation and negligence.
- (5) A 30-hour advanced practices course approved by the Board on or after July 1, 2010 must include 30 clock-hours allocated among topics in the number of hours and percentages as follows:

- (a) (30% or 10 hours) Business ethics,
 - (b) (10% or 3 hours) A three-hour course on recent changes in real estate law and rule approved by the Board under OAR 863-022-0055,
 - (c) (10% or 3 hours) Review of recent administrative actions issued by the Agency,
 - (d) (15% or 4.5 hours) Property management,
 - (e) (10% or 3 hours) Business economics (3 hours),
 - (f) (10% or 3 hours) Advanced agency relationship, including dual representation, and
 - (g) (15% or 4.5 hours) Misrepresentation and negligence.
- (6) To receive credit for an advanced practices course, a real estate broker must complete the course, including a final examination, and receive a passing score of at least 75% on a final examination.

(7) The licensee must obtain a certificate of course completion and maintain it as required by OAR 863-020-0015.

(8) If the advanced practices course was completed on or before December 31, 2010 and complies with section (2)(a) of this rule, the course is also eligible for continuing education credit under OAR 863-020-0008 or 863-020-0010. However, licensees renewing on or after January 1, 2011 must also complete a Board-approved three-hour course on recent changes in real estate law and rule.

(9) If the advanced practices course was completed on or after July 1, 2010 and complies with section (2)(b) or section (3) of this rule, the course is also eligible for continuing education credit under OAR 863-020-0008 or 863-020-0010. Because the course under section (2)(b) or section (3) of this rule includes the Board-approved three-hour course on recent changes in real estate law and rule, the licensee does not need to complete an additional course on recent changes in real estate law and rule.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0025

Education Course Requirements for Principal Broker License Applicants

(1) The course required by OAR 863-014-0040 for principal real estate broker license applicants is a 40-hour Agency-approved brokerage administration and sales supervision course.

(2) The brokerage administration and sales supervision course covers legal requirements unique to principal brokers and reviews the material introduced in the 150-hour real estate broker applicant course of study described in OAR 863-022-0010.

(3) To be eligible for credit, the 40-hour course must include 40 clock-hours, allocated among topics in the number of hours and percentages as follows:

(a) (10% or 4 hours) Introduction to management theory, characteristics of successful management, the functions of management, organizational formats such as corporate, partnerships, and proprietorship, various problems associated with management, and types of licenses and their legal requirements.

(b) (10% or 4 hours) Planning, including management objectives, planning under the employer-employee relationship versus independent contractor relationship, individual and office planning, budget planning, market research, growth, and anticipation of expansion, and bottom line planning.

(c) (15% or 6 hours) Selecting, training, and supervising real estate personnel, including job descriptions, recruiting, interviewing, and characteristics of a successful real estate broker; training in Oregon real estate law,

real estate documents; supervising transactions, performance evaluations, commission arrangements; major theories of human motivation, for example, those of Maslow, Herzberg, and McClelland; selecting, training, and evaluating office support personnel.

(d) (5% or 2 hours) Leadership, authority, discipline; office regulations, relationships between office personnel; office policy on private transactions of licensees; effect of disciplinary action on licensees.

(e) (5% or 2 hours) Communication methods; formal versus informal; verbal versus non-verbal; reading, writing, listening, speaking; office sales meetings.

(f) (5% or 2 hours) Advertising, including supervising content, format, and layout; public relations, image development, and relations between competitors.

(g) (5% or 2 hours) Office facilities, including legal requirements for real estate offices, such as site selection, space and office layout, furniture and equipment, signs; broker license requirements; legal requirements concerning branch offices; limitations on licenses, effect of actions on licenses, and reporting of adverse litigation.

(h) (20% or 8 hours) Financial records, such as general checking account and its use for paying commissions, receipt of competitive market analysis fees; the clients' trust account, legal requirements concerning its use, including required documentation, use of interest-bearing accounts, commingling of funds, the trust account's use in cooperative transactions, earnest money, advance fees, and rental fees.

(i) (5% or 2 hours) Financial reports, such as income statements, balance sheets, tax returns, and payroll records.

(j) (5% or 2 hours) Non-financial records, such as listing files, transaction records, cooperative transaction records, advertising folders, showing reports, competitive market analysis records and reports; legal requirements, such as broker review of salesperson transactions.

(k) (5% or 2 hours) Office manuals that specify office policy and procedures, use of the manual in training and to set out grievance procedures.

(l) (5% or 2 hours) Office activity other than real estate sales; competitive market analyses, investment counseling, construction, and development, including supervisory requirements, and the nature of the activities relative to real estate legal requirements.

(m) (5% or 2 hours) Property management: legal requirements for accounting and record keeping, Oregon Landlord Tenant Law.

(4) License applicants must complete the course, including a final examination, and receive a passing score of at least 75% on a final exam.

(5) The applicant must obtain a transcript or certificate of course completion and submit it to the Agency as part of the application process.

(6) An Agency-approved brokerage administration and sales supervision course is eligible for continuing education credit for licensees renewing under OAR 863-020-0008 or 863-020-0010 as follows:

(a) If the licensee completed the course on or before December 31, 2010; or

(b) If the licensee completed the course on or after January 1, 2011 and the course provider was a certified continuing education course provider.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0030

Education Courses Provided by Private Career Schools

(1) Private career schools must apply to the Agency for approval of real estate broker license applicant or property manager license applicant courses under OAR 863-022-0010 and 863-022-0015 to provide these courses. No application fees are required.

(2) All license applicant courses under OAR 863-022-0010 and 863-022-0015 submitted by private career schools and approved by the Agency on or before June 30, 2010 are approved by this rule, and the private career schools do not need to re-apply for approval.

(3) Effective July 1, 2010, a private career school applying for Agency approval of a 150-hour course of study for real estate broker license applicants or a 60-hour course for property manager license applicants must submit the following to the Agency:

(a) An Agency-approved application form that includes an affirmation from the director of the school that the school, the instructors, and school employees will follow the rules in this division and signatures of all individuals authorized to sign certificates of completion.

(b) Documentation that the applicant has submitted an application to the Oregon Department of Education for a private career school license.

ADMINISTRATIVE RULES

(c) For one or both of the following courses, a copy of the syllabus and the hours allocated to each course and topic demonstrating that each of the courses meets the course requirements:

(A) The 150-hour course of study for real estate broker license applicants under OAR 863-022-0010.

(B) The 60-hour course for property manager license applicants under OAR 863-022-0015.

(d) If the private career school will provide the 150-hour course of study for real estate broker license applicants, a copy of the final examination for each course, which must demonstrate that the number of questions for each course examination corresponds to the number of hours and percentages of time required for each course and course topic under OAR 863-022-0010 and includes:

- (A) Real Estate Law, 60 questions
- (B) Oregon Real Estate Practice, 60 questions
- (C) Real Estate Finance, 60 questions
- (D) Contracts, 30 questions
- (E) Agency Law, 30 questions
- (F) Property Management, 20 questions
- (G) Real Estate Brokerage, 40 questions

(e) If the private career school will provide the 60-hour course for property manager license applicants, a copy of the final examination for the course consisting of 100 questions, which must demonstrate that the number of questions for each course topic corresponds to the number of hours and percentages of time required for each course topic under OAR 863-022-0015.

(f) The answer key for each final examination, as a separate document.

(g) In addition to all other required application documents, if the private career school will be using a course purchased from a vendor who developed the course, the school must submit the vendor's name and contact information and a letter from the vendor verifying the contract between the vendor and the school.

(h) Resumes for all instructors who will teach the course, demonstrating that each instructor meets the following requirements:

(A) To teach courses for the real estate broker applicant education, the instructor must have a real estate broker license and at least two years of real estate experience.

Additional education, such as a Bachelor of Arts in business with a concentration in real estate or an Associate of Arts degree in real estate, may be substituted for some of the experience requirements.

(B) To teach the property manager course, the instructor must be a licensed property manager with at least two years of experience or be a licensed principal real estate broker.

(i) If the private career school wishes to provide an approved real estate broker or property manager license applicant course through distance education, the school must submit documentation to the Agency that the course has been certified by the Association of Real Estate License Law Officials.

(j) No application fees are required.

(4) The Agency will approve or deny the completed application and notify the applicant within 30 days. Upon approval, the Agency will send a letter of approval and a sample certificate of completion the private career school must use. If the Agency denies the application, the applicant may seek a contested case hearing pursuant to ORS chapter 183.

(5) If a private career school wants to provide courses other than the real estate broker or property manager license applicant courses, the school must comply with the following:

(a) To provide the advanced course in real estate practices, the school must:

(A) Have submitted an advanced practices course that was approved by the Agency on or before June 30, 2010 under OAR 863-022-0040 or,

(B) Beginning July 1, 2010, be a certified continuing education provider and apply for course approval under OAR 863-022-0045.

(b) To provide the brokerage administration and sales supervision course, the school must:

(A) Have submitted a brokerage administration and sales supervision course that was approved by the Agency on or before June 30, 2010 under OAR 863-022-0050 or,

(B) Beginning July 1, 2011, be a certified continuing education provider and apply for course approval under 863-022-0050.

(c) To provide the Board-approved three-hour law and rule update course under OAR 863-022-0055 required for licensee renewals, the school must be a certified continuing education provider.

(d) To provide any other continuing education course under OAR 863-020-0035 or 863-020-0040, the school must be a certified continuing education provider and comply with the requirements of OAR 863, division 20.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.174, 696.182, & 696.184
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0035

Approval of Courses Provided by Community Colleges, Colleges, and Universities

(1) In-state community colleges, colleges, and universities that wish to offer the 150-hour real estate broker license applicant course of study under OAR 863-022-0010 or the 60-hour property manager license applicant course under OAR 863-022-0015 must apply for course approval by submitting a letter to the Agency describing the course in sufficient detail to show how the course will comply with the requirements contained in this division for those courses. No application fees are required. Upon approval, the Agency will provide the applicant with a letter of approval.

(2) In-state community colleges, colleges, and universities that wish to offer courses other than for real estate broker or property manager license applicants must comply with the following:

(a) To provide the advanced course in real estate practices, the school must:

(A) Have submitted an advanced practices course that was approved by the Agency on or before June 30, 2010 under OAR 863-022-0040 or,

(B) Beginning July 1, 2010, be a certified continuing education provider and apply for course approval under OAR 863-022-0045.

(b) To provide the brokerage administration and sales supervision course, the school must:

(A) Have submitted a brokerage administration and sales supervision course that was approved by the Agency on or before June 30, 2010 under OAR 863-022-0050 or,

(B) Beginning July 1, 2010, be a certified continuing education provider and apply for course approval under 863-022-0050.

(c) To provide the Board-approved three-hour course on recent changes in real estate law and rule under OAR 863-022-0055, the school must be a certified continuing education provider.

(d) To provide any other continuing education course under OAR 863-020-0035 or 863-020-0040, the school must be a certified continuing education provider and comply with the requirements of OAR chapter 863, division 20.

(3) Out-of-state schools that provide a Real Estate Finance course under OAR 863-022-0010 do not need to submit an application to the Agency or receive Agency approval to offer the course.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.174, 696.182, & 696.184
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0040

Agency-Approved Advanced Course in Real Estate Practices

(1) This rule applies to the 30-hour Agency-approved advanced course in real estate practices described in OAR 863-022-0020.

(2) All advanced practices courses, course providers, and instructors for those courses approved by the Agency on or before June 30, 2010 may continue to teach or provide the course through December 31, 2010 without Board approval.

(3) Except as provided in section (2) of this rule, beginning July 1, 2010, a person who seeks approval to provide the advanced practices course must be a certified continuing education provider and apply to the Board for approval under OAR 863-022-0045.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.174, 696.182, & 696.184
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0045

Board Approval of Advanced Practices Course

(1) Effective July 1, 2010, a person seeking Board approval of the 30-hour advanced course in real estate practices described in OAR 863-022-0020 must be a certified continuing education provider and petition the Board for approval pursuant to this rule.

(2) The person must submit a petition for approval to the Agency at least 30 days before the scheduled Board meeting at which the applicant wishes the Board to act. The petition must include the following:

(a) An Agency-approved form that includes an affirmation from the certified continuing education provider that the provider and the instructors will follow the rules in this division and signatures of all individuals authorized to sign certificates of completion.

ADMINISTRATIVE RULES

(b) Affirmation that the petitioner is a certified continuing education provider.

(c) A copy of the syllabus and the hours and percentages allocated for each course topic demonstrating that the course meets the requirements for a Board-approved advanced practices course under OAR 863-022-0020.

(d) The final examination, consisting of 60 questions, which must demonstrate that the number of questions for each course topic corresponds to the number of hours and percentages of time required for each course topic under OAR 863-022-0020.

(e) The answer key for the final examination, as a separate document.

(f) If the continuing education provider will be using an advanced course in real estate practices purchased from a vendor who developed the course, the provider must submit the vendor's name and contact information and submit a letter from the vendor verifying the contract between the vendor and the provider.

(g) In addition to the information in section (2)(a) through (e) of this rule, if the petitioner wishes to provide an approved advanced practices course distance education, the petitioner must submit:

(A) Student assignments and periodic quizzes that allow the petitioner to monitor the student's progress in the course, and

(B) A description of the process the petitioner will use to ensure that the student enrolled in the course is the person taking the final examination and that the final examination is monitored.

(h) A sample certificate of completion.

(i) No application fees are required.

(3) The Agency will evaluate the petition, prepare an executive summary for the Board, and recommend whether the Board should approve or disapprove the petition.

(4) The Agency will notify the petitioner in writing of the date, time, and place of the Board meeting at which the petition will be heard.

(5) The Agency will notify the petitioner in writing of the Board's decision. If the Board approves the petition, the notice will include an effective date for the approval. If the Board denies the petition, the notice will include the reasons. If the Board denies the petition, the petitioner may request a contested case hearing pursuant to ORS chapter 183.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0050

Agency Approval of Brokerage Administration and Sales Supervision Course and Instructors

(1) This rule applies to Agency approval of the 40-hour brokerage administration and sales supervision course described in OAR 863-022-0025.

(2) Except as provided in section (3) of this rule, all brokerage administration and sales supervision courses, course providers, and instructors for those courses approved by the Agency on or before June 30, 2010:

(a) Are approved by this rule, and the person who submitted the course does not need to re-apply for approval, and

(b) Are approved to provide the brokerage administration and sales supervision course through December 31, 2010.

(3) All brokerage administration and sales supervision providers and courses approved by the Agency on or before June 30, 2010 are approved to provide the course on or after January 1, 2011, if:

(a) The course provider becomes a certified continuing education provider under OAR 863-020-0030, and

(b) On or before December 31, 2010, the course provider submits a letter to the Agency requesting approval and including documentation that the provider is a certified continuing education provider.

(4) Effective July 1, 2010, an applicant for Agency approval of the 40-hour brokerage administration and sales supervision course must submit to the Agency:

(a) An Agency-approved application form that includes an affirmation from the continuing education provider that the provider and instructors will follow the rules in this division and signatures of all individuals authorized to sign certificates of completion.

(b) A copy of the syllabus and the hours and percentages allocated to each course topic for the 40-hour brokerage administration and sales supervision course demonstrating that the course meets the requirements under OAR 863-022-0025.

(c) The final examination, consisting of 75 questions, which must demonstrate that the number of questions allocated for each course topic corresponds to the number of hours and percentages of time required for each course topic under OAR 863-022-0025.

(d) The answer key for the final examination, as a separate document.

(e) If the continuing education provider will be using a brokerage administration and sales supervision course purchased from a vendor who developed the course, the provider must submit the vendor's name and contact information and submit a letter from the vendor verifying the contract between the vendor and the provider.

(f) In addition to the information in section (4)(a) through (e) of this rule, if the applicant wishes to provide an approved brokerage administration and sales supervision course through distance education, the applicant must submit:

(A) Student assignments and periodic quizzes that allow the applicant to monitor the student's progress in the course, and

(B) A description of the process the applicant will use to ensure that the student enrolled in the course is the person taking the final examination and that the final examination is monitored.

(g) A sample certificate of completion.

(h) No application fees are required.

(5) The Agency will approve or deny the completed application and notify the applicant within 30 days. If the Agency denies the application, the applicant may seek a contested case hearing pursuant to ORS chapter 183.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-022-0055

Board Approval of Three-Hour Rule and Law Change Course

(1) The Board will develop the course content required for a course on recent changes in real estate rule and law required by ORS 696.174, and the Agency will make the course content available to the public.

(2) To be eligible for continuing education credit required under OAR 863-020-0008 or 863-020-0010, the Board-approved course must be provided by a certified continuing education provider.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-024-0045

Property Manager Licensing Requirements

(1) To be eligible for a real estate property manager license, an individual must:

(a) Submit a complete license application and background check application as required by OAR 863-024-0010 and 863-024-0015;

(b) Pass the licensing examination prescribed by the Agency under OAR 863-024-0020;

(c) Pay the licensing fees authorized by ORS 696.270; (d) Submit a certificate of completion or transcript for the real estate property manager license course under OAR 863-022-0015;

(d) Furnish proof that the applicant is 18 years of age or older; and

(e) Effective January 1, 2011, certify that the applicant has obtained a high school diploma or General Educational Development (GED) or the international equivalent.

(2) A real estate property manager may only engage in the management of rental real estate. The licensee may not offer to, negotiate, attempt to, or engage in the sale, purchase, lease-option, appraisal, or exchange of real estate for another individual for compensation. The licensee may not charge, pay, receive, or accept a referral fee, finder's fee, or compensation from or share in a commission paid to a real estate broker for any activity involving the sale, purchase, lease-option, appraisal, or exchange of real estate. However, the licensee may charge, pay, receive, or accept a referral fee or finder's fee from or to a real estate broker or another real estate property manager for finding or referring an owner, renter, or lessee in real estate property management activity.

(3) A real estate property manager is responsible for all property management activity conducted under the property manager's license and for the actions of the property manager's nonlicensed property management employees. A licensed property manager may not authorize an unlicensed individual to supervise that property manager's licensed activity in the manager's absence. Except as provided for in OAR 863-024-0085, a property manager may not authorize another real estate licensee to supervise that property manager's licensed activity in the property manager's absence.

(4) A real estate property manager may be associated with a principal real estate broker to engage in property management activity on behalf of the principal real estate broker and under the supervision of that principal real estate broker. However, a property manager may not act in the broker's absence under OAR 863-024-0085.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

ADMINISTRATIVE RULES

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2005(Temp), f. 6-9-05, cert. ef. 7-1-05 thru 12-26-05; Administrative correction 1-20-06; Renumbered from 863-015-0045, REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-024-0050

License Renewal

(1) For purposes of this rule, "received by the Agency" means the date a license renewal is received by the Agency or the postmarked date.

(2) A property manager license expires if a licensee fails to renew the license on or before the license expiration date. A licensee may not engage in any professional real estate activity after a license expires. A property manager may renew an expired license as provided under sections (9) through (11) of this rule.

(3) For a license renewal received by the Agency on or before December 31, 2010, the licensee must meet the continuing education requirements under OAR 863-020-0008.

(4) For a license renewal received by the Agency on or after January 1, 2011, the licensee must meet the continuing education requirements under OAR 863-020-0010.

(5) The Agency will renew an active property manager license to active status for the term prescribed in OAR 863-024-0030 when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An Agency-approved active renewal application form requesting active license status that includes certification by the licensee that the licensee has met the real estate continuing education renewal requirements under section (3) or (4) of this rule.

(6) The Agency will renew an active property manager license to inactive status for the term prescribed in OAR 863-024-0030, when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An Agency-approved inactive renewal application form.

(7) The Agency will renew an inactive property manager license to inactive status for the term prescribed in OAR 863-024-0030 when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An Agency-approved inactive renewal application form.

(8) The Agency will renew an inactive property manager license to active status for the term prescribed in OAR 863-024-0030, when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An Agency-approved active renewal application form requesting active license status that includes certification by the licensee that the licensee has met the real estate continuing education renewal requirements under section (3) or (4) of this rule.

(9) The Agency will renew an expired property manager license to active status when the Agency receives, within one year of the date the license expired, the following:

(a) The renewal fee and a late fee authorized by ORS 696.270; and

(b) An Agency-approved active renewal application form that includes certification by the licensee that the licensee met the real estate continuing education renewal requirements under section (3) or (4) of this rule.

(10) The Agency will renew an expired property manager license to inactive status when the Agency receives, within one year of the date the license expired, the following:

(a) The renewal fee and a late fee authorized by ORS 696.270; and

(b) An Agency-approved inactive renewal application form.

(11) When the Agency renews an expired license, the renewed license is effective the date the renewal requirements are met. The renewal is not retroactive to the date the license expired, and the expired license retains the status of expired during the expiration period.

(12) A license renewed under this rule expires two years from the date of the original expiration date.

(13) A real estate license that has expired for more than one year is lapsed, as defined in ORS 696.010.

(14) A license may not be renewed if it is lapsed, surrendered, suspended, or revoked. Except as provided in OAR 863-024-0075, the former licensee must reapply and meet all the licensing qualifications required of new license applicants.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020, 696.022 & 696.270

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

863-024-0065

Inactive License, Change License Status to Active, License Reactivation

(1) A property manager licensee whose license is on inactive status may not engage in management of rental real estate.

(2) The commissioner may reprimand, suspend, revoke, or impose a civil penalty against an inactive licensee under ORS 696.301.

(3) The Agency will change an active property manager license to inactive license status when the Agency actually receives the following:

(a) The license; or

(b) A request by the licensee submitted on an Agency-approved form to change the license status to inactive.

(4) An inactive property manager licensee may renew such license under OAR 863-024-0050.

(5) For a period of 30 days after a property manager license becomes inactive, a property manager may change such license status from inactive to active under OAR 863-024-0063.

(6) If a property manager license has not been on active status for two or more consecutive years, before applying for reactivation of such license:

(a) The licensee must submit to the Agency:

(A) An application for licensing reactivation examination and

(B) The examination fee authorized by ORS 696.270; and

(b) The licensee must pass the reactivation examination.

(7) After the 30-day period in section (5) of this rule, and subject to the examination requirements in section (6) of this rule, a property manager may change the license status from inactive to active only by submitting to the Agency:

(a) An application for license reactivation; and

(b) Payment of the reactivation fee authorized by ORS 696.270.

(8) Subject to the examination requirements in section (6) of this rule, if an inactive licensee renews a license and maintains inactive status, the licensee may, within 60 days of the date of renewal, change the license status to active by submitting to the Agency:

(a) An Agency-approved application for license reactivation that includes certification that the licensee met the real estate continuing education renewal requirements under OAR 863-020-0010; and

(b) Payment of the active renewal fee authorized by ORS 696.270, less the amount of the inactive renewal fee already paid by the licensee.

(9) The change of license status, transfer of license, or the reactivation of a license under of this rule, are effective when the Agency actually receives all required forms and fees.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10

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

Rule Caption: Updates retention periods in OAR 166, Division 150, 200, 300, 400, 450 and 475.

Adm. Order No.: OSA 1-2010

Filed with Sec. of State: 5-27-2010

Certified to be Effective: 5-27-10

Notice Publication Date: 5-1-2010

Rules Amended: 166-150-0110, 166-200-0050, 166-300-0025, 166-400-0025, 166-400-0060, 166-450-0050, 166-475-0050, 166-475-0095

Subject: These amendments add record series for unclaimed property and customer debit and credit account information in order to establish clear retention schedule authority. Also, Check Conversion Records were added to 166-150, 166-200, 166-400 and 166-450 to provide uniformity for all General Records retention Schedules. Additionally, retention for Home Schooling Records found in 166-400 was amended to reflect the long term need for retaining this series of records. Finally, a record series for Criminal Background Check Records was added to 166-475 to identify retention and disposition of records not previously listed.

Rules Coordinator: Julie Yamaka—(503) 378-5199

166-150-0110

Financial Records

NOTE: Inclusion of a record series in this schedule does not require the series to be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

ADMINISTRATIVE RULES

(1) **Accounts Payable Records** Records documenting payment of agency bills for general accounts excluding grants. Includes reports, invoices, statements, vouchers, purchase orders, payment authorizations, receipt records, canceled checks or warrants, and similar records. SEE ALSO Grant Records in this section for records documenting expenditure of grant funds. (Minimum retention: 3 years)

(2) **Accounts Receivable Records*** Records documenting revenues owed to the agency by vendors, citizens, organizations, governments, and others to be credited to general accounts excluding grants. Also documents billing and collection of moneys. May include reports, receipts, invoices, awards, logs, lists, summaries, statements, and similar records. Information often includes, receipt amount, date, invoice number, name, account number, account balance, adjustments, and similar data. SEE ALSO Grant Records in this section for records documenting receipt of grant funds. (Minimum retention: 3 years after collected or deemed uncollectible)

(3) **Administrative and Financial Improvement Records*** Records documenting the non-technical and financial administration of assessable and non-assessable county improvements including capital improvements, local improvement districts (LID), urban renewal, and economic improvement districts. Records often include affidavits of posting, notices or proposed assessment, certificates of mailing, interested party letters, bid quotes, reports, and awards, expense reports, purchase orders, requisitions, cost analyses, construction and maintenance bonds and insurance, and related administrative and financial records not located elsewhere in this schedule. SEE ALSO Assessment Dockets, Ledgers, and Registers; Bond Authorization Records; and other record series in the Financial section for records documenting legislative actions such as resolutions of intent to assess and ordinances for improvements. (Minimum retention: (a) Retain records of project cost: 3 years after disposal or replacement of facility, structure, or system (b) Retain all other improvements 10 years after substantial completion (as defined by ORS 12.135(3))

(4) **Audit Reports.** External Records documenting annual audits of the financial position of the agency conducted by external auditors in accordance with statutory requirements described in ORS 297.405 through 297.555. Subjects include accounting principles and methods, the accuracy and legality of transactions, accounts, etc., and compliance with requirements, orders, and regulations of other public bodies pertaining to the financial condition or operation of the agency. Information includes accountant's summary, combined financial statements, schedules, balance sheet details, comments, recommendations, and related data. SEE ALSO Internal Audit Records in the Administrative section. (Minimum retention: Permanent)

(5) **Balance Status and Projection Reports** Reports created for internal use documenting the status of funds, bank accounts, investments, and other accountings of agency funds. Includes budget allotment and fund reconciliation reports. Also includes projection records related to future receipts and disbursements. Reports are generated on a daily, weekly, monthly, quarterly or similar basis. Information includes date, account balances, type and summary of activity, and related data. (Minimum retention: 3 years)

(6) **Bond Records (Employee)*** Records documenting the posting of fidelity, performance, or position bonds to guarantee the honest and faithful performance of elected officials, individual employees, or groups of employees. Details of bonds vary, however information usually includes name and position(s) of individual or group, amount of coverage, effective and expired dates, and related data. (Minimum retention: 6 years after expiration)

(7) **Budget (Adopted) Records** Documenting the final annual financial plan approved by a governing body for all agency expenditures. Information may include budget message, financial summaries, revenues and expenditures, operating programs, debt service, position and wage analysis, overhead allocations, organization charts, previous actual and budgeted amounts, and related data. Duplicate copies should be retained as needed. (Minimum retention: (a) County budgets filed with the County Clerk: Permanent (b) Special district and other budgets: 2 years)

(8) **Budget Preparation Records** Records documenting the preparation of department budget requests presented to the specified governing body. May include staff reports, budget instructions, worksheets, surveys, allotment reports, spending plans, contingency plans, budget proposals, financial forecasting reports, and similar records. (Minimum retention: 2 years)

(9) **Check Conversion Records** Records document checks received from customers that are electronically deposited after being imaged and converted to an Automated Clearing House (ACH) transaction or Image Replacement Document (IRD) (Minimum Retention: (a) Retain original

paper instrument 120 days, destroy (b) Retain ACH transaction or IRD 6 years, destroy)

(10) **Competitive Bid Records** Records documenting the publicizing, evaluation, and awarding of quoted bids to vendors and other individuals or organizations. Records may include RFP's and RFI's and provided recorded evidence of accepted and rejected bids. May include bid exemption documents, bid and quote lists, notices of bid opening and award, comparison summaries, spreadsheets, tabulation worksheets, bid advertising records, tally sheets, bid specifications, correspondence, and related records. SEE ALSO Purchasing Records in this section. (Minimum retention: (a) Retain accepted bids 10 years after substantial completion (as defined by ORS 12.135(3)) (b) Retain other accepted bids: 6 years after bid awarded or canceled (c) Retain rejected bids and bid exemptions: 2 years)

(11) **Credit and Debit Receipts** Agency's copy of credit or debit card receipts documenting payment received by an agency. Records include customer's name and account information. (Minimum Retention: Retain 36 months after transaction, destroy)

(12) **Credit Slips** Slips issued to citizens who have withdrawn from agency-sponsored classes or activities and are due credit for all or part of fees paid. Information usually includes name of class or activity, date, expiration date, name and address of citizen, and related data. (Minimum retention: 3 years after credit expired or redeemed)

(13) **Financial Impact Analysis Records** Records documenting the financial analysis of various agency practices. Useful for planning future budget proposals. Records include reports, studies, worksheets, and similar records. Subjects may include the impact of specific ballot measures, proposals to increase permit fees, sick leave use analysis, and the agency's relationship with various utilities. (Minimum retention: 3 years)

(14) **Financial Reports** Reports documenting the general financial condition and operation of the agency. Includes information on the value of all agency owned property and an accounting of all income and expenditures in relation to the final budget. Records may include monthly, quarterly, annual and similar reports. (Minimum retention: (a) Annual reports: Permanent (b) Other reports: 3 years)

(15) **General Ledgers* Records** documenting the summary of accounts reflecting the financial position of the agency. Information often includes debit, credit, and balance amounts per account, budget, fund, and department numbers, and totals for notes receivable, interest income, amounts due from other funds, federal grants received, bank loans received, cash in escrow, deferred loans received, cash, encumbrances, revenue, accounts receivable, and accounts payable, as well as other data. (Minimum retention: (a) Year end ledgers: 10 years (b) Other general ledgers: 3 years)

(16) **Gift and Contribution Records** Records documenting gifts and contributions given to the agency by sources outside of government. Records may include memorial donation records related to money to be used by the agency in the name of an individual. Often contains donor and acknowledgement letters, acquisition lists itemizing purchases with contributed money (books, art, equipment, etc.) checks, receipts, and related records. (Minimum retention: (a) For retention of conditional gift, contribution and donation records: see Contracts and Agreements in the Administrative Records section (b) Retain other records: 3 years)

(17) **Grant Records** Records document the application, evaluation, awarding, administration, monitoring, and status of grants in which the agency is the recipient, grantor, allocator, or administrator. Grants may come from federal or state governments or foundations or other funding sources. Records may include but are not limited to applications including project proposals, summaries, objectives, activities, budgets, exhibits, and award notification; grant evaluation records and recommendations concerning grant applications; grant administration records including progress reports, budgets, project objectives, proposals, and summaries; records documenting allocation of funds; contracts; records monitoring project plans and measuring achievement; equipment inventories; financial reports, accounting records, audit reports, expenditure reports, and related correspondence and documentation. (Minimum retention: (a) Retain final reports from significant grants to the county: Permanent (b) Retain records documenting the purchase and/or disposal of real property: 10 years after substantial completion (as defined by ORS 12.135(3)), or 3 years after final disposition, or as specified in agreement, whichever is longer (c) Retain other grant records: 3 years after annual or final expenditure report submitted and approved or, as specified in agreement, whichever is longer (d) Retain unsuccessful grant applications: 1 year after rejection or withdrawal)

(18) **Improvement Records, Administrative and Financial* Records** documenting the non-technical and financial administration of assessable and non-assessable agency improvements including local

ADMINISTRATIVE RULES

improvement districts and economic improvement districts. Records often include affidavits of posting, notices of proposed assessment, certificates of mailing, interested party letters, bid quotes, reports, and awards, expense reports, purchase orders, requisitions, cost analyses, construction and maintenance bonds and insurance, and related administrative and financial records not located elsewhere in this schedule. (Minimum retention: (a) Assessable improvements: 10 years after substantial completion or 3 years after final payment of assessment by property owner, whichever is longer (b) Non-assessable improvements: 10 years after substantial completion)

(19) **Inventory Records*** Inventory records documenting the capitalized assets and expendable property of the agency. Examples of capitalized assets may include but are not limited to buildings, real estate, infrastructure assets, vehicles, equipment, and furniture. Examples of expendable assets include office supplies and other small, office purchases. Information often contains asset number, description, purchase order number, location of asset, date received, purchase price, replacement cost, depreciation, and related data. This record series applies to routine control inventories. SEE ALSO Grant Records for inventories of property purchased with grant funds. For inventories documenting other special uses, see Historic Structure Inventory Records in the Planning and Development section; Bridge Inspection Records in the Public Works-Engineering section; and Property and Evidence Control and Disposition Records in the Law Enforcement section. (Minimum retention: (a) Retain records of capitalized assets: 3 years after disposal or replacement of asset (b) Retain records of expendable property: 3 years or until superseded, whichever is longer)

(20) **Petty Cash Fund Records** Records document petty cash activity for the agency. Records include requests and authorizations to establish petty cash funds, ledgers, statements, requests for disbursements, copies of receipts and invoices. (Minimum retention: 3 years)

(21) **Purchasing Records** Records documenting orders, authorizations, and evidence of receipt of the purchase of goods and services by the agency. Includes purchase orders and requests, purchase authorizations, requisitions, contract release orders, material and cost specifications, central stores or printing orders, telephone service orders, and similar records. SEE ALSO Competitive Bid Records in this section; and Grant Records in this section for records documenting expenditure of grant funds and Improvement Administrative and Financial Records in this section for related purchasing records. (Minimum retention: 3 years)

(22) **Signature Authorization Records*** Records documenting the authorization of designated employees to sign fiscal and contractual documents. Useful as an aid for management control over expenditures. Information usually includes authorization date, name, sample signature, position, remarks, conditions, and related data. (Minimum retention: 6 years after authorization superseded or expired)

(23) **Subsidiary Ledgers, Journals, and Registers Records** documenting details of transactions such as those related to receipts and expenditures on a daily, monthly, quarterly or similar basis. Includes journals, ledgers, registers, day books, and other account books that provide backup documentation to the general ledger. May include details of revenues, expenditures, encumbrances, cash receipts, warrants, and others. (Information often includes date, payee, purpose, fund credited or debited, check number, and similar or related data. SEE ALSO Grant Records in this section for records documenting transaction of grant funds. (Minimum retention: (a) Year end payroll register: 75 years (b) Trust fund ledgers: 3 years after trust fund closed (c) Other subsidiary ledgers, journals, and registers: 3 years)

(24) **Travel Records, Employee Records** documenting requests, authorizations, reimbursements, and other actions related to employee travel. Includes expense reports and receipts, vouchers, requests, authorizations, and related documents. Retention applies to private vehicle usage as well. Information often includes estimated costs, prepayments, final costs, destination, method of transportation, travel dates, approval signatures, and related data. (Minimum retention: 3 years)

(25) **Unclaimed Property Report Records** Records document annual reports submitted to the Department of State Lands of financial assets being held for a person or entity that cannot be found. Series includes Holder Report, owner information, correspondence and other related documents. Note: Unclaimed property is not real estate, abandoned personal property, or lost and found items. (Minimum Retention: 3 years after the property is remitted to the Department of State Lands)

(26) **Vendor Lists** Lists documenting vendors providing goods and services to the agency. Information usually includes vendor name of person or company, address, and phone number, name of contact person, as well as a description of goods or services provided. (Minimum retention: Until superseded or obsolete)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005-192.170 & 357.805-357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04; OSA 2-2005, f. & cert. ef. 5-10-05; OSA 1-2010, f. cert. ef. 5-27-10

166-200-0050

Financial-General Records

(1) **Accounts Payable Records** Records document payment of city bills for general accounts. Includes reports, invoices, statements, vouchers, purchase orders, payment authorizations, receipt records, canceled checks or warrants, and similar records. For other accounts, see City Improvement Administrative and Financial Records in Financial-Assessment and Bonds section for documents related to assessable and non-assessable city improvements. SEE ALSO Grant Records in this section for records documenting expenditure of grant funds. (Minimum retention: 3 years after annual audit report issued).

(2) **Accounts Receivable Records*** Records document revenues owed to the city by vendors, citizens, organizations, governments, and others to be credited to general accounts. Records also document billing and collection of moneys. May include reports, receipts, invoices, awards, logs, lists, summaries, statements, and similar records. Information often includes, receipt amount, date, invoice number, name, account number, account balance, adjustments, and similar data. For other accounts, see City Improvement Administrative and Financial Records in the Financial-Assessment and Bonds section for documents related to assessable and non-assessable city improvements. SEE ALSO Grant Records in this section for records documenting receipt of grant funds. (Minimum retention: 3 years after collected or deemed uncollectible).

(3) **Audit Reports, External Records** document annual audits of the financial position of the city conducted by external auditors in accordance with statutory requirements described in ORS 297.405 through 297.555. Subjects include accounting principles and methods, the accuracy and legality of transactions, accounts, etc., and compliance with requirements, orders, and regulations of other public bodies pertaining to the financial condition or operation of the city. Information includes accountant's summary, combined financial statements, schedules, balance sheet details, comments, recommendations, and related data. SEE ALSO Internal Audit Records in the Administrative section. (Minimum retention: Permanent).

(4) **Balance Status and Projection Reports** Reports created for internal use documenting the status of funds, bank accounts, investments, and other accountings of city funds. Includes budget allotment and fund reconciliation reports. Also includes projection records related to future receipts and disbursements. Reports are generated on a daily, weekly, monthly, quarterly or similar basis. Information includes date, account balances, type and summary of activity, and related data. (Minimum retention: 3 years after annual audit report issued).

(5) **Bank Transaction Records*** Records document the current status and transaction activity of city funds held at banks. May include account statements, deposit and withdrawal slips, checks, and related records. Information includes bank and account numbers, transaction dates, beginning balance, check or deposit amount, document numbers, adjustments, description of transaction, ending balance, and related data. (Minimum retention: (a) For retention of records documenting grant transactions, see Grant Records in this section; (b) All other records, retain 3 years after annual audit report issued).

(6) **Bankruptcy Notices* Records** document the notification to the city that certain individuals have filed for bankruptcy. Used to determine if the individual owes money to the city and to file notice or claim with the court. Records may include notices of bankruptcy filings from U.S. Bankruptcy Court. Information may include debtors name, accounts information, prepared repayment plan, and related documentation. (Minimum retention: 3 years from discharge of debt or 3 years from last action, whichever is shorter).

(7) **Check Conversion Records** Records document checks received from customers that are electronically deposited after being imaged and converted to an Automated Clearing House (ACH) transaction or Image Replacement Document (IRD) (Minimum Retention: (a) Retain original paper instrument 120 days, destroy (b) Retain ACH transaction or IRD 6 years, destroy).

(8) **City Improvement Administrative and Financial Records*** Records document the non-technical and financial administration of assessable and non-assessable city improvements including capital improvements, local improvement districts (LID), urban renewal, and economic improvement districts. Records often include affidavits of posting, notices of proposed assessment, certificates of mailing, interested party letters, bid quotes, reports, and awards, expense reports, purchase orders, requisitions, cost analyses, construction and maintenance bonds and insurance, and

ADMINISTRATIVE RULES

related administrative and financial records not located elsewhere in this schedule. SEE ALSO Assessment Dockets, Ledgers, and Registers; Bond Authorization Records; and other record series in the Financial-Assessment and Bonds section, and the Public Works-Engineering section for related information. Refer to the Recorder-General section for records documenting legislative actions such as resolutions of intent to assess and ordinances for improvements. (Minimum retention: (a) Records of project cost, retain 3 years after disposal or replacement of facility, structure, or system; (b) All other improvement records, retain 10 years after substantial completion as defined by ORS 12.135(3)).

(9) **Competitive Bid Records** Records document the publication, evaluation, and awarding of quoted bids to vendors and other individuals or organizations. Provides recorded evidence of accepted and rejected bids. May include requests for proposals (RFP), bid exemption documents, bid and quote lists, notices of bid opening and award, comparison summaries, spreadsheets, tabulation worksheets, bid advertising records, tally sheets, bid specifications, correspondence, and related records. SEE ALSO Purchasing Records in this section. (Minimum retention: (a) Accepted city improvement bids 10 years after substantial completion [as defined by ORS 12.135(3)]; (b) All other accepted bids 6 years after bid awarded or canceled (c) Rejected bids and bid exemptions, retain 2 years).

(10) **Credit and Debit Receipts** Agency's copy of credit or debit card receipts documenting payment received by an agency. Records include customer's name and account information. (Minimum Retention: Retain 36 months after transaction, destroy)

(11) **Credit Slips** Slips issued to citizens who have withdrawn from city-sponsored classes or activities and are due credit for all or part of fees paid. Information usually includes name of class or activity, date, expiration date, name and address of citizen, and related data. (Minimum retention: 3 years after credit expired or redeemed).

(12) **Employee Bond Records*** Records document the posting of fidelity, performance, or position bonds to guarantee the honest and faithful performance of elected officials, individual employees, or groups of employees. Details of bonds vary, however information usually includes name and position(s) of individual or group, amount of coverage, effective and expired dates, and related data. (Minimum retention: 6 years after expiration).

(13) **Employee Travel Records** Records document requests, authorizations, reimbursements, and other actions related to employee travel. Includes expense reports and receipts, vouchers, requests, authorizations, and related documents. Minimum retention applies to private vehicle usage as well. Information often includes estimated costs, prepayments, final costs, destination, method of transportation, travel dates, approval signatures, and related data. (Minimum retention: 3 years after annual audit has been completed).

(14) **Financial Reports** Reports document the general financial condition and operation of the city. Includes information on the value of all city owned property and an accounting of all income and expenditures in relation to the final budget. Records may include monthly, quarterly, annual, and similar reports. (Minimum retention: (a) Annual reports, retain permanently; (b) All other financial reports, retain 3 years).

(15) **General Ledgers* Records** document the summary of accounts reflecting the financial position of the city. Information often includes debit, credit, and balance amounts per account, budget, fund, and department numbers, and totals for notes receivable, interest income, amounts due from other funds, federal grants received, bank loans received, cash in escrow, deferred loans received, cash, encumbrances, revenue, accounts receivable, accounts payable, and other data. SEE ALSO Subsidiary Ledgers this section (Minimum retention: (a) year-end ledgers*, retain 10 years; (b) All other general ledger, retain 5 years).

(16) **Gift and Contribution Records** Records document gifts and contributions to the city. May include memorial donation records related to money to be used by the city in the name of an individual. Often contains donor and acknowledgment letters, acquisition lists itemizing purchases made with contributed money (books, art, equipment, etc.), checks, receipts, and related records. (Minimum retention: (a) For retention of conditional gift, contribution and donation records, see Contracts and Agreements in the Recorder-General section; (b) All other records, retain 3 years).

(17) **Grant Records** Records document the application, evaluation, awarding, administration, monitoring, and status of grants in which the city is the recipient, grantor, allocator, or administrator. Grants may come from federal or state governments or foundations and other private funding sources. Records may include but are not limited to applications including project proposals, summaries, objectives, activities, budgets, exhibits, and

award notifications; grant evaluation records and recommendations concerning grant applications; grant administration records including progress reports, budgets, project objectives, proposals, and summaries; records documenting allocation of funds; contracts; records monitoring project plans and measuring achievement; equipment inventories; financial reports, accounting records, audit reports, expenditure reports, and related correspondence and documentation. SEE ALSO the other Financial sections. (Minimum retention: (a) Final reports from significant (as defined by city policy) grants to the city, retain permanently; (b) Records documenting the purchase and/or disposal of real property, retain 10 years after substantial completion, or 3 years after final disposition, or as specified in agreement, whichever is longer; (c) Other grant records, retain 3 years after annual or final expenditure report submitted and approved or, as specified in agreement, whichever is longer; (d) Unsuccessful grant applications, retain 1 year after rejection or withdrawal).

(18) **Inventory Records*** Inventory records document the capitalized assets and expendable property of the city. Examples of capitalized assets may include but are not limited to buildings, real estate, infrastructure assets, vehicles, equipment, and furniture. Examples of expendable assets include office supplies and other small, office purchases. Information often contains asset number, description, purchase order number, location of asset, date received, purchase price, replacement cost, depreciation, and related data. This record series applies to routine property control inventories. SEE ALSO Grant Records for inventories of property purchased with grant funds. For inventories documenting other special uses, see Historic Structure Inventory Records in the Planning and Development section; Bridge Inspection Records in the Public Works-Engineering section; and Property and Evidence Control, and Disposition Records in the Police section. (Minimum retention: (a) Records of capitalized assets, retain 3 years after disposal or replacement of asset; (b) Records of expendable property, retain 3 years or until superseded, whichever is longer).

(19) **Investment Records** Records document and tracking various investments made by the city. Often contains bank statements documenting investment information, journal entries, confirmations of purchase of U.S. Treasury Bills, confirmations of deposit in local investment pool, and deposit slips, correspondence, and memoranda related to specific investments. (Minimum retention: 3 years after investment ends).

(20) **Lien Search Records** Records document requests from title companies searching for liens against property within the city, which may include street improvements, water, storm sewer, and sewer. Information may include property owner, tax map and lot number, description of property, total assessment, and payments made. SEE ALSO Bancroft Bond Receipts in the Financial-Assessment and Bonds section and Lien Records in the Recorder General section. (Minimum retention: 2 years after date of search).

(21) **Property Disposition Records** Records document disposition of city-owned non-real property, usually through public auction, competitive bidding, or destruction. Information often includes date, department, description of item, value, disposition, reason for disposition, condition, and authorization. SEE ALSO Real Property Transaction Records and Grant Records in this section for documents related to the disposition of real property. (Minimum retention: 3 years after disposition of property).

(22) **Purchasing Records** Records document orders, authorizations, and evidence of receipt of the purchase of goods and services by the city. Includes purchase orders and requests, purchase authorizations, requisitions, contract release orders, material and cost specifications, central stores or printing orders, telephone service orders, and similar records. SEE ALSO Grant Records in this section for records documenting the expenditure of grant funds and City Improvement Administrative and Financial Records and Competitive Bid Records in this section for related purchasing records. (Minimum retention: 3 years).

(23) **Real Property Transaction Records*** Records document acquisitions, dispositions, and relocations of real property and right-of-ways by the city for urban renewal projects, parks, sewers, streets, water lines, traffic signals, and other reasons. Records may include offer letters, options, agreements of short duration, staff reports, appraisal reports and reviews, inspection reports, letters of transmittal, summaries, and related records. For records documenting transactions involving grant funds, see Grant Records in this section. SEE ALSO Deeds To City-Owned Land in the Recorder-General section. (Minimum retention: 10 years after substantial completion as defined by ORS 12.135(3)).

(24) **Revenue Sharing Records*** Evidence of receipt and administration of federal and/or state revenue sharing funds including those from state liquor and cigarette taxes. Used to track how funds are spent, for budgeting future funds and for other uses. May include transmittals, affidavits of

ADMINISTRATIVE RULES

publication, planned and actual use reports, supporting documentation used to qualify for revenue sharing funds, and related records. (Minimum retention: 3 years).

(25) **Signature Authorization Records*** Records document the authorization of designated employees to sign fiscal and contractual documents. Useful as an aid for management control over expenditures. Information usually includes authorization date, name, sample signature, position, remarks, conditions, and related data. (Minimum retention: 6 years after authorization superseded or expired).

(26) **Subsidiary Ledgers, Journals, and Registers Records** document details of transactions such as those related to receipts and expenditures on a daily, monthly, quarterly or similar basis. Includes journals, ledgers, registers, day books, and other account books that provide backup documentation to the general ledger. May include details of revenues, expenditures, encumbrances, cash receipts, warrants, and others. Information often includes date, payee, purpose, fund credited or debited, check number, and similar or related data. Refer to Grant Records in this section for records documenting transactions of grant funds. SEE ALSO Financial — General Records General Ledgers and Financial-Assessment and Bonds section for related records. (Minimum retention: (a) Year-end payroll register, retain 75 years; (b) Trust fund ledgers, retain 3 years after trust fund closed; (c) Other subsidiary ledgers, journals, and registers, retain 3 years).

(27) **Trust Fund Records** Records document bequests to the city. Used to determine trust fund spending for reporting to trustees. May include wills, other legal documents, expenditure records, chronologies, resolutions establishing trust funds by the city, records documenting subject matter approved for purchase, acquisition lists, and related records. Some records may have historic value. For appraisal assistance, contact the State Archivist. (Minimum retention: Records not duplicated elsewhere in city records, retain 3 years after trust fund closed).

(28) **Unclaimed Property Report** Records document annual reports submitted to the Department of State Lands of financial assets being held for a person or entity that cannot be found. Series includes Holder Report, owner information, correspondence and other related documents. Note: Unclaimed property is not real estate, abandoned personal property, or lost and found items. (Minimum Retention: 3 years after the property is remitted to the Department of State Lands).

(29) **Vehicle Usage and Expense Records** Records document usage and expense associated with city-owned vehicles. Used for maintenance, budgeting, and planning. Information can include vehicle number, make and model, beginning and ending mileage, driver's name and signature, fuel used, repairs needed, and other data. (Minimum retention: 3 years).

(30) **Vendor Lists** Lists document vendors providing goods and services to the city. Information usually includes vendor name of person or company, address, and phone number, name of contact person, as well as a description of goods or services provided. (Minimum retention: Until superseded or obsolete).

Stat. Auth.: ORS 192 & 357

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

Hist.: OSA 1-1998, f. & cert. ef. 1-7-98; OSA 3-2001, f. & cert. ef. 2-15-01; OSA 3-2002, f. & cert. ef. 7-2-02; OSA 2-2005, f. & cert. ef. 5-10-05; OSA 3-2008, f. & cert. ef. 12-10-08; OSA 6-2009, f. & cert. ef. 8-26-09; OSA 1-2010, f. & cert. ef. 5-27-10

166-300-0025

Financial Records

(1) **1099-Miscellaneous Forms Records** document the agency's responsibility for ensuring vendor payments are accurate. If vendor information is incorrect, the agency prepares a '1099-Misc. Change Request' and forwards it to the Statewide Financial Management Services section for correct to the 1099-Misc. form. The Statewide Financial Management Application (SFMA) tracks vendor payments and produces 1099-Misc. forms for federal reporting. (Retention: Retain 6 years, destroy).

(2) **Account Reconciliation Records** Records document the reconciliation of agency funds and accounts such as cash accounts with the State Treasury or other subsystems, capital asset to capital expenditures, or federal revenue to federal expenditures. Records may include printouts, worksheets, reports, schedules, and other supporting documentation. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: Retain 6 years, destroy).

(3) **Account Transfer Records** Records document the authorized movement and transfer of funds between various accounting structures, such as the Statewide Financial Management Application (SFMA) Program Cost Account (PCA), Index, Program, Organizational Structures, and Treasury accounts. Records may include journal vouchers and transfer

requests. Records include those produced by SFMA, the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: (a) Retain records documenting transfers between statutory funds: 75 years, destroy; (b) Retain all other account transfer records: 6 years, destroy).

(4) **Accounting Structure Organizational Hierarchy Records** Records document the program and/or organization of an agency's accounting structure. The accounting structure includes items such as comptroller objects, agency objects, fund structure, and general ledger account and other codes and profiles. Records include those produced by the Statewide Financial Management Application (SFMA) the Department of Administrative Services Data Mart, and any other subsystems used by the agency. Records may include SFMA profile listings showing accounting structure and fund split tables. (Retention: Retain 6 years, destroy).

(5) **Accounting System Input Documents and Listings, and Agency Control Reports** Records document transactions or changes entered into the accounting system and other subsystems. They are used to control accuracy of data entry and to verify data input and batch control. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. Records include input documents, batch control reports, hand-posted spreadsheets, control reports, and memoranda. (Retention: Retain 4 years, destroy).

(6) **Accounts Payable Reports** Records document current outstanding liabilities and provide a record of payments of bills by the agency. They may also serve as a subsidiary ledger. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: (a) Retain SFMA requestable reports: 6 years, destroy; (b) Retain all other accounts payable records: 6 years, destroy).

(7) **Accounts Receivable Reports** Records document billings and collections and provide a record of money owed to the agency. Serves as a subsidiary ledger of original entry/input and records amounts received from debtors for goods and/or services. Aging reports are used to monitor accounts that are outstanding and overdue. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: (a) Retain monthly accounts receivable reports and SFMA requestable reports: 6 years, destroy; (b) Retain all other accounts receivable records: 6 years after collected or deemed uncollectible, destroy).

(8) **Annual Financial Reports** Records document the agency's annual financial condition and results of operation as of June 30 using trial balance data. These reports are used as a reference by the Secretary of State, Audits Division and included in the Comprehensive Annual Financial Report (CAFR) produced by the Department of Administrative Services. Records may include transmittal cover sheet, organization and function, combined balance sheet, combined statement of revenues, expenditures, changes in fund balance, notes to the financial statement, and exhibits. Exhibits may include a working trial balance by fund type, adjustments to accounting data, cash flow analysis, and other documents supporting statement amounts and notes. The Department of Administrative Services maintains the statewide record copy of the CAFR. (Retention: Retain 10 years, destroy).

(9) **Audit Reports** Records document an examination of the agency's fiscal condition, internal control and compliance policies and procedures, performance or other financial related audits by the Secretary of State, Audits Division; internal auditors; or independent auditors. Records include audit reports, supporting documentation, agency comments, and correspondence. The Secretary of State, Audits Division maintains the statewide record copy of their audits. SEE ALSO Internal Audit Reports in this section. (Retention: (a) Retain grant fund audit reports: 5 years or according to the terms (if greater than 5 years) specified in the grant, destroy; (b) Retain all other audit reports: 5 years, destroy).

(10) **Bank Statements Records** document the current status and transaction activity of agency funds held at a bank or at the State Treasury. Records may include bank/Treasury statements and support reconciliation records, validated deposit slips and/or paid check/warrant copies. (Retention: Retain 6 years, destroy).

(11) **Budget Allotment Reports** Records document the agency's containment within quarterly budget authorizations using expenditure, encumbrance, and budget data. Records are used to develop and monitor apportioned fiscal distributions. (Retention: Retain present and previous biennium, destroy).

ADMINISTRATIVE RULES

(12) **Budget Preparation Records** Records document the agency's activity to plan, develop, estimate and propose biennial budget requests. Records may include budget requests, spreadsheets, expenditure projection work papers, preliminary division/section budget proposals, budget development schedules, allotment reports, decision packages, spending plans, funding formula factor analysis, compensation plan proposals, contingency/deviation plans, performance measures, fiscal impact analysis, and correspondence. Records may also include monthly trial balance summaries, expenditure detail reports, revenue detail reports, monthly encumbrance registers, and expenditure and revenue registers. (Retention: Retain present and previous biennium, destroy).

(13) **Cash Receipt Records** Records document tabulated and keyed-in transactions for cash received by the agency. Records may include cash register tapes or equivalent, copies of receipts, and batch sheets. SEE ALSO Receipts and Receipt Registers in this section. (Retention: Retain 6 years, destroy).

(14) **Check Cancellation Request Records** Records document the request to cancel checks issued and to request the issuance of duplicates. Records may include request memoranda and check photocopies. (Retention: Retain 6 years, destroy).

(15) **Check Conversion Records** Records document checks received from customers that are electronically deposited after being imaged and converted to an Automated Clearing House (ACH) transaction or Image Replacement Document (IRD) (Retention: (a) Retain original paper instrument 120 days, destroy (b) Retain ACH transaction or IRD 6 years, destroy).

(16) **Check Registers Records** document an original entry listing which logs checks issued by the agency. Information includes date, check number, payee, and amount. (Retention: Retain 6 years, destroy).

(17) **Checks Records** document redeemed checks written on agency accounts. Records may include redeemed, void and canceled checks, and supporting documentation. (Retention: Retain 6 years, destroy).

(18) **Competitive Bid Records** Records document the evaluation and award of bids to vendors and/or agencies and provides evidence of accepted and rejected bids. Records may include but are not limited to requests for proposals, bids, and information; bid and quote lists; notices of bid opening and award; comparison summaries; spreadsheets; tabulation worksheets; bid advertising records; tally sheets; bid specifications; and vendor correspondence. SEE ALSO Purchasing Records and Vendor Reports in this section. (Retention: Retain 6 years after bid awarded or canceled, destroy).

(19) **Credit and Debit Receipts** Agency's copy of credit or debit card receipt documenting payment received by agency. Records include customer's name and account information (Retention: Retain 36 months after transaction, destroy).

(20) **Credit Card Records** Records document the application and approval to use state-issued credit cards and purchases made with these cards. Records may include but are not limited to credit card applications, approvals, credit card transaction logs, credit card security and checkout records, monthly credit card statements, and purchasing documentation. (Retention: (a) Retain application and approvals: 3 years after card cancelled, revoked, or denied, destroy; (b) Retain all other credit card records: 6 years, destroy).

(21) **Debit/Credit Advices Records** document the receipt of and/or verification of special deposits or withdrawals and the adjustment of dollar amounts in funds because of recording errors or fund transfers between accounts. Information includes account number, debit/credit amount, authorization, and justification. (Retention: Retain 6 years, destroy).

(22) **Deposit Slips Records** document monies deposited in banks at privately operated institutions and the State Treasury. Records are used to reconcile and balance an agency's State Treasury or bank accounts. Information may include date and amount deposited. (Retention: Retain 6 years, destroy).

(23) **Emergency Board Request Records** Records document the agency's requests to the Legislative Emergency Board for additional funds or authority to spend funds between legislative sessions. Records may include but are not limited to requests, schedules and agendas, exhibits, organization charts, testimony summaries, fiscal analysis, legislative progress reports, revenue projections, reclassification plans, presentation drafts, performance measures, other exhibits, and correspondence. (Retention: Retain present and previous biennium, destroy).

(24) **Encumbrance Registers Records** document a listing of outstanding encumbrances (financial obligations), purchase commitments, and vouchers written to liquidate or reduce encumbrances. Records include those produced by the Statewide Financial Management Application

(SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: Retain 3 years, destroy).

(25) **Expenditure and Revenue Reports** Records summarize expenditures, revenue, encumbrances, and budgetary data, and are used to monitor and control expenditures in accordance with Legislatively Approved Budgets. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: (a) Retain monthly expenditure and revenue 6 years, destroy; (b) Retain SFMA expenditure and revenue projection reports: until superseded or obsolete, destroy; (c) Retain all other expenditure and revenue reports: 2 years, destroy).

(26) **General Ledger Transaction Reports** Records document all fiscal transactions of the agency for each month. Data is used to prepare an agency's financial statements. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. The Department of Administrative Services, Statewide Financial Management Services section maintains the statewide record copy of the General Ledger. (Retention: Retain 6 years, destroy).

(27) **Grant Records** Records document the application, evaluation, awarding, administration, monitoring, and status of grants in which the agency is the recipient, grantor, allocator, or administrator. Grants may be awarded from federal or state government, or other public or private funding sources. Records may include but are not limited to applications including project proposals and narratives, summaries, objectives, activities, budgets, exhibits, and award notification; grant evaluation records and recommendations concerning grant applications; grant administration records including progress reports, budgets, project objectives, proposals, and summaries; records documenting allocation of funds; contracts; records monitoring project plans and measuring achievement and performance; equipment inventories; financial reports, accounting records, audit reports, expenditure reports, and related correspondence and documentation. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: (a) Retain grant records, including SFMA requestable reports: 5 years after final or annual expenditure report accepted, destroy; (b) Retain unsuccessful grant applications: 3 years after rejection or withdrawal, destroy; (c) Retain capital asset records: 3 years after disposition of assets, destroy).

(28) **Internal Audit Reports** Records document financial and performance audits performed on an annual or project basis by agency-employed internal auditors or contracted auditors. Audits investigate potential problem areas and internal fiscal control structures and may include recommendations for improvement in agency systems. Records include audit reports, supporting documentation, agency comments, and correspondence. SEE ALSO Audit Reports in this section. (Retention: Retain 5 years, destroy).

(29) **Invoice Registers Records** document a listing of who was billed by the agency for services rendered and provide a detailed breakdown of individual invoice billings. Information includes invoice number, amount, date, item or service billed for, and billed party name. (Retention: Retain 6 years, destroy).

(30) **Invoices Records** document goods and services billed by the agency. Information may include invoice number, date, transaction description, identification of parties involved, prices, and terms of sale. (Retention: Retain 6 years, destroy).

(31) **Journal Entry Registers Records** document an account record of original entry/input and provides a record of debit and credit journal transactions. Information includes date, account number, action, and debit/credit amount. (Retention: Retain 6 years, destroy).

(32) **Legislatively Adopted Budgets Records** document the comprehensive financial plan for the agency's biennial operating budget that was approved by the legislature and forms a basis for appropriations. Records may include supplemental reports dealing with affirmative action, productivity, performance measures, improvement in programs, information systems, and other subjects. The Department of Administrative Services, Budget and Management section maintains the statewide record copies of Legislatively Adopted Budgets. (Retention: Retain 10 years, destroy).

(33) **Oregon State Treasury Reports** Records document reports generated by the Oregon State Treasury and are used to update an agency on account and fund status and activity, investment balances and transactions, and the agency's activities in issuing debt. Records include banking, account, and other finance reports, investment reports, and debt management reports. (Retention: (a) Retain daily account reports: until superseded

ADMINISTRATIVE RULES

by monthly reports which summarize daily activity, destroy; (b) Retain debt management reports: 6 years after indebtedness is retired, whether by maturing or being called, destroy; (c) Retain all other State Treasury reports: 6 years, destroy).

(34) **Petty Cash Fund Records** Records document petty cash activity for the agency. Records include requests and authorizations to establish petty cash funds, ledgers, statements, requests for disbursements, copies of receipts and invoices. (Retention: Retain 6 years, destroy).

(35) **Purchasing Records** Records document the purchase of goods and services by the agency. Records may include purchase orders and requests, purchase authorizations, requisitions, contract release orders, price agreements, material/cost specifications, copy center/printing orders, and correspondence. SEE ALSO Competitive Bid Records and Vendor Reports in this section. (Retention: Retain 6 years, destroy).

(36) **Receipt Registers Records** document a detailed list of processed cash receipt transactions and is used to verify receipts, estimate revenue, and reconcile accounts. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: Retain 6 years, destroy).

(37) **Receipts Records** document acknowledgment of payment and/or delivery. Information includes date, amount, signature, items received or delivered, and receipt number. SEE ALSO Cash Receipt Records in this section. (Retention: Retain 6 years, destroy).

(38) **Travel Expense Records** Records document reimbursement claims made by employees for travel and related expenses. Records may include travel expense detail sheets, supporting documentation, and correspondence. (Retention: Retain 6 years, destroy).

(39) **Trial Balance Reports** Records document a summary of general ledger accounts and shows the agency's current financial position. Reports are used to prepare the agency's financial statements. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: Retain 6 years, destroy).

(40) **Unclaimed Property Report** Records document annual reports submitted to the Department of State Lands of financial assets being held for a person or entity that cannot be found. Series includes Holder Report, owner information, correspondence and other related documents. Note: Unclaimed property is not real estate, abandoned personal property, or lost and found items. (Retention: Retain 3 years after the property is remitted to the Department of State Lands, destroy).

(41) **Vendor Reports** Records document vendor data, which is used to select vendors, and to track voucher and purchase order status. Records include those produced by the Statewide Financial Management Application (SFMA), Data Mart, and any other subsystems used by the agency. SEE ALSO Purchasing Records in this section. (Retention: (a) Retain annual vendor reports: 6 years, destroy; (b) Retain all other vendor reports: until superseded or obsolete, destroy).

(42) **Voucher Registers Records** document a book of original entry and provides a listing of vouchered disbursement transactions. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by agency. (Retention: Retain 6 years, destroy).

(43) **Vouchers Records** document individually authorized expenditure transactions. Records provide the documentation and backup for all payments to vendors. Voucher files may contain invoices, receipts, travel expense detail sheets, purchase requests, purchase orders, cancelled checks, other supporting documents, and correspondence. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: Retain 6 years, destroy).

(44) **Warrant Cancellation Request Records** Records document the request to cancel warrants issued on vouchers, and to request the issue of duplicates. If the warrant is physically available, it is cancelled and re-issued if necessary. However, if the warrant is not physically present, an affidavit is required. Records include request memoranda, affidavits, photocopies and memoranda from the Department of Administrative Services confirming re-issuance. (Retention: Retain 6 years, destroy).

(45) **Warrant Registers Records** document a listing of warrants issued by an agency. Information includes date, payee, warrant number, and amount. (Retention: Retain 6 years, destroy).

(46) **Warrants Records** document the promise to pay and the authorization for claim payments. Records may include redeemed, void cancelled,

and undeliverable warrants, and supporting documentation. (Retention: (a) Retain undeliverable warrant: until expired, destroy (b) Retain all other warrants: 6 years, destroy).

Stat. Auth.: ORS 192 & 357

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

Hist.: OSA 3-1995, f. & cert. ef. 5-25-95, OSA 3-1996, f. 4-9-96, cert. ef. 4-15-96; OSA 9-1998, f. & cert. ef. 12-30-98; OSA 1-1999, f. & cert. ef. 2-4-99, Renumbered from 166-305-0010; OSA 5-2002, f. & cert. ef. 10-14-02; OSA 1-2005, f. & cert. ef. 2-28-05; OSA 1-2009, f. & cert. ef. 2-19-09; OSA 1-2010, f. & cert. ef. 5-27-10

166-400-0025

Financial Records

Note: Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only if the retention period is 99 years or less.

(1) **Accounts Payable Records** Records document outstanding liabilities and provides a record of payment of bills by the school, district, or ESD, including payments from student body fund accounts, disbursed by school personnel. Records may include but are not limited to invoices, invoice vouchers, statements, vouchers, journal entry forms, purchase orders, payment authorizations, check requests, check registers, reports of receipt of goods or service, canceled checks or warrants, daily batch lists, and related correspondence and documentation. Minimum retention: (a) Retain records documenting expenditure of federal funds: 5 years after final or annual expenditure report accepted (b) Retain all other records: 4 years.

(2) **Accounts Receivable Records** Records document billings and collections and provide a record of money owed to or received by the school, district, or ESD, including receivables for student body fund accounts collected by school personnel, for goods or services rendered. Records may serve as subsidiary ledgers of original entry or input which record the amounts received for goods and services. Records may include but are not limited to aging reports used to monitor accounts which are outstanding and overdue, invoices, invoice registers, billing records, receipts, receipts registers, cash receipt records; account edit sheets, and related documentation. Minimum retention: (a) Records documenting recovery of federal supplied funds: 3 years after final or annual expenditure report accepted (b) All other records: 3 years after collected or deemed uncollectible.

(3) **Audit Reports** Records document the examination of a school, district, or ESD's financial condition by internal or independent auditors. Audits include an examination of the fiscal condition, internal controls and compliance with policies and procedures, accounting principles and methods, the accuracy and legality of transactions, and performance audits. Records may include but are not limited to audit reports (including those completed for student body fund accounts), supporting documentation, accountant's summary, financial statements, balance sheet details, comments, summaries, recommendations, preparation records, and related correspondence and documentation. Minimum retention: (a) Audit report, official copy: Permanent (b) Grant fund audit records: 5 years after final or annual expenditure report accepted (c) Other records: 4 years.

(4) **Bank Transaction Records** Records document the current status and transaction activity of school, district, or ESD funds held in bank accounts, including accounts for student body funds. Records may include but are not limited to account statements, deposit and withdrawal slips, redeemed, void, or canceled checks, check registers, interest payments, reconciliation worksheets or spreadsheets, and related documentation. Minimum retention: (a) Records documenting grant fund transactions: 5 years after final or annual expenditure report accepted (b) Other records: 3 years.

(5) **Bond Records** Records document the authorization and payment of bonds to finance school construction and improvements. Records may include but are not limited to authorizations, supporting financial documentation, bond ratings, and sample copies of bonds issued; paid bonds, coupons, and receipts; bond registers; and related documentation. SEE ALSO Bond Election Records in the Administrative Records section. Minimum retention: 3 years after final payment.

(6) **Budget Preparation Records** Records document the planning, development, estimation, and proposed budget requests for schools, districts, and ESDs. Records may include but are not limited to budget requests, spreadsheets, expenditure projection work papers and reports, budget proposals, budget development schedules, allotment reports, decision packages, spending plans, funding analysis, revenue projection reports, compensation plan proposals, contingency plans, fiscal impact analysis, and related correspondence and documentation. Minimum retention: 2 years.

(7) **Budget Records** Records document the annual financial plan approved by schools, districts, and ESDs. Records may monitor allotments, apportioned fiscal distributions, and expenditures. Records may include but are not limited to budget allotment reports, adopted budgets, budget mes-

ADMINISTRATIVE RULES

sages, revenue and expenditure tracking records, status reports, operating programs, debt service, position and wage analysis, summaries, annual report to Oregon Department of Education, and related correspondence and documentation. Minimum retention: (a) Adopted budget, official copy: 20 years (b) Other records: 3 years.

(8) **Check Conversion Records** Records document checks received from customers that are electronically deposited after being imaged and converted to an Automated Clearing House (ACH) transaction or Image Replacement Document (IRD). Minimum Retention: (a) Retain original paper instrument 120 days, destroy (b) Retain ACH transaction or IRD 6 years, destroy.

(9) **Competitive Bid Records** Records documenting the publicizing, evaluation, and awarding of quoted bids to vendors and other individuals or organizations. Records may include RFP's and RFI's and provides recorded evidence of accepted and rejected bids. May include bid exemption documents, bid and quote lists, notices of bid opening and award, comparison summaries, spreadsheets, tabulation worksheets, bid advertising records, tally sheets, bid specifications, correspondence, and related records. SEE ALSO Purchasing Records in this section. Minimum retention: (a) Retain accepted bids 10 years after substantial completion (as defined by ORS 12.135(3)) (b) Retain other accepted bids: 6 years after bid awarded or canceled (c) Retain rejected bids and bid exemptions: 2 years.

(10) **Credit and Debit Receipts** Agency's copy of credit or debit card receipt documenting payment received by agency. Records include customer's name and account information. Minimum Retention: Retain 36 months after transaction, destroy.

(11) **Credit Slips** Slips issued to citizens who have withdrawn from agency-sponsored classes or activities and are due credit for all or part of fees paid. Information usually includes name of class or activity, date, expiration date, name and address of citizen, and related data. Minimum retention: 3 years after credit expired or redeemed.

(12) **Employee Bond Records** Records document the post of fidelity, performance, or position bonds to guarantee the honest and faithful performance of school, district, and ESD employees. Information may include but is not limited to person's name, amount of coverage, dates, and related documentation. Minimum retention: 6 years after expiration.

(13) **Financial Reports** Records document the financial condition, operation, and activities of schools, districts, and ESDs. Records may include but are not limited to organization and function statements, accounting of income and expenditures, balance sheets, revenue statements, fund balance reports, notes to the financial statements, and exhibits. Exhibits may include a working trial balance by fund type, adjustments to accounting data, cash flow analysis, and other supporting documentation. Reports may also be completed for student body fund accounts. Records may include monthly, quarterly, or annual reports. Minimum retention: (a) Retain annual report, official copy: Permanent (b) Retain working papers and draft material: 1 year after acceptance of Annual Report (c) Retain all other Financial Reports 3 years.

(14) **General Ledgers Records** document all fiscal transactions of the school, district, or ESD. The ledgers summarize the accounts and reflect the financial position of the school, district, or ESD. Information often includes debit, credit, and balance amounts per account; budget, fund, and department numbers; and totals for notes receivable, interest income, amounts due from other funds, federal grants received; bank loans received, cash in escrow, deferred loan received, cash, encumbrances, revenue, accounts receivable, and accounts payable; and related documentation and data. SEE ALSO Subsidiary Ledgers, Journals, and Registers in this section. Minimum retention: (a) Retain year-end ledgers: 10 years (b) Retain all other general ledgers: 3 years.

(15) **Gift and Contribution Records** Records document gifts and contributions to the school, district, and ESD, including contributions to student body funds. Records may include but are not limited to memorial donation records related to money to be used by the institution in the name of an individual, donor and acknowledgment letters, acquisition lists itemizing purchases made with contributed money, checks, receipts, and related correspondence and documentation. Minimum retention: (a) Retain conditional gift, contribution, and donation records: 6 years after expiration of agreement or conditions met (b) Retain all other records: 3 years.

(16) **Grant Records** Records document the application, evaluation, awarding, administration, monitoring, and status of grants in which the agency is the recipient, grantor, allocator, or administrator. Grants may come from federal or state governments or foundations or other funding sources. Records may include but are not limited to applications including project proposals, summaries, objectives, activities, budgets, exhibits, and award notification; grant evaluation records and recommendations con-

cerning grant applications; grant administration records including progress reports, budgets, project objectives, proposals, and summaries; records documenting allocation of funds; contracts; records monitoring project plans and measuring achievement; equipment inventories; financial reports, accounting records, audit reports, expenditure reports, and related correspondence and documentation. Minimum retention: (a) Retain final reports from significant grants to the School, District, ESD: Permanent (b) Retain records documenting the purchase and/or disposal of real property: 10 years after substantial completion (as defined by ORS 12.135(3)), or 3 years after final disposition, or as specified in agreement, whichever is longer (c) Retain other grant records: 3 years after annual or final expenditure report submitted and approved or, as specified in agreement, whichever is longer (d) Retain unsuccessful grant applications: 1 year after rejection or withdrawal.

(17) **Investment Records** Records document financial investments made by schools, districts, or ESDs. Records may include but are not limited to time certificates of deposit, interest income distribution, and tax anticipation notes. Information includes date purchased, date received, date matured, accrued interest, total interest to date, and related documentation. Minimum retention: 3 years after investment maturity.

(18) **Lease Records** Records document the lease or rental of school, district, or ESD owned property to other parties, and lease or rental of facilities from other parties. Records may include but are not limited to include leases, rental agreements, amendments, addenda, authorizations, and related correspondence and documentation. Leases are typically for office space, equipment, machinery, real estate, or facilities. Minimum retention: 6 years after expiration.

(19) **Petty Cash Fund Records** Records document petty cash activity for a school (including student body funds), district, or ESD. Records include but are not limited to requests and authorizations to establish petty cash funds, ledgers, statements, requests for disbursements, copies of receipts and invoices, and related documentation. Minimum retention: 3 years.

(20) **Purchasing Records** Records document the purchase of goods and services by a school, district, or ESD, including purchases through a student body fund account. Records may include but are not limited to purchase orders and requests; purchase authorizations; requisitions; contract release orders; price agreements; material and cost specifications; copy, print, service, and other types of work orders, receipt and delivery documentation, and related correspondence and documentation. Minimum retention: (a) Retain records documenting expenditure of federal funds: 5 years after final or annual expenditure report accepted (b) Retain all other records: 3 years.

(21) **Revenue Records** Records document application for and receipt of funds from local, state, and federal revenue sources and disbursement to the school, district, or ESD. Records include funds received directly from federal agencies or apportioned to the school, district, or ESD through the Oregon Department of Education or other state agencies. Records may include but are not limited to projection reports of forecasted revenue earnings; revenue registers listing revenue earned; fund applications and awards; performance and financial reports; supporting fiscal documentation; reimbursement requests and claim records; and related correspondence. Local revenue sources may include tax levies, tuition, local government units, adult continuing education programs, summer school programs, schools transportation and food service programs, community services programs, textbook and other rentals, and private contributions. Intermediate revenue sources may include county school funds, ESD equalization and special program funds, and state timber revenue funds. State revenue sources may include basic school support funds, common school funds, state timber revenue funds, and special education, driver education, vocational education, and special school assistance funds. Federal revenue sources may include migrant education, Indian education, and other funds. Minimum retention: (a) Retain records of revenue from federal and state sources: 5 years after final or annual expenditure report accepted (b) Retain all other records: 3 years.

(22) **Signature Authorization Records** Records document that designated school, district, or ESD employees are authorized to sign fiscal and contractual documents, including those involving student body funds. Minimum retention: 6 years after authorization superseded or expired.

(23) **Student Organization Financial Records** Records document the budgeting, accounting, and financial affairs of student organizations including student clubs, government, and publications. Records may include but are not limited to bank statements, deposit slips, cancelled checks/vouchers, receipts, and related documentation and correspondence.

ADMINISTRATIVE RULES

Minimum retention: 3 years after school year in which records were created.

(24) **Subsidiary Ledgers, Journals, and Registers Records** document details of fiscal transactions by a school, district, or ESD such as those related to receipts and expenditures on a daily, monthly, quarterly, or similar basis. Records include journals, ledgers, registers, day books, transaction reports, trial balance reports, and other account books or reports that provide documentation for the general ledger or financial reports. Records may include details of revenues, expenditures, encumbrances, cash receipts, warrants, and other financial records. Information often includes date, payee, purpose, fund credited or debited, check number, and related data. SEE ALSO General Ledgers in this section and Payroll Registers in the Payroll Records section. Minimum retention: (a) Retain year end payroll register: 75 years (b) Retain trust fund ledgers: 3 years after trust fund closed (c) Retain all other subsidiary ledgers, journals, and registers: 3 years.

(25) **Travel Expense Records** Records document requests, authorizations, travel advances and reimbursement claims made by school, district, or ESD employees for travel and related expenses. Records may include but are not limited to travel expense reports and receipts, supporting documentation, and related correspondence. Minimum retention: 3 years.

(26) **Unclaimed Property Report Records** Records document annual reports submitted to the Department of State Lands of financial assets being held for a person or entity that cannot be found. Series includes Holder Report, owner information, correspondence and other related documents. Note: Unclaimed property is not real estate, abandoned personal property, or lost and found items. Minimum Retention: 3 years after the property is remitted to the Department of State Lands.

(27) **Vendor Records** Records document vendors and suppliers providing goods and services to the school, district, or ESD. Records may include but are not limited to lists name and address of vendor or company; description of goods and services provided; catalogs; promotional and advertising materials; product specification sheets; copies of purchase orders and requisitions; packing slips; price quotations; and related correspondence and documentation. Minimum retention: Until superseded or obsolete.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34
Stats. Implemented: ORS 192 & 357
Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-408-0010, OSA 1-2006, f. & cert. ef. 4-17-06; OSA 1-2010, f. & cert. ef. 5-27-10

166-400-0060

Student Education Records

Note: Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only if the retention period is 99 years or less.

(1) **Alternative School Referral Records** Records document referrals sent to alternative schools seeking placement of students whose public school attendance and/or disciplinary record has been unsatisfactory. Referral form indicates acceptance or non-acceptance of student in private alternative program; funding source; signatures of referring school principal and alternative program director; student name, age, date of birth, student number; and parent's name and address. Minimum retention: 3 years after school year in which records were created.

(2) **Student Athletic Activity Records** Records document student eligibility and participation in interscholastic competitive sports and athletic activities, athletic event and team publicity, and athletic events scheduling. Records may include but are not limited to parental consent forms; Oregon School Activities Association eligibility forms and reports; and related documentation and correspondence. Minimum retention: 5 years after school year in which records were created.

(3) **Attendance Records** Records document the attendance of students in school. Records may include but are not limited to teacher or school attendance register; classroom daily attendance sheet; weekly attendance and truancy records; excused and unexcused absence records; tardiness records; notes from parents/guardians; and related documentation. The attendance recorded on the Oregon Student Record is a summary of this information. SEE ALSO Oregon Student Record in this section. Minimum retention: 3 years after school year in which records were created.

(4) **Behavioral Records, Major (Class/Group A) Records** document major student behavioral infractions which result in the identification of students for suspensions or expulsions. Records may include but are not limited to psychological tests; personality tests; group or individual intelligence tests; individual education programs; physician statements; state or local government agency reports; and related correspondence and documentation. Minimum retention: Until student turns 21.

(5) **Behavioral Records, Minor (Class/Group B) Records** document minor student behavioral infractions which do not result in the identification of a student for suspension, expulsion, or special education services. Records may include but are not limited to minor behavioral referrals; records of conversations; parent notes regarding student behavior; written behavioral agreements; detention records; bus citations; functional behavior assessments; and related correspondence and documentation. Minimum retention: Until end of school year.

(6) **Child Abuse Reports Records** document suspected child abuse reported by school staff or faculty. Records may include but are not limited to notes and observations of the child, record of contact with the State Office for Services to Children and Families or law enforcement agency, and related documentation. Minimum retention: 3 years after school year in which records were created.

(7) **Child Care Facility Residency Records** Records document students who live or have lived in childcare facilities, which are licensed to provide care for five or more children. Records may include but are not limited to reports filed semi-annually with the Oregon Department of Education. Minimum retention: 3 years after school year in which records were created.

(8) **Certificate of Advanced Mastery (CAM) Records** Records document student progress to fulfilling the State requirements for awarding of a CAM certification. Records may include but are not limited to planning records, test results, work samples, and the CAM award. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(9) **Certificate of Initial Mastery (CIM) Records** Records document student progress to fulfilling the State requirements for awarding of a CIM certification. Records may include but are not limited to planning records, test results, and the CIM award. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(10) **Compensatory Education Programs Student Records** Records document the placement and participation of students in compensatory educational programs, which provide a variety of supplemental education services to children. Programs may or may not be all or partially funded from federal sources. Compensatory programs may include but are not limited to Children Living in Poverty, Migratory Children, Neglected and Delinquent Children, Bilingual Education, Native Children, Parent Involvement, and Civil Rights. Records may include but are not limited to background information, grade placement, instructional and cumulative service, student profile forms, placement evaluation forms, withdrawal records and related correspondence and documentation. Minimum retention: (a) Retain records that show compliance with all federal program requirements: 5 years after school year in which records were created (b) Retain all other records: 3 years after school year in which records were created.

(11) **Compulsory Attendance Excuse Records** Records document the formal excuse of a student under sixteen years of age from compulsory school attendance. Records may include but are not limited to names and addresses of student and parent or guardian; reason for request; academic information; recommendations and approval of school district; and related correspondence and documentation. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(12) **Educational Programs Student Records** Records document the placement and participation of students in educational programs which provide a variety of education services to children. Programs may or may not be all or partially funded from federal sources. Educational programs may include but are not limited to Talented and Gifted, Alternative Learning, Early Childhood, Professional Technical Education, School-to-Work, Cooperative Work Experience, and Distance Learning. Records may include but are not limited to background information, grade placement, instructional and cumulative service, student profile forms, placement evaluation forms, and related correspondence and documentation. Minimum retention: (a) Records that show compliance with all federal program requirements: 5 years after school year in which records were created (b) Other records: 3 years after school year in which records were created.

(13) **Grade Records** Records document student progress and grades awarded by teachers, and serve as the basis for the student's official academic record. Records may include test, assignment, paper, and homework scores; and final grades for students. Records may include but are not limited to teacher grade books; grade confirmation reports; grade change records; final grade rosters; and related documentation. SEE ALSO Report Cards in this section. Minimum retention: 6 years after school year in which records were created.

(14) **Grade Reports**, Administrative Records document grades received by students in a variety of reports organized by school, class,

ADMINISTRATIVE RULES

special program, or other grouping which are used by staff and faculty. Records may include but are not limited to administrative reports, counselors' reports, teachers' reports, grade point average reports, failure reports, honor roll reports, supplemental grade reports, class lists, and other manual or computer produced reports. Minimum retention: 3 years after school year in which records were created.

(15) **Grievance Records** Records document grievances or complaints brought forward by students against the school, district, or ESD concerning student conduct and violations of student rights and responsibilities. Records may include but are not limited to notices of grievance; written description of the complaint; informal discussion notes; formal hearing notes (including audio tapes); summary of interviews with witnesses; final summary statements; resolution of grievance; appeals documentation; and related documentation and correspondence. Minimum retention: 3 years after resolution.

(16) **Education Counseling Records** Records document the advice, assistance, evaluation, and educational planning provided for individual students by school guidance counselors. Records may include but are not limited to school performance and attitude; educational planning records; post-high school plans and career goals; college and scholarship applications records; letters of recommendation; list of honors and activities; information necessary for referral to social service agencies; correspondence; and related documentation. Minimum retention: 3 years after school year in which records were created.

(17) **High School Dual Program Student Records** Records document student participation in programs between community colleges and high schools which offer professional, technical, and other college courses to high school students for college credit. Records may include but are not limited to program approval records; application forms; course descriptions; examinations; competency evaluations and profiles; transmittal forms; registration forms; and related documentation and correspondence. Minimum retention: 3 years after school year in which records were created.

(18) **Home Schooling Records** Records document the basic educational career of a student being educated in a home school program. Records may include but are not limited to notification form or letter of intent to educate student at home; testing information; test results; census reports to the Oregon Department of Education; non-compliance notices; and related correspondence and documentation. SEE ALSO Oregon Student Record in this section. Minimum retention: 75 years after school year in which records were created.

(19) **Inter-District Transfer Agreement Records** Records document the application process for allowing a non-resident student to attend school out of district through an inter-district transfer agreement. Records may include but are not limited to procedures, administrative guidelines, inter-district transfer agreements, certificates of residency, and related correspondence and documentation. Minimum retention: 6 years after expiration.

(20) **Intervention Programs Student Records** Records document the assessment of students considered for referral to district-approved supplemental intervention programs and to determine appropriate follow-up actions. Programs may or may not be all or partially funded from federal sources. Programs may include but are not limited to Teen Parent, Alcohol and Drug Prevention, and Violence Prevention and Intervention. Records may include but are not limited to referrals, reports by assessment providers, consent forms, treatment and other reports, program class and support group attendance records, behavioral/discipline records, and related documentation and correspondence. Minimum retention: (a) Retain records that show compliance with all federal program requirements: 5 years after school year in which records were created (b) Retain all other records: 3 years after school year in which records were created.

(21) **Non-Resident Student Records** Records document attendance of non-resident students attending district-financed programs; non-resident dependent children; and other non-resident students for whom the district does not pay tuition. Records are used to report attendance to the Oregon Department of Education and to document reimbursement claims from the Oregon Basic School Support Fund. Records may include but are not limited to attendance reports; basic school support fund reports; and related documentation. Minimum retention: 3 years after school year in which records were created.

(22) **Parent-Teacher Conference Records** Records document a teacher's report to parents or guardians of student's progress prior to end of grading period and may indicate problem areas or areas in which student is excelling. Minimum retention: 3 years after school year in which records were created.

(23) **Parental/Custodial Delegation Records** Records document who has parental or custodial responsibility for a student. Records may include but are not limited to specification of rights or abridgment of rights for non-custodial parents; restraining orders and other court documents; informal documents signed by natural parent(s); and related correspondence and documentation. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(24) **Personal/Locker Search Records** Records document searches of a student or student's locker. Records include student name, what was searched, when, what was found, and what report was made. Minimum retention: 3 years after school year in which records were created.

(25) **Psychological Guidance and Counseling Records** Records document student psychological health care responsibilities and activities performed by school or district health professionals or non-health staff. Records that are made or maintained separately and solely by a licensed health care professional who is not employed by the educational agency or institution, and are not used for education purposes of planning, are excluded from educational record provisions. See Oregon Department of Education student health record policies for further clarification. Minimum retention: Until student turns 21 or 5 years after last action.

(26) **Registration Records** Records document registration or enrollment of students in elementary, middle, and high school. Records may include but are not limited to enrollment applications registration forms completed annually by the parent or guardian for each student at the time of admittance to school. Information contained in the records generally include student name, address, date and place of birth; parent or guardian name and address; student demographic information such as race and language spoken at home; authorization for school to act in behalf of parent or guardian in case of emergency; class scheduling data; student assignments, such as lockers, counselors, and buses; and related correspondence and documentation. Registration information may be used to create student transcripts, attendance records, and to verify or determine residency status. Minimum retention: (a) Retain completed registrations 3 years after school year in which records were created (b) Retain incomplete/withdrawn registration records 3 years after school year in which records were created.

(27) **Report Cards Records** document the periodic report by a school about a student's social, emotional, and physical progress. Information includes but is not limited to full legal name of student; teacher's name; name and address of school; indication of attendance during reporting period; grades; and other related information. This information must be recorded on the Oregon Student Record by the beginning of the next school year. SEE ALSO Grade Records and Oregon Student Record in this section. Minimum retention: (a) If information has been recorded on Oregon Student Record: 6 years after school year in which records were created (b) If information has not been recorded on Oregon Student Record: 75 years.

(28) **Special Education Student Records** Records document students participating in special education programs and early intervention special education services. Records may include speech/hearing, academic, motor, occupational and/or physical therapy, vision/hearing, interdisciplinary team, and classroom observation reports; records relating to student behavior including psychological and social work reports; assessments obtained through other agencies; contact sheets; severity rating scales; test result records; physician's statements; parental consent records; educational program meeting records; request for hearing records; eligibility statements; individualized education plans (IEP); individualized family service plans (IFSP); and related correspondence and documentation. Minimum retention: (a) Records documenting speech pathology and physical therapy services: Until student reaches age 21 or 5 years after last seen, whichever is longer (b) ESD copies, if program at district level: Transfer records to home district after end of student participation (c) Readable photocopies of records necessary to document compliance with State and Federal audits retained by the former educational agency or institution when a student transfers out of district: 5 years after end of school year in which original record was created.

(29) **Student Health Records** Records document student health care responsibilities and activities performed by school or district health professionals or non-health staff. These records are maintained by the school nurse or another individual designated by the district to maintain confidential health information. Records may include but are not limited to medication administration records; records of nursing assessment and nursing care given in the school setting; School Health Management Plans prepared by the nurse for students with special health needs, medical records from outside health care providers and health care agencies; and psychological diagnostic test reports. Health information provided to Special Education for

ADMINISTRATIVE RULES

determining eligibility and IEP activity is maintained in the Special Education record and forwarded upon transfer of the student record. School nurse records are medical records subject to issues of confidentiality and exemption from disclosure per ORS 192.496. Health record information is protected and should be treated as other student records. Records that are made or maintained separately and solely by a licensed health care professional who is not employed by the educational agency or institution, and are not used for education purposes of planning, are excluded from educational record provisions. See Oregon Department of Education student health record policies for further clarification. SEE ALSO Student Health Screening Records and Student Immunization Records in this section. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(30) **Student Health Screening Records** Records document the health screening status of students and mandated certifications of health. Required health screening records include vision and hearing screening results; Certificate of Immunization Status; and Tuberculosis (TB) Clearance Certificate (if required by law according to the student's birth country). Records may also include but are not limited to communications related to health and safety and directed to the school from the parent/guardian or health care provider regarding the student's attendance, participation, or activities; communications which are directed to the school by health care providers; and documentation of first aid given, and instructions sent to parents/guardians regarding these screening and first aid events. These records are part of the Student Education Record and are transferred if the student transfers to a new district. See Oregon Department of Education student health record policies for further clarification. SEE ALSO Student Health Records and Student Immunization Records in this section. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(31) **Student Immunization Records** Records document the immunization status of an individual student. Records include but are not limited to the Certificate of Immunization Status (CIS), which includes student identification information, vaccine history, and medical and religious exemptions, and records tracking susceptible for those students not yet completely immunized. Records must be retained as part of the Student Health Screening Record and are transferred if the student transfers to a new district. SEE ALSO Student Health Screening Records and Student Health Records in this section, and Immunization Records, Administrative in the Administrative Records section. Minimum retention: (a) Retain certificate of Immunization Status (CIS): Until student reaches age 21 or graduates whichever is longer (b) Retain immunization Status Records – Susceptible (Tracking Cards): Until student attendance ends.

(32) **Oregon Student Record** Records document a core set of information about an individual student (including a home-schooled student) and his/her educational career, birth through age 21. Records include name and address of the educational agency or institution; full legal name of the student; student's birth date and place of birth; name of parents/guardians; date of entry into the school; name of school previously attended; subjects taken; marks received; credits earned; attendance; date of withdrawal from school; social security number (as provided on a voluntary basis by parent or eligible student); and such additional information as the educational agency or institution may prescribe. Minimum retention: (a) Retain original: 75 years (b) Retain readable photocopy retained by the former educational agency or institution when a student transfers out of district: 1 year.

(33) **Transfer Application Records** Records document the authorization for transfer of students between schools within the district. Records may include but are not limited to applications for transfer which generally contain name and grade of student; reasons for transfer request; name of present school; name of school to which transfer is requested; authorizing signatures; and related correspondence and documentation. Minimum retention: 3 years after school year in which records were created.

(34) **Truancy Records** Records document non-attendance or truancy of students in elementary, middle, or high schools. Records may include but are not limited to notices of non-attendance or truancy; staff reports; investigations; hearing records; suspension notifications; and related correspondence and documentation. Minimum retention: 3 years after school year in which records were created.

(35) **Tutoring Records** Records document tutoring services provided to students. Records may include but are not limited to registration records, tutor training records, tutor personnel records, tutor class records, tutorial hours, and related documentation. Minimum retention: 3 years after school year in which records were created.

(36) **Withdrawal Records** Records document withdrawal from school by students between the ages of sixteen and eighteen by the mutual

consent of parent or guardian and the school administration. Records may include but are not limited to withdrawal agreements which generally contain name and address of student and family; reason for request; student agreement not to loiter on school premises; agreement by staff to assist student with educational planning; and related correspondence and documentation. Records may also include withdrawal slips which assess student status at time of withdrawal and may include assessment of fees paid or refunded; status of textbooks, library materials, locks, and other materials used by the student; grades; attendance; and related documentation. Minimum retention: 3 years after school year in which records were created.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34

Stats. Implemented: ORS 192 & 357

Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-414-0010, OSA 1-2006, f. & cert. ef. 4-17-06; OSA 2-2006, f. & cert. ef. 7-26-06; OSA 3-2009, f. & cert. ef. 6-24-09; OSA 1-2010, f. & cert. ef. 5-27-10

166-450-0050

Financial and Accounting Records

The General Schedule is applicable to the financial and accounting records of community colleges. Retention periods apply to the official copy of all public records, regardless of medium or physical format, created or stored by the above specified agencies. Please note the exceptions to this General Schedule listed in OAR 166-030-0027 before disposing of records.

(1) **Account Reconciliation Records:** Records document the reconciliation of funds and accounts such as checks, cash, and bank accounts, fixed assets to capital expenditures. Records may include printouts; worksheets; bank statements, reports, schedules; and other supporting documentation. SEE ALSO: Accounts Receivable Records. (Minimum retention: Federal grant records: five years after annual of financial report accepted; Other records: three years).

(2) **Accounts Payable Records:** Records document expenditures and purchases and provides a record of payment of bills. Records may include but are not limited to encumbrance registers; purchase orders; balance sheets; bills; invoices; invoice vouchers; journal vouchers/entry forms; price quotes; requisitions; payment authorization; check request; reports of receipt of goods or services; petty cash, voucher register; and correspondence. SEE ALSO: Purchasing Records. (Minimum retention: Federal grant records: five years after annual of financial report accepted; Other records: three years).

(3) **Accounts Receivable Records:** Records document current status and transaction activity of college funds held in bank accounts, billings and collections, deferred tuition, and provides a record of money and miscellaneous debts owed to the college. Records may include but are not limited to bank statements; validated deposit slips and/or paid check copies; and reconciliation worksheets or spreadsheets; account edit sheets; credit card payment forms; invoices; journal vouchers; receipts; and correspondence. May also include account aging reports which are used to monitor accounts which are outstanding and overdue. (Minimum retention: three years after reconciled or deemed uncollectable).

(4) **Annual Financial Reports:** Records document the college's financial condition and results of operation using trial balance data. These reports are used to report and monitor the college's financial condition, and as a reference by auditors. Records may include combined balance sheet; combined statement of revenues; expenditures, changes in fund balance; notes to the financial statement; statistical reports, audit reports, general ledger, trial balance, and budget status reports. (Minimum retention: 20 years).

(5) **Audit Reports:** Records document the examination of the college's financial condition by internal or independent auditors. Audits examine the fiscal condition, internal controls and compliance policies and procedures, accounting principles and methods, the accuracy and legality of transactions. Records may include but are not limited to audit reports; audit work-papers; supporting documentation; and correspondence. May also include performance or program audits. SEE ALSO: Financial Reports. (Minimum retention: Official copy of audit and responses: 20 years; Grant fund audits: five years; Other records: one year after audit completed).

(6) **Bond Records, Financial:** Records document the authorization and payment of bonds to finance college construction and improvements. Records may include but are not limited to authorizations; supporting financial documentation; G.O. Bonds and certificates of participation, revenue bonds, bond ratings; sample copies of bonds issued; paid bonds; coupons; and receipts; bond register; and correspondence. SEE ALSO: Election records in the Administrative Records section. (Minimum retention: three years after final payment).

(7) **Budget Planning and Preparation Records:** Records are used to develop, propose, and plan budget requests for units, departments, or the

ADMINISTRATIVE RULES

college. Records may include but are not limited to budget requests; spread sheets; expenditure projection work papers; budget development instructions, schedules; allotment reports; past and current budget worksheets; salary worksheets; miscellaneous income reports; budget instructions and guidelines; capital outlay reports; equipment need reports; decision packages; budget committee minutes and agendas; spending plans; compensation plan proposals; contingency plans; and correspondence. SEE ALSO: Board of Education Records in the Administrative Records section. (Minimum retention: five years).

(8) **Budget Records:** Records document the annual financial plan approved by the college's governing board. Records may include but are not limited to adopted budgets, also called the Budget Document; budget allotment reports; budget messages; revenue and expenditure tracking records; status reports; operating programs, debt service, position, and wage analysis; and correspondence. SEE ALSO: Budget Planning and Preparation Records and Budget Status Reports in this section. (Minimum retention: Final approved budget document: 20 years; Other records: Most recent 2 budgets).

(9) **Budget Status Reports:** Records document departmental expenditures in relation to the approved budget and are used to monitor allotments, and expenditures. Records may include monthly or quarterly printouts of departmental expenditures and amounts available for use in various funds and accounts. Printout information may include but is not limited to fund or account name and/or code; object description; encumbrances or amount allocated; expenditures; balances; and related data. SEE ALSO: Budget Planning and Preparation Records, and Budget Records in this section; and Board of Education Records in the Administrative Records section. (Minimum retention: Year-end report: five years; All other reports: Until superseded).

(10) **Capital Construction Funding Records:** Records document the funding of capital construction projects on campus, and are used to prepare budgets and allocations for capital construction projects. Records may include but are not limited to project descriptions; budget projection and allocation records; budget authorization forms; budget change orders; final acceptance statements; and related documentation and correspondence. (Minimum retention: Life of structure).

(11) **Check Conversion Records:** Records document checks received from customers that are electronically deposited after being imaged and converted to an Automated Clearing House (ACH) transaction or Image Replacement Document (IRD) (Minimum Retention: (a) Retain original paper instrument 120 days, destroy (b) Retain ACH transaction or IRD 6 years, destroy).

(12) **Correspondence, Fiscal:** Records document significant communication between the college and other government agencies, vendors, students, and the public pertaining to fiscal policy, obligations, revenue and transactions. Records include letters sent and received by the college's administrative and/or business office staff. SEE ALSO: Administrative Records, Program in the Administrative Records section. (Minimum retention: three years).

(13) **Credit and Debit Receipts:** Agency's copy of credit or debit card receipt documenting payment received by agency. Records include customer's name and account information (Minimum Retention: Retain 36 months after transaction, destroy).

(14) **General Ledger and Trial Balance Records:** Records provide a comprehensive listing of all fiscal transactions of the college and are used to prepare the college's Financial Reports. The General Ledger provide a record of fiscal transactions for all asset, liability, owners equity, revenue, and expenditure accounts for the college. The Trial Balance provides a list of all open accounts in the General Ledger and reflects the current financial position of the college. Information includes: debit, credit, and balance amounts per fund and account. SEE ALSO: Subsidiary Ledgers, Journals, and Registers, and Financial Reports. (Minimum retention: Fiscal year-end reports: 20 years; Other reports: Until superseded).

(15) **Grant Records, Financial:** Records document the expenditure data and status of federal and other grants received by the college. The records may include but are not limited to grant applications; project narratives; proposed budgets; notices of grant awards; project reviews; fund request; project reports; capital outlay expenditure reports; adjustment notices; contract; financial reports; performance reports; federal evaluations; allocation preparation reports; grant status summaries; reimbursement request; correspondence; and quarterly, annual and final expenditure reports. May also include grant related fixed-asset purchase, inventory, and disposal records. SEE ALSO: Grant Records, Administrative in the Administrative Records section. (Minimum retention: five years after final

or annual expenditure report accepted; Fixed asset records: two years after disposition of assets).

(16) **Journal Vouchers:** Records document authorization and movement of funds between college accounts and cost center. The records include journal vouchers which show account numbers, amount, authorizing signature, and related information. The records may also include intra-institutional voucher which provide detail of internal charge-backs for campus services such as phones, postage, copying and media. May also include documentation explaining and/or justifying transfer. (Minimum retention: three years).

(17) **Purchasing Records:** Records document the purchase of goods and services by the college. Records may include but are not limited to purchase orders; purchase authorizations; requisitions; contract release orders; vouchers; telephone service orders; vendor files; and correspondence. SEE ALSO: Bids and Award Records in the Contracts and Agreements section. (Minimum retention: Vendor files: Until superseded or obsolete; Other records: three years).

(18) **Receipts and Receipt Registers:** Records document cash received or distributed by the college. It also documents all money received and deposited to department accounts through daily deposits. This series may include but is not limited to validation receipts; cash register tapes; bank deposit slips; check stubs; departmental deposit vouchers; cash receipt slips; petty cash balance sheets; bank deposit slips; checks, check register; cash by account reports; and monthly cash register reports. (Minimum retention: three years).

(19) **Subsidiary Ledgers, Journals, and Registers:** Records document details of transactions such as those related to receipts and expenditures on a daily, monthly, quarterly, or similar basis. Includes journals, ledgers, registers, day books, and other account books that provide backup documentation to the general ledger. May include details of revenues, expenditures, encumbrances, cash receipts, warrants and others. Information often includes date, payee, purpose, fund credited, or debited, check number, and similar or related data. Note: These ledgers, journals, and registers may no longer be created due to the automation of accounting systems. (Minimum retention: Trust fund ledgers: two years after trust fund closed; Other subsidiary ledgers, journals, and registers: two years).

(20) **Unclaimed Property Report Records:** Records document annual reports submitted to the Department of State Lands of financial assets being held for a person or entity that cannot be found. Series includes Holder Report, owner information, correspondence and other related documents. Note: Unclaimed property is not real estate, abandoned personal property, or lost and found items. (Minimum Retention: 3 years after the property is remitted to the Department of State Lands).

Stat. Auth.: ORS 192 & 357

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

Hist.: OSA 3-1998, f. 8-4-98, cert. ef. 8-5-98; OSA 1-2010, f. & cert. ef. 5-27-10

166-475-0050

Fiscal — Payables/Receivables Records

(1) **Accounts Aging Records** Records document a cumulative listing by accounts receivable number of all receivables on the Accounts Receivable master file in the Banner Student Information System. For each receivable, the amounts that are not yet due, currently due, and overdue are indicated by fiscal year. Records consist of account listings sorted numerically by customer showing balances. Listings are generated at the end of the fiscal year and at other times upon request. (Retention: (a) 10 years for year-end listing, destroy (b) 4 years for other listings, destroy).

(2) **Accounts Payable Records** Records document a department's expenditures and purchases. The series may also be used to research, evaluate, and monitor prior transactions and/or track the budget. Records may include but are not limited to departmental purchase orders; contract release orders; balance sheets; bills; invoices; invoice vouchers; journal voucher/entry forms; price quotes; State of Oregon "B" Purchase Orders; departmental requisitions; justifications of purchases; payment authorizations; reports of receipt of goods or services; and related documentation and correspondence. (Retention: 6 years, destroy).

(3) **Accounts Receivable Records** Records document a record of billings and collections for the office and units/programs which report to the office. It is also used to provide a record of customers owing monies and to reconcile the account. Records may include but are not limited to Account Edit sheets; classified advertisement forms; credit card payment forms; invoices; journal vouchers; receipts; returned checks; and related documentation and correspondence. (Retention: 6 years after collected or deemed uncollectable, destroy).

(4) **Accounts Receivable Subsidiary Records** Records document history of charges and payments recorded for each customer on the Banner

ADMINISTRATIVE RULES

Student Information System. Records consist of customer lists sorted by account number with charges and payments recorded for each customer in chronological sequence. (Retention: 6 years, destroy).

(5) **Accounts Receivable Write-off Records** Records document debts of Accounts Receivables written off with the approval of the Institution's business office. Records include accounts receivable invoices; write-off worksheets; and due diligence documents. (Retention: 6 years after write-off, destroy).

(6) **Canceled Checks Records** Records document redeemed checks written on university accounts. Information on each check may include check number, date, amount, endorsement, account number, validation data, and related documentation. (Retention: 6 years, destroy).

(7) **Check Conversion Records** Records document checks received from customers that are electronically deposited after being imaged and converted to an Automated Clearing House (ACH) transaction or Image Replacement Document (IRD) (Retention: (a) Retain original paper instrument 120 days, destroy (b) Retain ACH transaction or IRD 6 years, destroy).

(8) **Check Stubs Records** documents the issuance of checks for payment in exchange for goods and services including payroll. Records include check stubs. (Retention: 6 years, destroy).

(9) **Collection Records** Records document the office's efforts to collect unpaid accounts. Records include collection letters; notices; letters of transmittal; and bankruptcy records. (Retention: 6 years after account is paid in full or written off, destroy).

(10) **Credit and Debit Receipts Records** document credit or debit card receipt documenting payment received by agency. Records include customer's name and account information (Retention: Retain 36 months after transaction, destroy).

(11) **Credit Card Administration Records** Records document administration of credit cards issued to institutional staff and units. Records may include applications; master monthly billing statements; individual card holders' statements; billing summaries; reports including vendor analysis by code; number of charges and stores; use summaries; related correspondence. (Retention: (a) 6 years after card expiration for applications, destroy (b) 6 years for all other records, destroy).

(12) **Moving Expenses Records** Records document new employees' moving and travel expenses paid by the institution. Records may include but are not limited to requests for approval-travel and moving reimbursement of new employee forms; purchase orders; travel reimbursement requests; vendor invoices; and receipts. (Retention: 6 years, destroy).

(13) **Refund/Disbursements Request Records** Records document requests and disbursements made for overpayment and refunds. Records include accounting data for refunds from parking violation fines paid and successfully appealed; tuition and fee refunds when courses are dropped; refunds for event tickets, loan overpayments, change-of-residence, and canceled courses; a log of refunds and requests for reissue of lost checks. (Retention: 6 years, destroy)

(14) **Registration Fee Records** Records document the payment of registration fees, which are considered travel expenses. Records may include but are not limited to completed registration forms; journal vouchers; invoices; purchase orders; and wire transfer forms. (Retention: 6 years, destroy).

(15) **Revolving Charge Agreements Records** Records document a student's agreement with the provisions of the accounts receivable revolving account and his/her intent to attend the institution. Records include agreement forms signed by each student. (Retention: 3 years after last enrollment and account paid in full, destroy).

(16) **Travel Records** Records document requests for and approval of travel by employees of the institution or the agency; to monitor travel expenditures; for planning purposes; to document changes in dates of travel, changes in the name of the traveler, changes in itinerary, or changes in funding sources within an out-of-state travel authorization; and to document approval for vehicle rental. Records may include but are not limited to out-of-state travel authorization forms, travel itineraries, travel advance forms, travel reimbursement requests (employee and non-employee), receipts, approval memos, vehicle mileage reporting records, memos in place of itemized receipt, affidavits of lost receipt memos, authorizing signatures, airfare documentation and related documentation and correspondence. (Retention: 6 years, destroy).

(17) **Unclaimed Property Report Records** Records document annual reports submitted to the Department of State Lands of financial assets being held for a person or entity that cannot be found. Series includes Holder Report, owner information, correspondence and other related documents. Note: Unclaimed property is not real estate, abandoned personal

property, or lost and found items. (Retention: 3 years after the property is remitted to the Department of State Lands).

Stat. Auth.: ORS 192 & 357

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

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04; OSA 4-2009, f. & cert. ef. 6-29-09; OSA 1-2010, f. & cert. ef. 5-27-10

166-475-0095

Personnel Records

(1) **Academic and Unclassified Employees Personnel Records** Records document the academic employee's work history at the Institution and includes routine, non-evaluative information such as job title, rank, full-time equivalency (FTE) or appointment percentage, dates of employment, salary, employing department, education and employment background. Some of the documents comprising this series include confidential information such as social security number, birth date, and marital status. Records may include but are not limited to copies of Affirmative Action Compliance Data Forms; Applications for Admission to Graduate School; Applications and Contracts for Sabbatical Leave; Applications for Academic Employment; Athletic Contracts/Overseas Agreements; Conditions of Employment; Memoranda of Agreement; Notices of Appointment; Overload Compensation Requests; Patent Rights Waivers; Pay/Budget Action Forms; forms documenting personnel actions, including Salary Adjustments and Summer Session Appointments; Proposals for Academic Appointment; Requests for Approval for Outside Employment; resumes or curriculum vitae; Retirement Agreements; Leave Accrual Forms; Technology Transfer Agreements; Tenure Relinquishment Forms; employee Social Security number disclosure forms; and related documentation and correspondence, such as letters of resignation and memos confirming appointments. (Retention: 75 years, destroy).

(2) **Academic and Unclassified Employees Personnel Records (Supervisor's Copy)** Records document the academic employee's work history maintained in the office of the dean, director, department head, or vice provost. It includes evaluative materials and non-evaluative information such as job title, rank, full-time equivalency (FTE) or appointment percentage, dates of employment, salary, employing department, education and employment background. Some of the documents comprising this series include confidential information such as social security number, birth date, and marital status. These records may be for full-time, part-time, and/or courtesy academic employees. Records may include but are not limited to Activity Reports; copies of Affirmative Action Compliance Data Forms; Applications for Admission to Graduate School; applications, contracts, and other records for sabbatical leave; emeritus faculty status letters; Employee Emergency Medical Information Forms; Applications for Academic Employment; Athletic Contracts/Overseas Agreements; Awards; Conditions of Employment Forms; Notices of Appointment; Overload Compensation Requests; Patent Rights Waivers; Pay/Budget Action Forms; Periodic Reviews of Faculty letters and records; forms documenting personnel actions, including Salary Adjustments and Summer Session Appointments; professional development records; Proposals for Academic Appointment; recommendations; reports of conferences attended; Staff Reports of Service to the Institution; Periodic Reviews of Administrators Summaries; reprimands; Requests for Approval for Outside Employment; resumes or curriculum vitae; Retirement Agreements; Sick Leave Accrual Forms; Teaching Evaluations; Student Evaluations of Faculty Summary Reports; Technology Transfer Agreements; Tenure Relinquishment Agreements; Employment Eligibility Verifications (Form I-9); Vacation Leave Report Forms; home address/telephone disclosures; and other relevant documents and correspondence, including commendations, letters from the chair or the dean concerning the nature of the faculty member's appointment and the expectations of the faculty member, letters granting fellowship, letter of position offer, letter of resignation, memoranda of agreement, Notices of Disciplinary Action, Notices of Layoff, and unsolicited letters praising teaching or participation in a conference. (Retention: 5 years after employee separation, destroy).

(3) **Affirmative Action and Equal Opportunity Records** Records document agency compliance with the statutes and regulations of the U.S. Equal Employment Opportunity Commission regarding affirmative action. Records include affirmative action plans and/or policies, and their revisions and updates, which are required to be submitted to the Governor's Affirmative Action Office. Records may also include but are not limited to reports, supporting documentation, and correspondence. (Retention: (a) Permanent for narrative reports, policy, mission and goal statements, Equal Opportunity and Affirmative Action plans, and audit reports (b) 20 years for EEO-6/Vets 100/Ways and Means reports and Executive Department printouts, destroy (c) 10 years for statistical and status reports, case histories,

ADMINISTRATIVE RULES

correspondence, and related documentation (d) 3 years for all other records, destroy).

(4) **Affirmative Action and/or Human Resources Recruitment Review Records** Records document view of all stages of academic hiring by the institution's affirmative action office and/or human resources office. Records may include but are not limited to position descriptions; Notifications of Academic Position Opening; Affirmative Action Compliance Data sheets; Affirmative Action compliance statements; Applicant Pool and Appointment Reports; utilization reports; payroll-budget requests or action forms; contract requests to offer appointments; certificates of eligible's or applicant lists; and related documentation and correspondence. (Retention: 3 years, destroy).

(5) **Appointing Authority Administrative Records** Records document persons given the authority to appoint personnel to positions (as required by special circumstances). Records include policy documentation and correspondence. (Retention: Until superseded or obsolete, destroy).

(6) **Bargaining Unit Records** Records document negotiations and contractual agreements between the institution and the bargaining unit; it is also used for labor relations planning. Records may include but are not limited to union contracts and amendments; tentative agreements; arbitrator's recommendations; negotiation work notes; strike contingency plans; management counter proposals; negotiation updates; newspaper clippings; press releases; research background material; employee classification print-outs; Fair Share records; minutes, sound recordings, exhibits and reports of meetings; and related documentation and correspondence. (Retention: (a) 75 years for final contracts, amendments, and negotiation minutes, destroy (b) 6 years after contract expires for all other records, destroy).

(7) **Benefits Policies and Procedures Records** Records document policy and procedure decisions and important events in the operations history of the office and includes contracts and formal documents which state or form the basis for policy or set precedents. Records may include but are not limited to records concerning the Academic 12-month Pay Option for Payroll; American Football Coaches Retirement Trust; dependent care flexible spending account program records; early retirement programs; employee orientation program; Employee Assistance Program; injured worker benefits; Continuing Benefits to Injured Workers (CBIW) records; insurance continuation coverage known as COBRA (Consolidated Omnibus Budget Reconciliation Act); medical, dental, life/disability insurance program records; open enrollment records; the institution Staff Handbook; Life Insurance; post doctorate fellow insurance program; Public Employee Retirement System (PERS); Retirees; tax deferred investment programs; Teachers Insurance Annuity Association and College Retirement Equities Fund (TIAA/CREF); Unionflex program; (US Savings Bonds); Volunteer Insurance; and related documentation and correspondence. (Retention: 6 years after expiration of program or contract, destroy).

(8) **Certificates of Eligible's Records** document the names of applicants currently eligible for hire for specific classified positions. The list is supplied by the personnel office to departments seeking to fill vacancies. Data elements on this list may include but are not limited to name; address; telephone number; and rank or exam results. Copies of Employment Applications and Skill Code Sheets may be included with this record series. (Retention: (a) 3 years after end of search if part of recruitment, destroy (b) 1 year if not part of a search, destroy).

(9) **Classified Employees Layoff Records** Records document layoff procedures followed for affected employees. Records may include but are not limited to employees names; position titles; classification numbers; hire dates; layoff dates; seniority status; and related documentation and correspondence. (Retention: 3 years after employee separation, destroy).

(10) **Classified Employees Non-Routine Evaluations Records** document the non-routine evaluation of the classified employee's work performance. Records may include commendations; recommendations; disciplinary actions; reprimands; explanations or opinions filed in response to critical material; and related correspondence. (Retention: 3 years, destroy).

(11) **Classified Employees Personnel Records** Records document the classified employee's work history at the institution and includes routine evaluative materials and non-evaluative information such as job title, full-time equivalency (FTE) or appointment percentage, dates of employment, salary, employing department, education and employment background. Some documents in this series contain confidential information such as social security number, birth date, and marital status. Records may include but are not limited to employment applications which may include skill code sheets; resumes; selected memos such as agreement or request for position change, merit increase requests and notices, request for re-employment (letter of hire), resignation letters from employees, and termination letters from employer; commendations; recommendations; reprimands;

work plans; forms documenting personnel actions; (personnel) performance evaluations; pay/budget action forms; leave records; time and attendance records; (designation of beneficiary forms;) union dues information; resumes; layoff notices; awards; licenses and certificates; college credit information; employee Social Security number disclosure forms; home address/telephone disclosure authorizations and related correspondence. (Retention: (a) 75 years for employment applications, agreements or requests for position change, merit increase requests and notices, request for re-employment, resignation letters, employer termination letters, personnel action forms, layoff notices, designation of beneficiary forms, personnel evaluations, and resumes, destroy (b) 3 years for letters of reprimand, destroy (c) 3 years after employee separation for all other records, destroy).

(12) **Classified Employment Testing Records** Records document the testing process for classified positions administered by human resources staff. Records may include but are not limited to test forms completed by qualified applicants; summary lists with scores; testing materials; and related documentation and correspondence. (Retention: 3 years, destroy).

(13) **Classified Rejected Applications Records** document employment applications that were submitted for jobs with the institution and for reasons of incompleteness or inadequate qualifying experience/training are rejected. Records may include but are not limited to institutional employment applications and state forms PD 100 and PD 229R. (Retention: 3 years after position filled or recruitment canceled, destroy).

(14) **Classified Unsolicited Applications Records** document unsolicited requests for consideration for employment possibilities in institution units. Records may include but are not limited to curriculum vitae and resumes; transcripts; letters of application; and related materials and correspondence. (Retention: 3 months, destroy).

(15) **Continuation of Insurance Benefits (COBRA) Records** Records document the institution's compliance with the Consolidated Omnibus Reconciliation Act of 1986 (COBRA). Records may include notices given to insurance administrators when employees leave the institution; information includes employee and dependent names and Social Security numbers, insurance package currently carried, dates of termination, coverage end date, and dates of notice to the contractor. (Retention: 3 years, destroy).

(16) **Continuing Education Instructor's Records** Records document competency of persons applying to teach continuing education courses. Records, which are filed by course with term and instructor name, may include but are not limited to resumes; curriculum vitae; personnel actions; time sheets; course proposals; request for undergraduate and graduate course and instructor approval forms; tentative course outlines; letters of nomination; letters of appointment and/or rejection; and related documentation and correspondence. (Retention: (a) 75 years for appointment information, destroy (b) 5 years after separation from Continuing Education faculty for all other records, destroy).

(17) **Criminal Background Check Records** Records document the pre-employment or periodic criminal record check performed on prospective or current staff, faculty, and volunteers by the agency. Records may include but are not limited to a Fingerprint-Based Criminal History Verification form documenting the result of a criminal history background check coordinated by the Oregon Law Enforcement Data System (LEDS). The form includes name and other personal identifying information, indication of the existence or absence of criminal record, and related documentation. (Retention: (a) Retain background check log: until superseded or obsolete, destroy; (b) Retain all other criminal background check records: 90 days, destroy).

(18) **Drug Testing Records** Records document the testing of current and prospective employees for controlled substances prohibited by policy, procedure, or statute. Records may include but are not limited to the documentation of test results, the collection process, the random sample process, and those documenting the decision to administer reasonable suspicion drug testing. (Retention: (a) Retain negative drug test results, 1 year, destroy (b) Retain positive drug test results, 3 years, destroy).

(19) **Employee Medical Records** Records document an individual employee's work related medical history. These records are not personnel records and must be kept physically separate from employee personnel records — in a separate location, as required by the Americans with Disabilities Act. Records may include but are not limited to medical examination records (pre-employment, pre-assignment, periodic, or episodic), X-rays, records of significant health or disability limitations related to job assignments, documentation of work related injuries or illnesses, hearing test records, hazard exposure records, first-aid incident records, physician statements, release consent forms, and related correspondence. These

ADMINISTRATIVE RULES

records are not personnel records and must be kept physically separate from employee personnel records — in a separate location, as required by the Americans with Disabilities Act. SEE ALSO Medical Surveillance Records in the Safety and Security section. (Retention: (a) Retain hazard exposure records: 30 years after employee separation (29 CFR 1910.1020), destroy (b) Retain audiometric (hearing) test records: Until employee's termination date (29 CFR 1910.95(m)) (c) Retain other employee medical records: 3 years after employee separation, destroy).

(20) **Employees Benefits Records** Records document an individual employee's benefit information such as selection of insurance plans, retirement, pension, and disability plans, deferred compensation plans, and other benefit program information. Records may include but are not limited to plan selection and application forms, enrollment records, contribution and deduction summaries, personal data records, authorizations, beneficiary information, and related documentation. Records may be filed with the individual Employee Personnel Records. SEE ALSO Employee Payroll Records in the Payroll section. (Retention: (a) Retain PERS enrollment records: 75 years, destroy (b) Retain optional plan enrollment records 75 years, destroy (c) Retain all other benefits records: 3 years after employee separation or eligibility expired, destroy).

(21) **Employees Training Records** Records document employee participation in training courses or programs for development purposes. Records may include but are not limited to staff fee requests to take classes; course agendas, descriptions, and syllabi; course outlines and materials; enrollment and attendance records; training requests and authorizations; certificates of completion; and related documentation and correspondence. (Retention: 3 years, destroy).

(22) **Employees Employment Verification Records** Records document the responses to inquiries for evidence of employment from offices within the institution, banks and credit agencies, government agents, businesses, and current and former personnel. Records may include but are not limited to copies of written requests; release of information authorization forms; telephone request forms; office control documents; statistical summaries; and related documentation and correspondence. (Retention: 3 years, destroy).

(23) **Employment Eligibility Verification Forms Records** document information used to establish the identity and to verify the employment eligibility of employees to preclude the unlawful hiring of persons not authorized to work in the United States. Records include completed I-9 forms and copies of documents that establish the identity and the employment eligibility of the employee. (Retention: 3 years after date of hire or 1 year after separation, whichever is longer, destroy).

(24) **Employment Policies and Procedures Records** Records document employment policies and procedures administered by institution personnel offices. Records may include but are not limited to information on academic year appointments; employment of disabled persons; family employment program; interviewing; job sharing; overseas employment; student employment; temporary appointments; transfers; and related documentation and correspondence. (Retention: Permanent).

(25) **Executive Evaluations Administration Records** Records document the administration of routine performance evaluations of OUS chancellors and individual college and university presidents. Records may include appointment schedules; letters of follow-up and thank you; press releases and announcements; hotel and travel arrangements; and related correspondence. (Retention: 3 years, destroy).

(26) **Family and Medical Leave Case Files Records** document requests for leave and granted leaves by employees under provisions of the Federal Family and Medical Leave Act and the Oregon Family Medical Leave Act. Records may include but are not limited to employee leave request forms; notices to employees of leaves granted or rejected; Certification of Health Care Providers for the employee or a family member; employee backup information and leave history records; employee time records; Continuation of Health and Dental Insurance Benefits Memorandum; and related documentation and correspondence. (Retention: 3 years after case closed, destroy).

(27) **Graduate Assistantship Applications Records** Records document applications of graduate students for Graduate Teaching Assistantships and Graduate Research Assistantships in academic programs. Records include applications developed by individual units; resumes and vitae; and related documentation and correspondence. (Retention: (a) 5 years after application or termination of employment, whichever is longer for successful applicants, destroy (b) 3 years for denied applicants, destroy).

(28) **H-1 Visa Scholars Records** Records document the temporary employment of internationals by the institution and is used to monitor com-

pliance with Immigration and Naturalization Service regulations. Records may include but are not limited to Petition for a Non-immigrant Worker (Form I-797); Labor Conditions Applications for H-1B Non-immigrant; Prevailing Wage Information Request; Application to Immigrant and Naturalization Service (INS); documentation of requests for visa extensions; details of work assignments; and related documentation and correspondence including the letter of support. (Retention: 6 years after expiration of visa and extensions granted, destroy).

(29) **Health Emergency Information Records** Records document the health identification information of students, faculty or staff. Health information may be collected for sponsored field trips, participation in physical education classes, and other activities. Information may include but is not limited to personal identification and physician's name and contact information, and emergency contact and health insurance information. Note: These records are not the same as the Emergency Notification Forms found in the Personnel File. (Retention: 1 year after the end of the event or activity for which this information was collected, destroy).

(30) **Immigrant Visa Scholars Records** Records document the application and approval of international scholars for permanent immigrant status. Records may include but are not limited to Applications for Alien Employment Certifications issued by the Department of Labor, Employment and Training Administration; advertisements for positions; curriculum vitae; transcripts; letters of recommendation; notes on all applicants for positions demonstrating that a petitioner was the best qualified for an advertised position; forms indicating the institution's efforts to employ comparably qualified U.S. citizens (ETA750); interviewers' notes and memoranda; and related correspondence. (Retention: 75 years, destroy).

(31) **J-1 Visa Scholars Records** Records document the short-term appointment of non-immigrant international scholars as visiting faculty, specialists, researchers and trainees. Records may include but are not limited to United States Information Service Certificates of Eligibility for Exchange Visitors Forms (IAP-66); descriptions of work to be performed; methods of financial support; copies of passports; check-in forms with personal data such as addresses, telephone numbers, and information concerning dependents; related correspondence, most often concerning eligibility of spouses and children to accompany or join the scholar; log sheets noting the nature of telephone calls concerning each scholar's status; and related documentation. (Retention: 3 years after visa expiration, destroy).

(32) **Layoff Administration Records** Records document policies and procedures administered by institution personnel offices with regard to layoffs. Records may include but are not limited to position elimination information; employee assistance information; layoff lists; management service layoff policy; news publications; salary funding requests; vacancy lists; and related documentation and correspondence. (Retention: 75 years, destroy).

(33) **Merit Increase and Trial Service Performance Appraisal Lists Records** document classified employees who are expected to receive merit pay increases or successfully complete their six-month trial service period. The lists, organized by academic department or administrative office, include employee's name; class; social security number; position number; employee status and type; FTE; pay rate qualifier; current step and pay rate; new pay rate and step (merit increase only); and trial service completion date (trial service only). (Retention: 6 months, destroy).

(34) **National Faculty Exchange Program Records** Records document an exchange program which allows university faculty members to exchange teaching positions with other institutions' faculty members within the United States. Records include contracts; summaries; and related correspondence. (Retention: (a) Permanent for summaries (b) 5 years for all other records, destroy).

(35) **Personnel Research Data Records** Records document the comparative salaries, benefits, collective bargaining agreements, staffing requirements, minimum qualifications, recruitment, and training of an institution's employees. Records include but are not limited to published and unpublished data; statistical reports; and related documentation and correspondence. (Retention: Until superseded or obsolete, destroy).

(36) **Position Descriptions Records** document job descriptions for classified and faculty positions and is used for employee recruiting, Fair Labor Standards Act eligibility analysis, position review, and reclassification purposes. Information fields in the position descriptions may include position names, position numbers, qualifications, functions and responsibilities, duties, hierarchical data, job classification numbers, description of duties, and pay rates. Records may include but are not limited to Position Description forms; Reclassification Position Descriptions and documentation; Classification Listings; Positions Listings; and related documentation and correspondence. (Retention: (a) 5 years after superseded, destroy (b) 5 years for position reclassification records, destroy).

ADMINISTRATIVE RULES

(37) **Promotion, Tenure, and Salary Increase Records** Records document the periodic consideration of faculty who are eligible for changes in rank, tenure status, and/or pay. Records may include but are not limited to promotion and tenure dossiers compiled and presented by the faculty member as per instructions from Academic Affairs as well as other materials which are compiled and maintained for inclusion, analysis, and summarization into the dossier folders. The dossiers may include but are not limited to candidate dossier cover form or checklist; prior service agreement; Confidential Waiver for letters of evaluation; current position description; letters of evaluation; current curriculum vitae or resume; activity summary and evaluations of teaching, curriculum development and advising from students, participants/clients, and peers; candidate acknowledgment of dossier review; student evaluations of faculty summary reports; committee signature sheets; committee findings; recommendations of administrative superiors; and related documentation and correspondence. These files should always be maintained physically separate from departmental and college personnel files, but are considered to be a part of the academic personnel record. **(Retention: 10 years, destroy).**

(38) **Recruiting Pool Records** Records document prospective applicants for faculty and staff positions drawn from either previous recruitments or unsolicited applications. Records may include but are not limited to curriculum vitae or resumes; cover letters; Applications for Employment; interview materials; position announcements; evaluations of prospective employees; and related correspondence. **(Retention: 3 years, destroy).**

(39) **Residential Advisor (RA) Employees Records** Records document the selection process, requirements, and work history of residential advisors. RAs apply in the Winter Term for the following school year. After preliminary screening and approval applicants are required to enroll in a course designed for potential RAs taught by student housing staff. Records may include but are not limited to application forms; transcripts; recommendations; interviewers' notes; notification letters; contracts which give duties and responsibilities, enrollment hours limitations, and signatures; papers or projects completed in the required RA course; staff evaluations of applicants and term-by-term evaluations of appointees; and related documentation and correspondence. **(Retention: 5 years after employee separation, destroy).**

(40) **Retirement Incentive Program Records** Records document the cost of incentive programs providing benefits for university employees who choose early retirement. Records include agreements between the university and employees for lump sum, monthly, or annual payments; records of actual payments; and related correspondence. **(Retention: 6 years after final payment, destroy).**

(41) **Sabbatical Leave Records** Records document sabbatical leave activities of institution faculty. Records may include but are not limited to reports; applications; contracts; and related documentation and correspondence. **(Retention: (a) Permanent for reports (b) all other records 75 years, destroy).**

(42) **Search Records** Records document the selection process for academic, classified and student positions within the institution. Records may include but are not limited to applications; curriculum vitae or resumes; academic transcripts; samples of writing or publications; approvals of recruitment proposals; candidate lists; position announcements; position advertisements; position descriptions; Certificate of Eligible's; copies of Affirmative Action Compliance Data Forms; Requests to Fill Academic Position Forms; interview materials such as schedules, rating sheets, tallies, screening and interview notes, review committee notes and memoranda; telephone conversation notes; and related correspondence such as cover letters and reference letters. **NOTE:** Application materials of successful academic and classified candidates become part of the employee's personnel file. **(Retention: (a) 3 years after search completed for academic and classified search records, destroy (b) 1 year for student search records, destroy).**

(43) **Staffing Policies Records** Records document the adoption and implementation of personnel and staffing policies at the college and/or unit level pertaining to topics such as faculty evaluations; faculty Retention; merit increases; performance evaluations; promotion and tenure, both instructions and guidelines; sabbatical leave, both policies and reports; salary adjustments, both guidelines and statistics; and support staff information. Records may include but are not limited to notations on priority staffing decisions; position descriptions; requests for approval of new staff positions; justification statements; descriptions of teaching responsibilities for positions requested; funding information; job announcements; memoranda; and related documentation and correspondence. **(Retention: 2 years after superseded or obsolete, destroy).**

(44) **Social Security Number Records** Records document international students' and scholars' acquisition of social security numbers. This series may include but is not limited to social security number applications; Statement of Information — Social Security Account Number forms (CO-204); photocopies of social security cards; Controllers Division reports; and related documentation and correspondence. **(Retention: 3 years, destroy).**

(45) **Student and Classified Employees Compensation Records** Records document and defines pay rates for classified and student employees. Records may include but are not limited to compensation plans; conversion tables for annual, monthly, hourly, and overtime rates; records concerning extra merit increase, merit pay system, overtime pay, shift differential, student pay, variable rate pay, and working out of class; and related documentation and correspondence. **(Retention: Until superseded or obsolete, destroy).**

(46) **Student Employees Personnel Records** Records document the student employee's work history from the supervisor's perspective. This series may contain records for work-study and/or regular departmental budgeted student employees. This series may include resumes; interview questionnaires and notes; work referral forms; Student Schedule Slips; Financial Aid Employment Reference Forms; Student Employment Registration Forms; Personnel Actions Forms; Pay/Budget Action Forms; Work-Study Time Certificates; Performance Evaluations; Employee Withholding Allowance Certificate (W-4) forms; Payroll Check Delivery Authorizations; Requests for Emergency Payroll Draw Forms; commendations; recommendations; reprimands or notices of disciplinary action; notices of layoff; letters of resignation; work permits; copies of visas and related immigration status information; Student Driver Authorization Forms; Employment Eligibility Forms (I-9); home address/telephone disclosure authorizations; and related correspondence and documents. The series may also include photocopies of each employee's drivers license; birth certificate; or Certificate of Student Employment Registration. **(Retention: (a) 5 years after employee separation for work-study student records, destroy (b) 3 years after date of hire or one year after separation, whatever is longer for Employment Eligibility Forms (I-9), destroy (c) 3 years after employee separation for other student employee records, destroy).**

(47) **Student Faculty/Course Evaluation Records** Records document students' evaluations of teaching personnel and is used to help determine faculty tenure, promotion, merit increases and/or to review instructional courses and programs. These records provide students' opinions on faculty members' familiarity with current literature of the discipline, preparation, assignments, examinations, lecture styles, willingness to engage in dialogue, and availability. Records include bubble forms (input documents); course reaction inventory printouts; statistical tabulations; summary reports; and related documentation and correspondence. **(Retention: (a) Until tabulated and verified for bubble forms, destroy (b) 5 years for all other records, destroy).**

(48) **Tuition Reduction Records** Records document employee and/or dependents participation in courses or programs offered by OUS institutions at reduced tuition rates. Records may include but are not limited to staff fee requests to take classes, course agendas, descriptions and syllabi, course outlines and materials, enrollment and attendance records, training requests and authorizations, certificates of completion, related documentation and correspondence. **(Retention: 4 years, destroy).**

(49) **Volunteer Program Records** Records document the activities and administration of volunteer programs in the agency and institutions. Records may include but are not limited to volunteer applications, emergency notification forms, volunteer hour statistics, volunteer program publicity records, insurance requirement information, and related documentation. **SEE ALSO Criminal Background Check Records in this section. (Retention: (a) Retain individual volunteer records 5 years after volunteer separation, destroy (b) Retain all other volunteer program records 5 years, destroy).**

(50) **Unemployment Compensation Claim Records** Records document claims submitted by former institution employees for unemployment compensation. Records may include but are not limited to claim records; notices; reports; records generated by the appeal of claim determinations; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(51) **Work Time Adjustment Agreements Records** document agreements between the employer and the employee regarding a change in the employee's work hours. Records may include but are not limited to the official signed agreement; related documentation and correspondence. **(Retention: Until superseded or obsolete, destroy).**

Stat. Auth.: ORS 192 & 357

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

ADMINISTRATIVE RULES

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04; OSA 4-2009, f. & cert. ef. 6-29-09; OSA 1-2010, f. & cert. ef. 5-27-10

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

Rule Caption: Mandatory notary education online list of approved providers.

Adm. Order No.: CORP 7-2010

Filed with Sec. of State: 6-1-2010

Certified to be Effective: 6-1-2010

Notice Publication Date: 5-1-2010

Rules Amended: 160-100-1110

Subject: This amended rule removes reference to the online list of approved providers being searchable by a specific county, as each provider is authorized to provide notary education statewide.

Rules Coordinator: Karen Hutchinson—(503) 986-2364

160-100-1110

List of Approved Providers

(1) The Secretary of State may also make a list of approved providers available online at the Corporation Division's website. The approved provider list may include the following information:

(a) The name of approved provider.

(b) Contact information — a mailing address; a telephone number; a fax number; an e-mail address; and a website address.

(2) The Secretary of State may only update the list of approved providers to add, delete, or amend approved provider information that is filed in accordance with OAR 160-100-1040. A list of approved providers may be updated by the first day of each month following the month during which there were additions, deletions, or amendments to the list of approved providers.

(3) The Secretary of State reserves the right to delete any information from the list compiled pursuant ORS 194.028 or section (2) of this rule that the Secretary of State determines is misleading to the public or of an inappropriate nature.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06; CORP 7-2010, f. & cert. ef. 6-1-10

.....

Rule Caption: Official notary seal and embosser requirements for vendor.

Adm. Order No.: CORP 8-2010(Temp)

Filed with Sec. of State: 6-11-2010

Certified to be Effective: 7-1-10 thru 12-28-10

Notice Publication Date:

Rules Amended: 160-100-0100, 160-100-0110, 160-100-0120

Subject: These rules clarify the requirements for the official notary seal and embosser for vendors. It specifically indicates how the required elements are to appear on the seal and embosser, and how a partial seal shall be imprinted on a notarial certificate attachment and document.

Rules Coordinator: Karen Hutchinson—(503) 986-2364

160-100-0100

Description of Imprint of Official Seal

(1) The reasonably legible imprint of an official seal of a notary public shall contain:

(a) The state seal, as described in ORS 186.020;

(b) The following words, in descending order, centered in the official seal to the right of the state seal:

(A) The words "Official Seal";

(B) The printed name of the notary public;

(C) The words "Notary Public — Oregon";

(D) The words "Commission No." immediately followed by the notary public's commission number;

(E) The words "My Commission Expires", immediately followed by the notary public's commission expiration date, expressed in terms of the month, two-digit date, and complete year.

(2) The imprint of an official seal of a notary public shall be made with permanent black ink.

EXAMPLES: [Examples not included. See ED. NOTE.]

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

Stat. Auth.: ORS 194.031

Stats. Implemented: ORS 194.031

Hist.: SD 7-1978, f. & ef. 8-10-78; Renumbered from 165-027-0010; SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0100; CORP 2-2010, f. 1-22-10 cert. ef. 2-3-10; CORP 8-2010(Temp), f. 6-11-10, cert. ef. 7-1-10 thru 12-28-10

160-100-0110

Use of Official Seal

(1) A notary public shall use the notary public's official seal to perform a notarial act.

(2) A notary public shall use the notary public's official seal by placing a legible imprint of the official seal on a notarial certificate.

(3) A notary public shall not place an imprint of the notary public's official seal over any signature in a document to be notarized or in a notarial certificate, nor over any writing in a notarial certificate.

(4) When a notarial certificate is on a separate piece of paper attached to the document to be notarized or when there are attachments to the document to be notarized, a notary public may use an additional imprint of the notary public's official seal to mark for identification the document or attachment if the imprint does not make any part of the document or attachment illegible. The additional seal will be partially stamped on the notarial certificate, and partially on the document or attachment to the notarized document.

(5) A notary public shall not use the notary public's official seal for any purpose other than to perform a notarial act.

(6) A notary public shall not permit any other person to use the notary public's official seal for any purpose.

(7) A notary public shall not use any other notary public's official seal or any other object in lieu of the notary public's official seal to perform a notarial act.

Stat. Auth.: ORS 194.031

Stats. Implemented: ORS 194.005 & 194.031

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0110; CORP 8-2010(Temp), f. 6-11-10, cert. ef. 7-1-10 thru 12-28-10

160-100-0120

Description of Official Seal Embosser

(1) An official seal embosser of a notary public shall be two concentric circles each formed by a continuous solid or intermittent line.

(2) The embossment of the official seal embosser of a notary public shall contain the following legible printing:

(a) The name of the notary public centered at the top and between the two circles;

(b) The words "STATE OF OREGON" centered at the bottom and between the two circles;

(c) The word "NOTARY" above the word "PUBLIC" both centered within the inner circle.

Example: [Example not included. See ED. NOTE.]

[ED. NOTE: Example referenced is available from the agency.]

Stat. Auth.: ORS 194.031

Stats. Implemented: ORS 194.031

Hist.: SD 7-1978, f. & ef. 8-10-78; Renumbered from 165-027-0005; SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0120; CORP 8-2010(Temp), f. 6-11-10, cert. ef. 7-1-10 thru 12-28-10

.....

Travel Information Council Chapter 733

Rule Caption: Amend rules to change Logo definitions, criteria, requirements and qualifications.

Adm. Order No.: TIC 2-2010

Filed with Sec. of State: 6-11-2010

Certified to be Effective: 6-11-10

Notice Publication Date: 4-1-2010

Rules Amended: 733-030-0011, 733-030-0021, 733-030-0036, 733-030-0055, 733-030-0080

Subject: The travel Information Council held a quarterly meeting on June 4, 2010. The Council approved to amend rules for qualification of Attraction Logo sign, to define Travel Plazas, amend the number of supplemental logo plaques, and add approved supplemental messages.

Rules Coordinator: Diane Cheyne—(503) 378-4508

733-030-0011

Definitions

As used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

ADMINISTRATIVE RULES

(1) "ATTRACTION" means any facility or qualified cultural district of regional significance that provides the general public with a cultural, historical, recreational, or educational activity, or a unique or unusual commercial activity or non-profit activity. Common retail outlets and facilities qualified for other logo service types are not eligible for Attraction signing. An ATTRACTION facility must prove that a majority of its income or visitors is derived from motorists residing farther than 50 miles, or one hour of travel time from the location of the facility being signed. The following terms shall be used to further define ATTRACTIONS:

(a) "Cultural" means a facility reflecting the customs, products and arts of the region where the facility is signed. Such facilities may include, but are not limited to: Science/Nature, Wineries and Art.

(b) "Cultural district" means a cluster of like facilities in a concentrated area of no less than six city blocks in size and with no less than four like facilities. Examples of cultural districts include antique districts and art gallery districts.

(c) "Educational" means a facility that provides enhanced knowledge of an industry, culture, historical or other genre that is unique to the region where the facility is being signed.

(d) "Historical" means a facility reflecting the past events of the region where the facility is signed. Such facilities or areas may include, but are not limited to: Historical museums, historic sites, or historic tours.

(e) "Recreational" means any facility offering a form of leisure, amusement or relaxation. Such facilities may include, but are not limited to: amusement parks, golf courses, jet boats, scenic cruises or rides.

(f) "Region" means the area surrounding a facility to a distance of 50 miles, or one hour of travel time.

(g) "Regional significance" means the level of a facility's importance to area visitor interests and the tourism industry that is determined after consultation with local tourism associations and the Regional Destination Marketing Organization where the facility is located.

(h) "Travel Plaza" means a staffed facility designated under the authority of the Travel Information Council to serve motorists by providing brochures, displays, signs and other visitor information and located in close proximity to an interstate highway interchange.

(2) "Business" means a facility furnishing GAS, FOOD, LODGING, CAMPING, or ATTRACTION which has met the qualifications for the placement of a logo plaque on a Logo Sign or a Supplemental Sign.

(3) "Business District" means the territory contiguous to a highway when 50 percent or more of the frontage thereon for a distance of 600 feet or more on one side, or 300 feet or more on both sides, is occupied by buildings used for business.

(4) "Commission" means the Oregon Transportation Commission.

(5) "Conventional Highway" means any State owned highway that is classified by ODOT as either a Statewide, Regional, or District level highway that is not an Expressway or Interstate Highway as defined in sections (9) and (12) of this rule.

(6) "Council" means the Travel Information Council created by ORS 377.835.

(7) "Dual logo plaque" means a logo plaque with two distinctive brand symbols displayed on one plaque on a "GAS" or "FOOD" Logo Sign where the two businesses are located in the same facility.

(8) "Engineer" means the State Traffic Engineer.

(9) "Expressway" means a highway which has full access control with access allowed only at interchanges and intersections.

(10) "Interchange" means a system of interconnecting roadways in conjunction with one or more grade separations that provides for the movement of traffic between two or more roadways or highways on different levels.

(11) "Interstate Oasis" means a facility near an Interstate Highway which has met the qualifications for providing products and services to the public, 24-hour access to public restrooms, and parking for automobiles and heavy trucks.

(12) "Interstate System" or "Interstate Highway" means every state highway that is a part of a national system of interstate and defense highways established pursuant to 23 U.S.C. Section 103(b). This definition also includes fully controlled access freeways on the Conventional Highway system.

(13) "Logo Sign" means a sign bearing separately affixed individual logo plaques for "GAS," "FOOD," "LODGING," "CAMPING," and "ATTRACTION" facilities erected in advance of exit ramps, interchanges or intersections on a state highway system. A Logo Sign includes a directional legend such as "NEXT RIGHT" or the Exit Number, a service legend of "GAS," "FOOD," "LODGING," "CAMPING," or "ATTRACTION," and one or more logo plaques.

(14) "Logo plaque" means a separately attached plaque mounted on the Logo sign showing the brand, symbol, trademark, name, or combination of these, for a business available on a crossroad at or near an interchange or an intersection. The wording and design of a logo plaque must be approved by the Council. For a logo plaque that displays the business name only, the graphic design of that plaque is considered equivalent to a symbol and must be replicated proportionately on all Supplemental Signs.

(15) "Main Traveled Way" means through traffic lanes of said system exclusive of frontage roads, auxiliary lanes and ramps.

(16) "Meal" means a combination of food items that are prepared and cooked on the licensed premises that includes one principal item and one side dish. Examples of principal items are fish, steak, chicken, pasta, and sandwich. Examples of side dishes are potatoes, potato salad, rice, french fries, beans and vegetables.

(17) "ODOT" and "the Department" means the Oregon Department of Transportation.

(18) "Owner" means a holder of fee title.

(19) "Responsible Operator" means a person or entity other than an owner who operates a business and who has authority to enter into an agreement relative to matters covered by these regulations.

(20) "RV" means recreational vehicle.

(21) "Service Legend" or "Type of Service" means the words displayed in reflective white on the Logo sign or the Supplemental sign that are limited to "GAS," "FOOD," "LODGING," "CAMPING," "OR "ATTRACTION."

(22) "Sidewalk" means a walkway with a hard, smooth surface, separated from the roadway with a curb, built for use by pedestrians, including persons in wheelchairs.

(23) "Supplemental Sign" means a sign located on, opposite, or at the terminus of an exit ramp of the interstate system or expressway or at the intersection of a conventional highway. A Supplemental Sign includes the service legends "GAS," "FOOD," "LODGING," "CAMPING," "ATTRACTION," directional information and one or more Supplemental logo plaques.

(24) "Supplemental logo plaque" means a separately attached plaque mounted on the Supplemental Sign showing the brand, symbol, trademark, name, or combination of these, for a business available on a crossroad at or near an interchange or an intersection. The wording and design of a supplemental logo plaque must be identical to the Logo plaque on the Main Traveled Way and must be replicated proportionally on all Supplemental Signs.

(25) "Supplemental Message" means an approved word legend within the logo plaque displayed horizontally along the bottom.

(26) "Traffic Control Devices" means any sign, signal, marking or device placed, operated or erected by authority under ORS 810.210, for the purpose of guiding, directing, warning or regulating traffic.

(27) "Trailblazer" means a small sign with a type of service, or the name, direction and distance to the business. Trailblazers are used when Supplemental Logo Signs cannot be used due to sign space limitations.

(28) "Urban" means an area that can include but is not limited to, business districts, sections of highway with contiguous sidewalks and/or traffic control device congestion where spacing does not meet approval of the engineer.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 3-1995, f. & cert. ef. 11-8-95; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09; TIC 2-2010, f. & cert. ef. 6-11-10

733-030-0021

Criteria for Specific Information Permitted

(1) Each business identified on a Logo Sign shall have given written assurance to the Council of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, age, sex, or national origin, meet all applicable Federal and State Americans for Disabilities Act (ADA) guidelines, and shall not be in breach of that assurance. Each business will offer services to all citizens.

(2)(a) If the business is a GAS, FOOD, LODGING, or ATTRACTION facility, it must be located within one mile of the interchange or intersection measured by vehicle distance from the center point of the terminus of the exit ramp on an interchange and from the center of an intersection to the nearest point of the intersection of the driveway of the business and a public highway. However, any business set out in this section location within nine miles of an interchange or intersection, but more than one mile from the interchange or intersection may apply to the Council for a waiver under the provisions of rule 733-030-0060;

ADMINISTRATIVE RULES

(b) Facilities requesting signing from an Interstate or Expressway interchange and located within a city with a population of 15,000 or more and where there are sufficient numbers of businesses within one mile of that interchange or intersection, are not eligible for a mileage waiver and shall be located within one mile of the interchange or intersection. If there is not a sufficient amount of businesses available at any given interchange or intersection in a city with a population of 15,000 or more, then any business set out in this section located within two miles of an interchange or intersection may apply to the Council for a waiver under the provisions of rule 733-030-0060. A maximum of two Supplemental Logo Signs per facility shall be allowed within urban areas. A facility has the right to appeal the conditions set forth in this paragraph through a waiver to the Council. A seven-year review will be conducted for those Logo or Supplemental Signs installed following the rule adoption.

(3) If the business is a CAMPING facility, it must be located within three miles of the interchange measured by vehicle distance from the center point of the terminus of the exit ramp of an interchange or the center of an intersection at an intersection to the nearest point of the intersection of the driveway of the business and a public highway. However, any business set out in this paragraph located within 15 miles of an interchange or intersection, but more than three miles from an interchange or intersection, may apply to the Council for a waiver under the provisions of rule 733-030-0060.

(4) The types of services permitted shall be limited to "GAS", "FOOD", "LODGING", "CAMPING" or "ATTRACTION". To qualify for displaying a logo plaque on a Logo or Supplemental Sign all businesses must display permanent on-premise signing which is visible from the roadway and sufficient to direct motorists to the appropriate entrance from the roadway. The on-premise signing shall display all or part of the Registered Business Name as stated on the logo plaques. Facilities that operate under and/or provide more than one type of service using more than one brand name shall be limited to displaying not more than two brand names per logo plaque:

(a) "GAS" shall include:

(A) Vehicle services, including gas and/or alternative fuels, oil, and water;

(B) Restroom facilities and drinking water;

(C) Continuous operation at least 16 hours per day, 7 days a week for businesses located on the interstate system and expressways and continuous operation at least 12 hours per day, 7 days a week on Conventional Highways; and

(D) Telephone service;

(E) FOOD businesses located within GAS facilities, that meet all requirements under 733-030-0021(4)(b) except for (E), may display their distinctive brand symbol on a dual logo plaque for the GAS facility in which they are located. Each GAS logo plaque shall be limited to the addition of only one FOOD business. Brand names that are reflected as part of the GAS facility's registered business name may be included on the logo plaque.

(b) "FOOD" shall include:

(A) Appropriate business & health department licensing for the providing of meals; facilities are required to maintain a valid health permit or license for the type of service operated;

(B) Continuous operation to serve at least two meals per day, at least 6 days per week;

(C) Telephone service and restroom facilities;

(D) The primary business operation is the providing of meals; and

(E) Indoor Seating for at least 20 people or 10 drive-in service stalls for car-hop service. FOOD facilities that have two distinct brand name restaurants in one building may display the brand symbols of both FOOD businesses on one FOOD dual logo plaque. FOOD facilities located within GAS facilities, which do not meet FOOD seating requirements, may be displayed on a GAS dual logo plaque for that facility. See 733-030-0021(4)(a)(E).

(c) "LODGING" shall include:

(A) Licensing where required;

(B) Adequate sleeping accommodations;

(C) Telephone services and restroom facilities.

(D) Bed & Breakfast facilities provided they maintain valid food and lodging health department licenses.

(d) "CAMPING" shall include:

(A) Licensing where required;

(B) Adequate parking accommodations;

(C) Modern sanitary facilities and drinking water.

(e) "ATTRACTION" shall include:

(A) Adequate parking;

(B) Restrooms provided;

(C) Drinking water required;

(D) Facility reasonably close to a public telephone;

(E) Open at least six hours a day; six days a week of continuous operation during its normal business season.

(F) Licensing where required;

(G) Attendant/Docent/Guide on duty during all operating hours;

(H) ATTRACTIONS involving manufacturing or production, such as industrial facilities or wineries must meet all conditions under (e)(A)-(G) and must provide the opportunity for visitors to observe the production or manufacturing process or facilities;

(I) Historical facilities and travel plazas must meet all conditions under (e)(A)-(G) and must provide:

(i) Documentation showing that the facility meets the definition of the authorizing state agency that develops criteria for these types of services;

(ii) Historical tour routes may qualify with a waiver given by the Council if such a tour route is sufficiently signed to guide the motorist safely and conveniently through the tour;

(iii) Historical sites must be listed on the National Register of Historic Places.

(J) Like businesses creating a Cultural District must individually meet all conditions under (e)(A)-(G).

(5) Historical museum offerings must:

(a) Exist on a permanent basis for essentially aesthetic or educational purposes;

(b) Offerings must be the primary source of business of the requesting facility;

(c) Museum offerings must be exhibited to the public on a regular basis through buildings owned and operated by the museum.

(6) The number of Logo Signs permitted shall be limited to one for each type of service along an approach to an interchange or intersection. The number of logo plaques permitted on a Logo Sign is limited to six.

(7) A business, which fails to meet the requirements of section (4) of this rule, may request a waiver from the Council under the provision of 733-030-0060.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-1984, f. & ef. 1-13-84; TIC 3-1985, f. & ef. 6-4-85; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 3-1995, f. & cert. ef. 11-8-95; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 2-2000, f. 10-13-00, cert. ef. 11-1-00; TIC 1-2004(Temp), f. & cert. ef. 7-20-04 thru 1-15-05; TIC 2-2004, f. & cert. ef. 11-12-04; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09; TIC 3-2009, f. & cert. ef. 9-29-09; TIC 2-2010, f. & cert. ef. 6-11-10

733-030-0036

Special Requirements — Interstate Highways and Expressways

(1) Location:

(a) Except as provided in rule 733-030-0016 and in paragraph (2)(b) and (c) of this rule a separate Logo Sign shall be provided for each type of service for which logo plaques are displayed;

(b) The proposed location must be reviewed and approved by the Engineer to determine that no conflicts resulting in unsafe driving conditions will exist with other official traffic control devices;

(c) Logo Signs shall not be erected at an interchange where the motorist cannot conveniently re-enter the highway and continue in the same direction of travel, or at interchanges between an interstate highway and a fully access controlled freeway, or an interchange between interstate highways;

(d) At single-exit interchanges where businesses are not visible from a ramp terminal, Supplemental Signs shall be installed along the ramp, at the ramp terminal, or along the crossroad. These Supplemental Signs shall be similar to the corresponding Logo Signs but reduced in size. The Supplemental Signs shall include service legends, distances to the business and directional arrows. Supplemental Signs may also be used on ramps and crossroads at double exit interchanges. There shall be no more than 24 supplemental logo plaques total being displayed along any one-exit ramp. Maximum Supplemental Sign size shall be eight logo spaces. On channelized off-ramps, Supplemental Signs should be placed in advance of the channelized markings. Separate Supplemental Signs, for the same type of service, may be installed on opposite sides of the ramp to direct motorists into the proper lane for those facilities displayed on the Supplemental Sign. [Exhibit not included. See ED. NOTE.]

(2) Composition:

(a) Logo Signs at single exit interchanges. The type of service followed by the exit number shall be displayed on one line above the logo plaques. This does not apply to Logo Signs already erected at the time these

ADMINISTRATIVE RULES

rules are adopted. At unnumbered interchanges the directional legend NEXT RIGHT (LEFT) shall be used. "GAS;" "FOOD;" "LODGING;" "CAMPING;" and "ATTRACTION Logo Signs shall be limited to six logo plaques each;

(b) At double exit interchanges, Logo Signs should consist of two sections, one for each exit. The top section shall display the logo plaques for the first exit and the lower section shall display the logo plaques for the second exit. The type of service and the exit number shall be displayed in a line above the logo plaques in each section. The exit number requirements of this section do not apply to Logo Signs panels erected at the time these rules are adopted. At unnumbered interchanges, the legends NEXT RIGHT (LEFT) and SECOND RIGHT (LEFT) shall be used. Where a type of service is signed for at only one exit, one section of the Logo Sign may be omitted or a single exit interchange Logo Sign may be used. The number of logo plaques on the Logo Sign shall be limited to six. Where a type of service is displayed on two Logo Signs, one of the Signs should display the logo plaques to the businesses that are accessible from one of the two exits and the other Sign should display the logo plaques for the businesses that are accessible from the other exit.

(c) Remote rural interchanges. In remote rural areas, where not more than two qualified businesses are available for each of two or more types of services, logo plaques for two types of service shall be displayed in combination on a Logo Sign. Each type of service shall be displayed in combination on a Logo Sign. The type of service shall be displayed above its respective logo plaque, and the exit number shall be centered above the types of services. The exit number requirements of this paragraph do not apply to Logo Signs erected at the time these rules are adopted. At unnumbered interchanges, the legend NEXT RIGHT (LEFT) shall be substituted for the exit number.

(3) Size:

(a) Logo plaques: each logo plaque shall not exceed 60 inches in width and 36 inches in height, including border;

(b) Legends. All letters used in the type of service, EXIT and the directional legend shall be 10-inch capital letters. Numbers shall be 10 inches in height.

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

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09; TIC 2-2010, f. & cert. ef. 6-11-10

733-030-0055

State Sign Policy

(1) Logo Signs are primarily intended for installation at rural interchanges where motorist services are available. Logo Signs may be considered within other areas if the Council determines that the area does not appear to be urban in character.

(2) Logo Signs erected at intersections on an expressway shall be of the same size as Logo Signs at interchanges on an expressway. The logo plaques shall conform to the size specifications in rule 733-030-0036(3)(a). The service legends shall conform to the requirements of rule 733-030-0036(3)(b).

(3) If a business is not visible from any part of the exit ramp on the interstate system or expressway or from an intersection or crossroad on the Conventional Highway, a Supplemental Sign bearing the logo plaque of that business, together with a service legend, a directional arrow, and mileage where needed, shall be placed on the exit ramp or at its terminus or at the intersection or crossroad. The Supplemental Sign shall be installed where it will best serve the motoring public and be commensurate with traffic safety as determined by the Engineer. If a business is visible from any part of the exit ramp or the terminus of the exit ramp on the Interstate system or Expressway or from an intersection or crossroad on the Conventional Highway, it is not entitled to a Supplemental Sign unless determined by the Council and the Engineer to be necessary in order to direct the traveling public to the business in order to avoid a traffic hazard or misdirection of the traveling public because of the complexity of the particular interchange or intersection.

(4) Supplemental Signs shall bear the legend "GAS;" "FOOD;" "LODGING;" "CAMPING" or "ATTRACTION" and one or more horizontal rows of logo plaques with a directional arrow and mileage as appropriate. Standards for Supplemental Signs shall be adopted by the Engineer.

(5) A trailblazer may be installed upon the recommendations of the Council and approval of the Engineer at intersections of Conventional Highways, or intersections of Conventional Highways and county roads or

city streets if it can be placed on Conventional Highway right of way. Trailblazers may also be installed on county roads and city streets with the approval of authorities for the local jurisdiction. The text for trailblazers shall have a minimum letter height of 4 inches. Standards for trailblazers shall be adopted by the Engineer.

(6) Subject to the approval of the Council, and if spaces are available, the logo plaque of a business may be placed on a Supplemental Sign, although its logo plaque cannot be placed on a Logo Sign because permits have already been issued for the maximum number of logo plaques for the particular Logo Sign.

(7) If the GAS, FOOD or LODGING facilities existing within one mile of the interchange, up to a maximum of six for gas and four for FOOD and LODGING facilities, have not applied for a permit for placement of logo plaques on a Logo Sign at an interchange, then the otherwise qualified businesses that are located within three miles from the interchange, may apply for a permit and obtain a waiver as provided in rule 733-030-0060. If CAMPING facilities existing with three miles of the interchange, up to a maximum of four, have not applied for permit for placement of logo plaques on the Logo Sign at an interchange, then the otherwise qualified CAMPING facility located close to, but within 15 miles from the interchange, may apply for a permit and obtain a waiver as provided in rule 733-030-0060.

(8)(a) If applications are received for any one interchange or intersection for more than the maximum allowable logo plaques to be placed on any one Logo Sign, the order of priority for the wait list shall be based on the date of the properly completed application received by the Council;

(b) A business may apply for Logo Signs on more than one Conventional Highway adjacent to that business; and

(c) Any business shall have one logo plaque on one Logo Sign and/or Supplemental Sign in each direction of travel for each type of service on any Conventional Highway.

(9) The owner or responsible operator of a business must file an application for placement of its logo plaque on a Logo Sign and tender the permit fee for the first year. The business must also agree to furnish the necessary logo plaques to be affixed to the Logo Signs or Supplemental Signs.

(10) Eligibility of businesses for continued placement of their logo plaques on a Logo Sign may be reviewed by the Council at any time to assess whether the business and/or the Logo Sign location meets present guidelines. If the review finds that the business and/or the Logo Sign location does not meet all applicable rules and laws, the Logo Sign and logo plaque may be removed. If payment is not received for a renewal permit on or before the payment due date stated in the Council's invoice, the logo plaque may be removed. The space made available after the removal of a logo plaque due to nonpayment of fees shall be offered to the next qualified business on a wait list for that Logo Sign. Should space continue to be available and the removed business desire to have its logo plaque reinstalled, the Council may require a new review to be performed prior to approving the reinstallation. If approved for reinstallation, the business must pay the permit fees due and reinstallation fee prior to reinstallation of their logo plaques.

(11) Notwithstanding section (10) of this rule, the granting of a new or renewed permit shall entitle the business the continuance of having its logo plaque installed on the Logo Sign or Supplemental Sign for one year from the date of installation or renewal.

(12) Notwithstanding section (10) of this rule, the logo plaque of a business shall be removed from a Logo Sign or Supplemental Sign and may be replaced by another qualified business for failure to comply with subsections (a)-(d) of this section as hereafter set out:

(a) If the business fails on a sufficient number of occasions or over a sufficient period of time to provide all of the services required by rule 733-030-0021(4) so as to justify a finding by the Council that the business is not in substantial compliance with these regulations;

(b) If the business fails to open for business for more than seven consecutive days or for more than 10 days cumulatively, during any one-year period, unless the Council finds that closure for such period was beyond the control of the owner or responsible operator, or that the closure was justified by extenuating circumstances;

(c) If it fails to comply with OAR 733-030-0021(1) except in isolated instances without the knowledge of the owner or responsible operator, or on any occasion unless steps are promptly taken to insure to the fullest extent reasonably possible that such instances will not recur; and

(d) The logo plaque is not kept in a proper state of repair; is non-reflective, peeling, fading, chipping or otherwise unattractive; or does not meet requirements for size or supplemental messages.

ADMINISTRATIVE RULES

(13) If due to fire, accident or similar causes, a business becomes inoperable for extended period of time, exceeding seven days, but not more than 90 days, its logo plaques shall be temporarily removed from all Logo Signs or Supplemental Logo Signs, but the business shall not lose its priority, nor be required to reapply prior to the formal time of a renewal application. Further extension may be granted on good cause shown. However, failure of the owner or responsible operator to proceed with necessary repairs as rapidly as possible shall cause loss of the right to continued placement of the logo plaque and require a new application.

(14) Notwithstanding the fact that a business meets all of the other eligibility qualifications of these regulations, an application may be denied if it is determined by the Council and after investigation by the Engineer that adequate direction to the business cannot be given by a reasonable number of allowable Supplemental Signs or trailblazers.

(15) If a Logo Sign or Supplemental Sign is removed due to reconstruction at any given interchange, and only one legend may be retained, the Council shall survey the immediate area of that interchange to assess availability of specific types of services. The types of services not available within the immediate area, but located at the interchange to be removed, will have legends retained to meet business needs. If all legends are fairly represented in the immediate area, legends at that interchange will be retained by giving priority to the date of application of the first business of all legends installed. In consideration for the Council's grant of a new permit or renewal permit, the business waives any claim it may have against the State of Oregon, the Council, their officers, employees or agents that may arise from the removal, relocation, displacement, destruction of or damage to the Logo Sign, Supplemental Sign or logo plaque due to any cause, including but not limited to highway construction work, highway re-design or reconfiguration, vehicular collision, accident, vandalism, forces of nature or other acts of God. It is provided, however, that if a Logo Sign, Supplemental Sign or logo plaque affected by any of the foregoing events is not replaced, repaired or relocated to a reasonably comparable location (as determined by the Council) within ten working days of the business's delivery to the Council of notice that the Logo Sign, Supplemental Sign or logo plaque has been so affected, the permit fee for any months or major portion (16 days or more) of a month after the date of the Council's receipt of the business's notice and during which the Logo Sign or Supplemental Sign does not display the logo plaque to the traveling public shall be refunded. If the Logo Sign, Supplemental Sign or logo plaque cannot be re-erected, replaced, reasonably relocated (as determined by the Council) or repaired within ten working days and upon receipt of the replacement logo plaque, then the permit fee for any months or major portion (16 days or more) of a month remaining from the date of the Council's receipt of the business's notice until the anniversary of the date of placement of the logo plaque shall be refunded. The business agrees that this claim for a refund of the permit fee shall be its sole and exclusive remedy against the State of Oregon, the Council, and their officers, employees or agents for any removal, relocation, displacement, destruction of or damage to a Logo Sign, Supplemental Sign or logo plaque. No claim for a refund of the permit fee shall be valid, and the Council will pay no refund, unless the business has provided the Council notice required by this subsection. No claim for a refund of the permit fee shall be valid, and the Council will pay no refund, in any case, in which the removal, relocation, displacement, destruction of or damage to the Logo Sign, Supplemental Sign or logo plaque arises from the acts of the business, its officers, employees or agents. As provided in subsection (11) of this rule, no new or renewed permit shall entitle the business to any rights or expectations in the continued use of a Logo Sign or Supplemental Sign that extend beyond one year from the date of placement of the logo plaque or the date of renewal.

(16) Any business that changes ownership and the registered business name on a logo plaque with a waiting list, forfeits the right to the logo plaque space and the logo plaques are removed. The next business on the wait list shall be notified of available logo plaque space.

(17) Seasonal facilities must notify the Council of their seasonal dates at the time of application and of any changes in seasonal dates during the duration of the permit period. Logo plaques for seasonal facilities shall be removed and reinstalled during the period of seasonal closure.

(18) If a business qualifies for a "GAS," "FOOD," "LODGING," or "CAMPING" Logo sign, then it does not qualify for an "ATTRACTION" Logo sign. If a business qualifies as an ODOT Cultural and Historical Feature and receives Cultural and Historical signs from ODOT, it will not qualify for "ATTRACTION" Logo signs. If a visitor information facility does not qualify as a TIC Travel Plaza, it does not qualify for "ATTRACTION" Logo signs.

[Publications: Publications & forms referenced are available from the agency.]
Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 3-1983(Temp), f. & ef. 7-21-83; TIC 5-1983, f. & ef. 8-26-83; TIC 2-1987(Temp), f. & cert. ef. 8-4-87; TIC 3-1988, f. & cert. ef. 12-23-88; TIC 1-1989, f. & cert. ef. 6-9-89; TIC 2-1989, f. & cert. ef. 10-27-89; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 1-1995, f. & cert. ef. 5-17-95; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 3-2000, f. 12-14-00, cert. ef. 12-15-00; TIC 1-2002, f. & cert. ef. 4-19-02; TIC 2-2002, f. & cert. ef. 10-30-02; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09; TIC 2-2010, f. & cert. ef. 6-11-10

733-030-0080

Requirements for Supplemental Messages on Logo Plaques

(1) All supplemental messages must be displayed within the logo plaque in one horizontal line along the bottom of the plaque. The supplemental message should be displayed in a color to contrast effectively with the background of the logo plaque or be separated by a divider bar.

(2) On Interstate Highways and Expressways the supplemental message must have a minimum letter height of six inches and be proportional in size on all follow up Supplemental Signs. On Conventional Highways the supplemental message must have a minimum letter height of four inches.

(3) GAS facilities that are exclusively card-lock stations shall be required to display the supplemental message "CARD LOCK ONLY" on Interstate and Expressway logo plaques and "CARD LOCK" on Conventional Highway logo plaques.

(4) Seasonal facilities or facilities that only qualify with an approved waiver shall be required to display a concise description of the waived issue. Examples of acceptable messages include, but are not limited to, "OPEN MAY-SEPT", "WEEKENDS ONLY", "OPEN THURS-SUN".

(5) Supplemental messages with the words "DIESEL", "PROPANE", "24 HOUR", "RV DUMP", "RV PARKING", "RV ACCESS", "ALT FUELS", "BIODIESEL", or "WiFi", or a combination of two messages may be used by any business that offers those products or services. If a business designated as an INTERSTATE OASIS is displayed on a Logo Sign, the word "OASIS" may be used as a supplemental message on its logo plaque.

(6) All supplemental messages and their design on logo plaques must be approved by the Council.

(7) A seven-year review will be conducted for those existing logo plaques using separate logo riders following the adoption of this rule. Logo plaques using separate logo riders must comply with supplemental message rules when those plaques are replaced with new ones. All logo plaques must comply with supplemental message rules in ten years following adoption of this rule.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 3-1982, f. & ef. 6-1-82; TIC 4-1985, f. & ef. 6-4-85; TIC 5-1985, f. & ef. 12-13-85; TIC 1-1987(Temp), f. & ef. 3-6-87; TIC 5-1988, f. & cert. ef. 12-23-88; TIC 3-1989, f. & cert. ef. 10-27-89; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 2-1998, f. & cert. ef. 11-13-98; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2002, f. & cert. ef. 4-19-02; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2009, f. & cert. ef. 4-3-09; TIC 2-2010, f. & cert. ef. 6-11-10

Water Resources Department Chapter 690

Rule Caption: Rules in conjunction with the Deschutes Basin Groundwater Mitigation Rules (Division 505) and Mitigation Bank and Credit Rules (Division 521).

Adm. Order No.: WRD 1-2010

Filed with Sec. of State: 6-9-2010

Certified to be Effective: 6-9-10

Notice Publication Date: 1-1-2010

Rules Adopted: 690-522-0010, 690-522-0020, 690-522-0030, 690-522-0040, 690-522-0050

Subject: The rules were drafted on the recommendations of a Work Group convened by the Oregon Water Resources Department pursuant to House Bill 3494 (Chapter 669, 2005 Oregon Laws). The rules operate in conjunction with the Deschutes Basin Ground Water Mitigation Rules (OAR chapter 690, division 505) and the Deschutes Basin Mitigation Bank and Mitigation Credit Rules (OAR chapter 690, division 521). In accordance with OAR 690-505-0500, the amount of new groundwater use that can be approved in the Deschutes Ground Water Study Area under the mitigation program is limited to a cumulative total of 200 cubic feet per second. The rules adjust how the Department counts appropriations under existing limitation or "cap". The rules clarify how municipal and quasi-municipal

ADMINISTRATIVE RULES

ipal entities grow into permits issued under the mitigation program using a combination of offsets of existing groundwater rights and approved mitigation. In addition, the rules provide greater flexibility in re-assigning permanent mitigation that is not used by an applicant, permit, or certificate holder.

Rules Coordinator: Ruben Ochoa—(503) 986-0874

690-522-0010

Introduction

The following rules are based on recommendations of a Work Group convened by the Water Resources Department pursuant to House Bill 3494 (2005 Oregon Laws Ch. 669) and are intended to operate in conjunction with the Deschutes Basin Ground Water Mitigation Rules in OAR 690 divisions 505 and the Deschutes Basin Mitigation Bank and Mitigation Credit Rules in OAR 690 division 521.

Stat. Auth.: ORS 536.025, 536.027 & 537.746
Stats. Implemented: ORS 669 & OL 2005
Hist.: WRD 1-2010, f. & cert. ef. 6-9-10

690-522-0020

Applicability

The following rules apply to final orders, permits, and certificates issued pursuant to OAR 690 division 505 after September 27, 2002.

Stat. Auth.: ORS 536.025, 536.027 & 537.746
Stats. Implemented: ORS 669 & OL 2005
Hist.: WRD 1-2010, f. & cert. ef. 6-9-10

690-522-0030

Ground Water Appropriations within the Deschutes Ground Water Study Area

The cumulative rate specified under 690-505-0500(1) shall not include:

- (1) Rates associated with offsets pursuant to 690-505-0610(8);
- (2) Rates associated with applications withdrawn after final order issuance pursuant to 690-505-0620;
- (3) Portion of rates approved by a final order issued under 690-505-0620 but not included in a water right permit issued following satisfaction of the mitigation requirement;
- (4) Rates associated with expired final orders pursuant to 690-505-0620(2);
- (5) Portions of rates associated with permits issued pursuant to 690-505-0620 and subsequently cancelled pursuant to ORS 537.410;
- (6) Rates associated with certificates issued pursuant to 690-505-0620 and subsequently canceled pursuant to ORS 540.621 or 540.610; and
- (7) Rates associated with the portion of use originally authorized under a permit issued pursuant to 690-505-0620 and not included in a subsequent certificate.

Stat. Auth.: ORS 536.025, 536.027 & 537.746
Stats. Implemented: ORS 669 & OL 2005
Hist.: WRD 1-2010, f. & cert. ef. 6-9-10

690-522-0040

Incremental Development in the Deschutes Ground Water Study Area

(1) An incremental development plan under 690-505-0625 for municipal and quasi-municipal ground water permit applicants and permit holders may include offset pursuant to 690-505-0610(8).

(2) When providing incremental mitigation pursuant to OAR 690-505-0625, a municipal or quasi-municipal ground water permit holder may provide mitigation, offset, or a combination of both during each approved increment to coincide with each stage of development of the permit on the condition that the permit holder does not increase the rate or amount of water diverted under the permit before submitting the corresponding required mitigation or offset and documentary evidence.

(3) The report required under OAR 690-505-0625(1)(b) shall describe the annual volume of water used and the source of offset and mitigation used for that period.

Stat. Auth.: ORS 536.025, 536.027 & 537.746
Stats. Implemented: ORS 669 & OL 2005
Hist.: WRD 1-2010, f. & cert. ef. 6-9-10

690-522-0050

Reassignment of Permanent Mitigation Credits

(1) Notwithstanding OAR 690-521-0400(2), part or all of permanent mitigation credits that were used to satisfy a mitigation obligation may be reassigned if:

(a) The ground water permit application to which the credits were assigned is denied or withdrawn;

(b) The ground water permit application to which the credits were assigned is amended and the mitigation obligation is reduced;

(c) The final order issued approving the ground water permit application to which the credits were assigned expires pursuant to OAR 690-505-0620;

(d) The ground water permit to which the credits were assigned is subsequently cancelled pursuant to ORS 537.410;

(e) The subsequent ground water certificate is issued for less ground water use than originally allowed under the permit and there is a corresponding reduction in mitigation obligation;

(f) The subsequent ground water certificate to which the credits were assigned is cancelled, or partially cancelled resulting in a reduced mitigation obligation; or

(g) The permit holder holds more than one municipal or quasi-municipal ground water permit issued under OAR 690-505-0620 and requests to re-assign credits from one such existing permit to another existing permit, provided the reassignment is consistent with the requirements of OAR 690-505-0610(4).

(2) Mitigation credits available pursuant to this rule may be assigned by applicant or permit or certificate holder to any person or mitigation bank or assigned to satisfy a mitigation obligation.

Stat. Auth.: ORS 536.025, 536.027 & 537.746
Stats. Implemented: ORS 669 & OL 2005
Hist.: WRD 1-2010, f. & cert. ef. 6-9-10

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
101-010-0005	6-1-2010	Amend(T)	7-1-2010	111-040-0040(T)	12-17-2009	Repeal	2-1-2010
101-015-0011	6-1-2010	Amend(T)	7-1-2010	111-040-0050	12-17-2009	Amend	2-1-2010
101-015-0012	6-1-2010	Adopt(T)	7-1-2010	111-040-0050(T)	12-17-2009	Repeal	2-1-2010
101-015-0012	6-3-2010	Adopt(T)	7-1-2010	111-050-0010	2-1-2010	Amend	3-1-2010
101-015-0012(T)	6-3-2010	Suspend	7-1-2010	111-050-0010(T)	2-1-2010	Repeal	3-1-2010
104-030-0000	1-21-2010	Adopt	3-1-2010	111-050-0015	2-1-2010	Amend	3-1-2010
104-030-0010	1-21-2010	Adopt	3-1-2010	111-050-0015(T)	2-1-2010	Repeal	3-1-2010
104-030-0020	1-21-2010	Adopt	3-1-2010	111-050-0016	2-1-2010	Adopt	3-1-2010
104-030-0030	1-21-2010	Adopt	3-1-2010	111-050-0020	2-1-2010	Amend	3-1-2010
104-030-0040	1-21-2010	Adopt	3-1-2010	111-050-0020(T)	2-1-2010	Repeal	3-1-2010
104-030-0050	1-21-2010	Adopt	3-1-2010	111-050-0025	2-1-2010	Amend	3-1-2010
104-030-0060	1-21-2010	Adopt	3-1-2010	111-050-0025(T)	2-1-2010	Repeal	3-1-2010
104-030-0070	1-21-2010	Adopt	3-1-2010	111-050-0080	2-1-2010	Amend	3-1-2010
104-030-0080	1-21-2010	Adopt	3-1-2010	111-050-0080(T)	2-1-2010	Repeal	3-1-2010
104-080-0000	2-5-2010	Amend	3-1-2010	111-060-0001	12-17-2009	Amend	2-1-2010
104-080-0010	2-5-2010	Amend	3-1-2010	111-060-0001(T)	12-17-2009	Repeal	2-1-2010
104-080-0020	2-5-2010	Amend	3-1-2010	111-070-0001	3-15-2010	Adopt	4-1-2010
104-080-0021	2-5-2010	Amend	3-1-2010	111-070-0005	3-15-2010	Adopt	4-1-2010
104-080-0022	2-5-2010	Amend	3-1-2010	111-070-0015	3-15-2010	Adopt	4-1-2010
104-080-0024	2-5-2010	Amend	3-1-2010	111-070-0020	3-15-2010	Adopt	4-1-2010
104-080-0025	2-5-2010	Amend	3-1-2010	111-070-0030	3-15-2010	Adopt	4-1-2010
104-080-0026	2-5-2010	Amend	3-1-2010	111-070-0040	3-15-2010	Adopt	4-1-2010
104-080-0027	2-5-2010	Amend	3-1-2010	111-070-0050	3-15-2010	Adopt	4-1-2010
104-080-0030	2-5-2010	Amend	3-1-2010	111-070-0060	3-15-2010	Adopt	4-1-2010
104-080-0040	2-5-2010	Amend	3-1-2010	111-070-0070	3-15-2010	Adopt	4-1-2010
104-080-0050	2-5-2010	Amend	3-1-2010	111-080-0030	4-26-2010	Amend(T)	6-1-2010
104-080-0060	2-5-2010	Amend	3-1-2010	115-025-0060	4-13-2010	Amend(T)	5-1-2010
104-080-0070	2-5-2010	Amend	3-1-2010	123-008-0005	12-1-2009	Amend	1-1-2010
105-040-0010	6-1-2010	Amend(T)	7-1-2010	123-008-0010	12-1-2009	Amend	1-1-2010
105-040-0015	1-1-2010	Amend	2-1-2010	123-008-0015	12-1-2009	Amend	1-1-2010
105-040-0020	6-1-2010	Amend(T)	7-1-2010	123-008-0020	12-1-2009	Amend	1-1-2010
105-040-0030	6-1-2010	Amend(T)	7-1-2010	123-008-0025	12-1-2009	Amend	1-1-2010
105-040-0060	6-1-2010	Amend(T)	7-1-2010	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	123-017-0008	5-28-2010	Amend(T)	7-1-2010
111-030-0030(T)	12-17-2009	Repeal	2-1-2010	123-017-0008(T)	5-28-2010	Suspend	7-1-2010
111-040-0001	12-17-2009	Amend	2-1-2010	123-017-0010	12-1-2009	Amend	1-1-2010
111-040-0001(T)	12-17-2009	Repeal	2-1-2010	123-017-0010	4-12-2010	Amend(T)	5-1-2010
111-040-0025	12-17-2009	Amend	2-1-2010	123-017-0015	12-1-2009	Amend	1-1-2010
111-040-0025(T)	12-17-2009	Repeal	2-1-2010	123-017-0015	4-12-2010	Amend(T)	5-1-2010
111-040-0030	12-17-2009	Amend	2-1-2010	123-017-0015	5-28-2010	Amend(T)	7-1-2010
111-040-0030(T)	12-17-2009	Repeal	2-1-2010	123-017-0015(T)	5-28-2010	Suspend	7-1-2010
111-040-0040	12-17-2009	Amend	2-1-2010	123-017-0020	5-28-2010	Amend(T)	7-1-2010
111-040-0040	3-3-2010	Amend(T)	4-1-2010	123-017-0025	12-1-2009	Amend	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-017-0025	4-12-2010	Amend(T)	5-1-2010	123-023-1950	5-1-2010	Am. & Ren.	6-1-2010
123-017-0025	5-28-2010	Amend(T)	7-1-2010	123-023-2000	5-1-2010	Am. & Ren.	6-1-2010
123-017-0025(T)	5-28-2010	Suspend	7-1-2010	123-023-3000	5-1-2010	Am. & Ren.	6-1-2010
123-017-0030	12-1-2009	Amend	1-1-2010	123-023-3100	5-1-2010	Am. & Ren.	6-1-2010
123-017-0030	4-12-2010	Amend(T)	5-1-2010	123-023-3200	5-1-2010	Am. & Ren.	6-1-2010
123-017-0030	5-28-2010	Amend(T)	7-1-2010	123-023-3300	5-1-2010	Renumber	6-1-2010
123-017-0030(T)	5-28-2010	Suspend	7-1-2010	123-023-3400	5-1-2010	Am. & Ren.	6-1-2010
123-017-0035	12-1-2009	Amend	1-1-2010	123-023-4000	5-1-2010	Am. & Ren.	6-1-2010
123-017-0035	4-12-2010	Amend(T)	5-1-2010	123-023-4100	5-1-2010	Am. & Ren.	6-1-2010
123-017-0035	5-28-2010	Amend(T)	7-1-2010	123-024-0011	12-1-2009	Amend	1-1-2010
123-017-0035(T)	5-28-2010	Suspend	7-1-2010	123-024-0031	12-1-2009	Amend	1-1-2010
123-017-0037	12-1-2009	Amend	1-1-2010	123-024-0046	12-1-2009	Adopt	1-1-2010
123-017-0040	12-1-2009	Repeal	1-1-2010	123-030-0050	5-1-2010	Amend	6-1-2010
123-017-0055	12-1-2009	Amend	1-1-2010	123-043-0000	12-1-2009	Amend	1-1-2010
123-017-0055	5-28-2010	Amend(T)	7-1-2010	123-043-0010	12-1-2009	Amend	1-1-2010
123-017-0060	5-28-2010	Adopt(T)	7-1-2010	123-043-0010	1-14-2010	Amend(T)	2-1-2010
123-017-0070	5-28-2010	Adopt(T)	7-1-2010	123-043-0015	12-1-2009	Amend	1-1-2010
123-017-0080	5-28-2010	Adopt(T)	7-1-2010	123-043-0015	1-14-2010	Amend(T)	2-1-2010
123-018-0010	5-1-2010	Amend	6-1-2010	123-043-0025	12-1-2009	Amend	1-1-2010
123-018-0020	5-1-2010	Amend	6-1-2010	123-043-0025	1-14-2010	Amend(T)	2-1-2010
123-018-0080	5-1-2010	Amend	6-1-2010	123-043-0035	12-1-2009	Amend	1-1-2010
123-018-0085	5-1-2010	Amend	6-1-2010	123-043-0035	1-14-2010	Amend(T)	2-1-2010
123-018-0100	5-1-2010	Amend	6-1-2010	123-043-0041	1-14-2010	Adopt(T)	2-1-2010
123-018-0120	5-1-2010	Amend	6-1-2010	123-043-0045	12-1-2009	Repeal	1-1-2010
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	123-065-0000	6-14-2010	Repeal	7-1-2010
123-023-1100	5-1-2010	Am. & Ren.	6-1-2010	123-065-0005	6-14-2010	Repeal	7-1-2010
123-023-1200	5-1-2010	Renumber	6-1-2010	123-065-0010	1-5-2010	Amend(T)	2-1-2010
123-023-1250	5-1-2010	Renumber	6-1-2010	123-065-0010	6-14-2010	Repeal	7-1-2010
123-023-1300	5-1-2010	Renumber	6-1-2010	123-065-0059	6-14-2010	Repeal	7-1-2010
123-023-1400	5-1-2010	Am. & Ren.	6-1-2010	123-065-0080	6-14-2010	Repeal	7-1-2010
123-023-1500	5-1-2010	Am. & Ren.	6-1-2010	123-065-0090	6-14-2010	Repeal	7-1-2010
123-023-1525	5-1-2010	Renumber	6-1-2010	123-065-0095	6-14-2010	Repeal	7-1-2010
123-023-1550	5-1-2010	Am. & Ren.	6-1-2010	123-065-0100	6-14-2010	Repeal	7-1-2010
123-023-1600	5-1-2010	Am. & Ren.	6-1-2010	123-065-0140	6-14-2010	Repeal	7-1-2010
123-023-1700	5-1-2010	Am. & Ren.	6-1-2010	123-065-0150	6-14-2010	Repeal	7-1-2010
123-023-1800	5-1-2010	Am. & Ren.	6-1-2010	123-065-0200	6-14-2010	Repeal	7-1-2010
123-023-1900	5-1-2010	Am. & Ren.	6-1-2010	123-065-0210	6-14-2010	Repeal	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-065-4450	6-14-2010	Repeal	7-1-2010	123-070-2000	12-1-2009	Repeal	1-1-2010
123-065-4460	6-14-2010	Repeal	7-1-2010	123-070-2300	12-1-2009	Amend	1-1-2010
123-065-4470	6-14-2010	Repeal	7-1-2010	123-070-2400	12-1-2009	Amend	1-1-2010
123-065-4480	6-14-2010	Repeal	7-1-2010	123-080-0000	1-1-2010	Amend	2-1-2010
123-065-4500	6-14-2010	Repeal	7-1-2010	123-080-0010	1-1-2010	Amend	2-1-2010
123-065-4510	6-14-2010	Repeal	7-1-2010	123-080-0030	1-1-2010	Amend	2-1-2010
123-065-4520	6-14-2010	Repeal	7-1-2010	123-080-0040	1-1-2010	Amend	2-1-2010
123-065-4530	6-14-2010	Repeal	7-1-2010	123-087-0010	1-1-2010	Amend	2-1-2010
123-065-4540	6-14-2010	Repeal	7-1-2010	123-087-0030	1-1-2010	Amend	2-1-2010
123-065-4550	6-14-2010	Repeal	7-1-2010	123-087-0040	1-1-2010	Repeal	2-1-2010
123-065-4560	6-14-2010	Repeal	7-1-2010	123-090-0000	1-1-2010	Amend	2-1-2010
123-065-4565	6-14-2010	Repeal	7-1-2010	123-090-0010	1-1-2010	Amend	2-1-2010
123-065-4570	6-14-2010	Repeal	7-1-2010	123-090-0030	1-1-2010	Amend	2-1-2010
123-065-4580	6-14-2010	Repeal	7-1-2010	123-090-0040	1-1-2010	Amend	2-1-2010
123-065-4590	6-14-2010	Repeal	7-1-2010	123-090-0060	1-1-2010	Amend	2-1-2010
123-065-4600	6-14-2010	Repeal	7-1-2010	123-125-0000	6-1-2010	Amend	7-1-2010
123-065-4610	6-14-2010	Repeal	7-1-2010	123-125-0020	6-1-2010	Amend	7-1-2010
123-065-4620	6-14-2010	Repeal	7-1-2010	123-125-0040	6-1-2010	Amend	7-1-2010
123-065-4630	6-14-2010	Repeal	7-1-2010	123-135-0000	4-1-2010	Amend	5-1-2010
123-065-4640	6-14-2010	Repeal	7-1-2010	123-135-0010	4-1-2010	Amend	5-1-2010
123-065-4700	6-14-2010	Repeal	7-1-2010	123-135-0020	4-1-2010	Amend	5-1-2010
123-065-4710	6-14-2010	Repeal	7-1-2010	123-135-0030	4-1-2010	Amend	5-1-2010
123-065-4720	6-14-2010	Repeal	7-1-2010	123-135-0040	4-1-2010	Amend	5-1-2010
123-065-4730	6-14-2010	Repeal	7-1-2010	123-135-0050	4-1-2010	Amend	5-1-2010
123-065-4740	6-14-2010	Repeal	7-1-2010	123-135-0060	4-1-2010	Repeal	5-1-2010
123-065-4750	6-14-2010	Repeal	7-1-2010	123-135-0065	4-1-2010	Adopt	5-1-2010
123-065-4760	6-14-2010	Repeal	7-1-2010	123-135-0070	4-1-2010	Repeal	5-1-2010
123-065-4800	6-14-2010	Repeal	7-1-2010	123-135-0080	4-1-2010	Amend	5-1-2010
123-065-4950	6-14-2010	Repeal	7-1-2010	123-135-0087	4-1-2010	Amend	5-1-2010
123-065-4960	6-14-2010	Repeal	7-1-2010	123-135-0090	4-1-2010	Amend	5-1-2010
123-065-4970	6-14-2010	Repeal	7-1-2010	123-135-0100	4-1-2010	Amend	5-1-2010
123-065-4980	6-14-2010	Repeal	7-1-2010	123-135-0110	4-1-2010	Amend	5-1-2010
123-065-4990	6-14-2010	Repeal	7-1-2010	123-140-0010	4-1-2010	Amend	5-1-2010
123-065-7000	6-14-2010	Repeal	7-1-2010	123-140-0010	5-21-2010	Amend(T)	7-1-2010
123-065-7100	6-14-2010	Repeal	7-1-2010	123-140-0020	4-1-2010	Amend	5-1-2010
123-065-7200	6-14-2010	Repeal	7-1-2010	123-140-0020	5-21-2010	Amend(T)	7-1-2010
123-065-7300	6-14-2010	Repeal	7-1-2010	123-140-0030	4-1-2010	Amend	5-1-2010
123-065-7400	6-14-2010	Repeal	7-1-2010	123-140-0030	5-21-2010	Amend(T)	7-1-2010
123-065-7500	6-14-2010	Repeal	7-1-2010	123-140-0050	4-1-2010	Amend	5-1-2010
123-065-7600	6-14-2010	Repeal	7-1-2010	123-155-0000	2-1-2010	Amend	3-1-2010
123-065-7700	6-14-2010	Repeal	7-1-2010	123-155-0050	2-1-2010	Amend	3-1-2010
123-065-8000	6-14-2010	Repeal	7-1-2010	123-155-0100	2-1-2010	Amend	3-1-2010
123-065-8100	6-14-2010	Repeal	7-1-2010	123-155-0150	2-1-2010	Amend	3-1-2010
123-065-8200	6-14-2010	Repeal	7-1-2010	123-155-0200	2-1-2010	Amend	3-1-2010
123-065-8300	6-14-2010	Repeal	7-1-2010	123-155-0250	2-1-2010	Amend	3-1-2010
123-065-8400	6-14-2010	Repeal	7-1-2010	123-155-0270	2-1-2010	Amend	3-1-2010
123-070-1000	12-1-2009	Amend	1-1-2010	123-155-0300	2-1-2010	Amend	3-1-2010
123-070-1100	12-1-2009	Amend	1-1-2010	123-155-0350	2-1-2010	Amend	3-1-2010
123-070-1150	12-1-2009	Amend	1-1-2010	123-155-0400	2-1-2010	Amend	3-1-2010
123-070-1200	12-1-2009	Repeal	1-1-2010	123-165-0010	1-14-2010	Adopt(T)	2-1-2010
123-070-1300	12-1-2009	Amend	1-1-2010	123-165-0010	5-1-2010	Adopt	6-1-2010
123-070-1500	12-1-2009	Amend	1-1-2010	123-165-0010(T)	5-1-2010	Repeal	6-1-2010
123-070-1600	12-1-2009	Amend	1-1-2010	123-165-0020	1-14-2010	Adopt(T)	2-1-2010
123-070-1700	12-1-2009	Repeal	1-1-2010	123-165-0020	5-1-2010	Adopt	6-1-2010
123-070-1800	12-1-2009	Amend	1-1-2010	123-165-0020(T)	5-1-2010	Repeal	6-1-2010
123-070-1900	12-1-2009	Amend	1-1-2010	123-165-0030	1-14-2010	Adopt(T)	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-165-0030	5-1-2010	Adopt	6-1-2010	123-650-1500	6-14-2010	Adopt	7-1-2010
123-165-0030(T)	5-1-2010	Repeal	6-1-2010	123-650-2000	6-14-2010	Adopt	7-1-2010
123-165-0040	1-14-2010	Adopt(T)	2-1-2010	123-650-2100	6-14-2010	Adopt	7-1-2010
123-165-0040	5-1-2010	Adopt	6-1-2010	123-650-2200	6-14-2010	Adopt	7-1-2010
123-165-0040(T)	5-1-2010	Repeal	6-1-2010	123-650-2300	6-14-2010	Adopt	7-1-2010
123-165-0045	1-14-2010	Adopt(T)	2-1-2010	123-650-2400	6-14-2010	Adopt	7-1-2010
123-165-0045	5-1-2010	Adopt	6-1-2010	123-650-2500	6-14-2010	Adopt	7-1-2010
123-165-0045(T)	5-1-2010	Repeal	6-1-2010	123-650-2600	6-14-2010	Adopt	7-1-2010
123-165-0050	1-14-2010	Adopt(T)	2-1-2010	123-650-3000	6-14-2010	Adopt	7-1-2010
123-165-0050	5-1-2010	Adopt	6-1-2010	123-650-3100	6-14-2010	Adopt	7-1-2010
123-165-0050(T)	5-1-2010	Repeal	6-1-2010	123-650-3200	6-14-2010	Adopt	7-1-2010
123-200-0005	5-1-2010	Adopt	6-1-2010	123-650-3300	6-14-2010	Adopt	7-1-2010
123-200-0010	5-1-2010	Adopt	6-1-2010	123-650-3400	6-14-2010	Adopt	7-1-2010
123-200-0020	5-1-2010	Adopt	6-1-2010	123-650-5000	6-14-2010	Adopt	7-1-2010
123-200-0030	5-1-2010	Adopt	6-1-2010	123-650-5100	6-14-2010	Adopt	7-1-2010
123-200-0040	5-1-2010	Adopt	6-1-2010	123-650-5200	6-14-2010	Adopt	7-1-2010
123-200-0050	5-1-2010	Adopt	6-1-2010	123-650-5500	6-14-2010	Adopt	7-1-2010
123-200-0060	5-1-2010	Adopt	6-1-2010	123-650-7000	6-14-2010	Adopt	7-1-2010
123-200-0070	5-1-2010	Adopt	6-1-2010	123-650-7100	6-14-2010	Adopt	7-1-2010
123-200-0080	5-1-2010	Adopt	6-1-2010	123-650-7200	6-14-2010	Adopt	7-1-2010
123-200-0090	5-1-2010	Adopt	6-1-2010	123-650-7300	6-14-2010	Adopt	7-1-2010
123-200-0100	5-1-2010	Adopt	6-1-2010	123-650-7400	6-14-2010	Adopt	7-1-2010
123-200-0120	5-1-2010	Adopt	6-1-2010	123-650-9100	6-14-2010	Adopt	7-1-2010
123-200-0130	5-1-2010	Adopt	6-1-2010	123-650-9300	6-14-2010	Adopt	7-1-2010
123-200-0140	5-1-2010	Adopt	6-1-2010	123-656-0001	6-14-2010	Adopt	7-1-2010
123-200-0150	5-1-2010	Adopt	6-1-2010	123-656-0100	6-14-2010	Adopt	7-1-2010
123-200-0160	5-1-2010	Adopt	6-1-2010	123-656-1000	6-14-2010	Adopt	7-1-2010
123-200-0170	5-1-2010	Adopt	6-1-2010	123-656-1200	6-14-2010	Adopt	7-1-2010
123-200-0180	5-1-2010	Adopt	6-1-2010	123-656-1400	6-14-2010	Adopt	7-1-2010
123-200-0190	5-1-2010	Adopt	6-1-2010	123-656-1600	6-14-2010	Adopt	7-1-2010
123-200-0200	5-1-2010	Adopt	6-1-2010	123-656-2000	6-14-2010	Adopt	7-1-2010
123-500-0000	3-1-2010	Amend	4-1-2010	123-656-2100	6-14-2010	Adopt	7-1-2010
123-500-0005	3-1-2010	Amend	4-1-2010	123-656-2300	6-14-2010	Adopt	7-1-2010
123-500-0010	3-1-2010	Adopt	4-1-2010	123-662-0001	6-14-2010	Adopt	7-1-2010
123-500-0015	3-1-2010	Adopt	4-1-2010	123-662-0100	6-14-2010	Adopt	7-1-2010
123-500-0020	3-1-2010	Am. & Ren.	4-1-2010	123-662-1000	6-14-2010	Adopt	7-1-2010
123-500-0030	3-1-2010	Am. & Ren.	4-1-2010	123-662-1200	6-14-2010	Adopt	7-1-2010
123-500-0035	3-1-2010	Adopt	4-1-2010	123-662-2000	6-14-2010	Adopt	7-1-2010
123-500-0040	3-1-2010	Am. & Ren.	4-1-2010	123-662-2500	6-14-2010	Adopt	7-1-2010
123-500-0045	3-1-2010	Adopt	4-1-2010	123-668-0001	6-14-2010	Adopt	7-1-2010
123-500-0050	3-1-2010	Am. & Ren.	4-1-2010	123-668-0100	6-14-2010	Adopt	7-1-2010
123-500-0055	3-1-2010	Adopt	4-1-2010	123-668-1000	6-14-2010	Adopt	7-1-2010
123-500-0060	3-1-2010	Am. & Ren.	4-1-2010	123-668-1100	6-14-2010	Adopt	7-1-2010
123-500-0075	3-1-2010	Adopt	4-1-2010	123-668-1300	6-14-2010	Adopt	7-1-2010
123-500-0080	3-1-2010	Adopt	4-1-2010	123-668-1400	6-14-2010	Adopt	7-1-2010
123-500-0150	3-1-2010	Adopt	4-1-2010	123-668-1600	6-14-2010	Adopt	7-1-2010
123-500-0160	3-1-2010	Adopt	4-1-2010	123-668-1700	6-14-2010	Adopt	7-1-2010
123-500-0170	3-1-2010	Adopt	4-1-2010	123-668-2000	6-14-2010	Adopt	7-1-2010
123-500-0175	3-1-2010	Adopt	4-1-2010	123-668-2100	6-14-2010	Adopt	7-1-2010
123-650-0001	6-14-2010	Adopt	7-1-2010	123-668-2200	6-14-2010	Adopt	7-1-2010
123-650-0059	6-14-2010	Adopt	7-1-2010	123-668-2300	6-14-2010	Adopt	7-1-2010
123-650-0100	6-14-2010	Adopt	7-1-2010	123-668-2400	6-14-2010	Adopt	7-1-2010
123-650-0500	6-14-2010	Adopt	7-1-2010	123-668-2500	6-14-2010	Adopt	7-1-2010
123-650-0700	6-14-2010	Adopt	7-1-2010	123-674-0001	6-14-2010	Adopt	7-1-2010
123-650-1000	6-14-2010	Adopt	7-1-2010	123-674-0100	6-14-2010	Adopt	7-1-2010
123-650-1100	6-14-2010	Adopt	7-1-2010	123-674-0200	6-14-2010	Adopt	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-674-0500	6-14-2010	Adopt	7-1-2010	123-680-1600	6-14-2010	Adopt	7-1-2010
123-674-0600	6-14-2010	Adopt	7-1-2010	123-690-0001	6-14-2010	Adopt	7-1-2010
123-674-0700	6-14-2010	Adopt	7-1-2010	123-690-0100	6-14-2010	Adopt	7-1-2010
123-674-1000	6-14-2010	Adopt	7-1-2010	123-690-0500	6-14-2010	Adopt	7-1-2010
123-674-1100	6-14-2010	Adopt	7-1-2010	123-690-2000	6-14-2010	Adopt	7-1-2010
123-674-1200	6-14-2010	Adopt	7-1-2010	123-690-2100	6-14-2010	Adopt	7-1-2010
123-674-1300	6-14-2010	Adopt	7-1-2010	123-690-2300	6-14-2010	Adopt	7-1-2010
123-674-1400	6-14-2010	Adopt	7-1-2010	123-690-2400	6-14-2010	Adopt	7-1-2010
123-674-1500	6-14-2010	Adopt	7-1-2010	123-690-4000	6-14-2010	Adopt	7-1-2010
123-674-1600	6-14-2010	Adopt	7-1-2010	123-690-4200	6-14-2010	Adopt	7-1-2010
123-674-1700	6-14-2010	Adopt	7-1-2010	123-690-4400	6-14-2010	Adopt	7-1-2010
123-674-2000	6-14-2010	Adopt	7-1-2010	123-690-4600	6-14-2010	Adopt	7-1-2010
123-674-2100	6-14-2010	Adopt	7-1-2010	123-690-5000	6-14-2010	Adopt	7-1-2010
123-674-2300	6-14-2010	Adopt	7-1-2010	123-690-5200	6-14-2010	Adopt	7-1-2010
123-674-2500	6-14-2010	Adopt	7-1-2010	123-690-6000	6-14-2010	Adopt	7-1-2010
123-674-3000	6-14-2010	Adopt	7-1-2010	123-690-6200	6-14-2010	Adopt	7-1-2010
123-674-3100	6-14-2010	Adopt	7-1-2010	123-690-8000	6-14-2010	Adopt	7-1-2010
123-674-3200	6-14-2010	Adopt	7-1-2010	123-690-8100	6-14-2010	Adopt	7-1-2010
123-674-3500	6-14-2010	Adopt	7-1-2010	123-690-8500	6-14-2010	Adopt	7-1-2010
123-674-3700	6-14-2010	Adopt	7-1-2010	125-045-0210	11-19-2009	Amend	1-1-2010
123-674-4000	6-14-2010	Adopt	7-1-2010	125-045-0215	11-19-2009	Amend	1-1-2010
123-674-4100	6-14-2010	Adopt	7-1-2010	125-045-0225	11-19-2009	Amend	1-1-2010
123-674-4200	6-14-2010	Adopt	7-1-2010	125-246-0110	1-1-2010	Amend	2-1-2010
123-674-4300	6-14-2010	Adopt	7-1-2010	125-246-0130	1-1-2010	Amend	2-1-2010
123-674-4600	6-14-2010	Adopt	7-1-2010	125-246-0150	1-1-2010	Amend	2-1-2010
123-674-4800	6-14-2010	Adopt	7-1-2010	125-246-0165	1-1-2010	Adopt	2-1-2010
123-674-5000	6-14-2010	Adopt	7-1-2010	125-246-0170	1-1-2010	Amend	2-1-2010
123-674-5100	6-14-2010	Adopt	7-1-2010	125-246-0200	1-1-2010	Amend	2-1-2010
123-674-5200	6-14-2010	Adopt	7-1-2010	125-246-0210	1-1-2010	Amend	2-1-2010
123-674-5300	6-14-2010	Adopt	7-1-2010	125-246-0220	1-1-2010	Amend	2-1-2010
123-674-5400	6-14-2010	Adopt	7-1-2010	125-246-0310	1-1-2010	Amend	2-1-2010
123-674-5500	6-14-2010	Adopt	7-1-2010	125-246-0312	1-1-2010	Adopt	2-1-2010
123-674-6000	6-14-2010	Adopt	7-1-2010	125-246-0314	1-1-2010	Adopt	2-1-2010
123-674-6100	6-14-2010	Adopt	7-1-2010	125-246-0330	1-1-2010	Amend	2-1-2010
123-674-6200	6-14-2010	Adopt	7-1-2010	125-246-0333	1-1-2010	Amend	2-1-2010
123-674-6300	6-14-2010	Adopt	7-1-2010	125-246-0335	1-1-2010	Amend	2-1-2010
123-674-6400	6-14-2010	Adopt	7-1-2010	125-246-0345	1-1-2010	Amend	2-1-2010
123-674-6600	6-14-2010	Adopt	7-1-2010	125-246-0351	1-1-2010	Amend	2-1-2010
123-674-6610	6-14-2010	Adopt	7-1-2010	125-246-0352	1-1-2010	Repeal	2-1-2010
123-674-6620	6-14-2010	Adopt	7-1-2010	125-246-0360	1-1-2010	Amend	2-1-2010
123-674-6630	6-14-2010	Adopt	7-1-2010	125-246-0365	1-1-2010	Amend	2-1-2010
123-674-6880	6-14-2010	Adopt	7-1-2010	125-246-0550	1-1-2010	Repeal	2-1-2010
123-674-7200	6-14-2010	Adopt	7-1-2010	125-246-0560	1-1-2010	Amend	2-1-2010
123-674-7210	6-14-2010	Adopt	7-1-2010	125-246-0570	1-1-2010	Amend	2-1-2010
123-674-7220	6-14-2010	Adopt	7-1-2010	125-246-0575	1-1-2010	Repeal	2-1-2010
123-674-7230	6-14-2010	Adopt	7-1-2010	125-246-0576	1-1-2010	Amend	2-1-2010
123-674-7240	6-14-2010	Adopt	7-1-2010	125-246-0621	1-1-2010	Adopt	2-1-2010
123-674-7250	6-14-2010	Adopt	7-1-2010	125-246-0635	1-1-2010	Amend	2-1-2010
123-674-8000	6-14-2010	Adopt	7-1-2010	125-247-0005	1-1-2010	Repeal	2-1-2010
123-674-8100	6-14-2010	Adopt	7-1-2010	125-247-0110	1-1-2010	Adopt	2-1-2010
123-674-8200	6-14-2010	Adopt	7-1-2010	125-247-0200	1-1-2010	Amend	2-1-2010
123-674-8300	6-14-2010	Adopt	7-1-2010	125-247-0255	1-1-2010	Amend	2-1-2010
123-680-0001	6-14-2010	Adopt	7-1-2010	125-247-0256	1-1-2010	Repeal	2-1-2010
123-680-1000	6-14-2010	Adopt	7-1-2010	125-247-0260	1-1-2010	Amend	2-1-2010
123-680-1200	6-14-2010	Adopt	7-1-2010	125-247-0261	1-1-2010	Repeal	2-1-2010
123-680-1400	6-14-2010	Adopt	7-1-2010	125-247-0270	1-1-2010	Amend	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
137-049-0360	1-1-2010	Amend	1-1-2010	137-055-1070	4-1-2010	Amend	5-1-2010
137-049-0390	1-1-2010	Amend	1-1-2010	137-055-1070(T)	4-1-2010	Repeal	5-1-2010
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
141-085-0535	1-1-2010	Amend	1-1-2010	150-307.270(1)-(A)	1-1-2010	Amend	2-1-2010
141-085-0545	1-1-2010	Amend	1-1-2010	150-307.330	1-1-2010	Amend	2-1-2010
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)	6-30-2010	Amend(T)	7-1-2010
141-085-0745	1-1-2010	Amend	1-1-2010	150-323.500(9)(T)	1-1-2010	Repeal	2-1-2010
141-085-0750	1-1-2010	Amend	1-1-2010	150-358.505	1-1-2010	Adopt	2-1-2010
141-089-0095	1-1-2010	Adopt	1-1-2010	160-001-0000	2-1-2010	Amend	3-1-2010
141-089-0350	1-1-2010	Repeal	1-1-2010	160-005-0008	1-1-2010	Adopt	2-1-2010
141-089-0355	1-1-2010	Repeal	1-1-2010	160-010-0200	1-1-2010	Amend	2-1-2010
141-089-0360	1-1-2010	Repeal	1-1-2010	160-010-0210	1-1-2010	Adopt	2-1-2010
141-089-0365	1-1-2010	Repeal	1-1-2010	160-010-0220	1-1-2010	Adopt	2-1-2010
141-089-0370	1-1-2010	Repeal	1-1-2010	160-010-0230	1-1-2010	Adopt	2-1-2010
141-089-0375	1-1-2010	Repeal	1-1-2010	160-010-0240	1-1-2010	Adopt	2-1-2010
141-089-0380	1-1-2010	Repeal	1-1-2010	160-040-0103	1-1-2010	Amend	2-1-2010
141-089-0385	1-1-2010	Repeal	1-1-2010	160-040-0104	1-1-2010	Amend	2-1-2010
141-089-0390	1-1-2010	Repeal	1-1-2010	160-040-0311	1-1-2010	Amend	2-1-2010
141-102-0000	4-1-2010	Amend	4-1-2010	160-040-0507	1-1-2010	Adopt	2-1-2010
141-102-0010	4-1-2010	Amend	4-1-2010	160-050-0140	2-27-2010	Amend(T)	3-1-2010
141-102-0020	4-1-2010	Amend	4-1-2010	160-050-0140	4-2-2010	Amend	5-1-2010
141-102-0030	4-1-2010	Amend	4-1-2010	160-050-0140(T)	4-2-2010	Repeal	5-1-2010
141-102-0040	4-1-2010	Amend	4-1-2010	160-050-0215	2-27-2010	Amend(T)	3-1-2010
141-142-0010	12-15-2009	Adopt	1-1-2010	160-050-0215	4-2-2010	Amend	5-1-2010
141-142-0015	12-15-2009	Adopt	1-1-2010	160-050-0215(T)	4-2-2010	Repeal	5-1-2010
141-142-0020	12-15-2009	Adopt	1-1-2010	160-100-0040	1-1-2010	Amend	2-1-2010
141-142-0025	12-15-2009	Adopt	1-1-2010	160-100-0040	5-3-2010	Amend	6-1-2010
141-142-0030	12-15-2009	Adopt	1-1-2010	160-100-0100	2-3-2010	Amend	3-1-2010
141-142-0035	12-15-2009	Adopt	1-1-2010	160-100-0100	7-1-2010	Amend(T)	7-1-2010
141-142-0040	12-15-2009	Adopt	1-1-2010	160-100-0110	7-1-2010	Amend(T)	7-1-2010
150-118.160-(B)	2-19-2010	Amend(T)	4-1-2010	160-100-0120	7-1-2010	Amend(T)	7-1-2010
150-118.225	1-1-2010	Amend	2-1-2010	160-100-0301	3-1-2010	Adopt	4-1-2010
150-118.NOTE	5-7-2010	Adopt(T)	6-1-2010	160-100-0400	1-1-2010	Amend	2-1-2010
150-294.175(2)-(B)	3-9-2010	Amend(T)	4-1-2010	160-100-0610	1-1-2010	Amend	2-1-2010
150-305.100-(C)	3-19-2010	Adopt	4-1-2010	160-100-0700	1-1-2010	Adopt	2-1-2010
150-305.100-(C)(T)	3-19-2010	Repeal	4-1-2010	160-100-1110	6-1-2010	Amend	7-1-2010
150-305.220(1)	1-1-2010	Amend	2-1-2010	161-002-0000	1-1-2010	Amend(T)	1-1-2010
150-305.220(2)	1-1-2010	Amend	2-1-2010	161-002-0000	4-23-2010	Amend	6-1-2010
150-305.290	1-1-2010	Repeal	2-1-2010	161-002-0000(T)	4-23-2010	Repeal	6-1-2010
150-306.126(2)	1-1-2010	Amend	2-1-2010	161-010-0010	2-1-2010	Amend(T)	3-1-2010
150-307.250(1)(b)	1-1-2010	Am. & Ren.	2-1-2010	161-010-0010	4-23-2010	Amend	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
161-010-0010(T)	4-23-2010	Repeal	6-1-2010	162-010-0150	4-1-2010	Amend	5-1-2010
161-010-0020	2-1-2010	Amend(T)	3-1-2010	162-010-0200	4-1-2010	Amend	5-1-2010
161-010-0020	4-23-2010	Amend	6-1-2010	162-010-0230	4-1-2010	Amend	5-1-2010
161-010-0020(T)	4-23-2010	Repeal	6-1-2010	162-010-0240	4-1-2010	Amend	5-1-2010
161-010-0055	2-1-2010	Suspend	3-1-2010	162-010-0270	4-1-2010	Amend	5-1-2010
161-010-0055	4-23-2010	Repeal	6-1-2010	162-010-0310	4-1-2010	Amend	5-1-2010
161-010-0085	2-1-2010	Amend(T)	3-1-2010	162-010-0316	4-1-2010	Adopt	5-1-2010
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	166-150-0110	5-27-2010	Amend	7-1-2010
162-010-0130	4-1-2010	Amend	5-1-2010	166-200-0050	5-27-2010	Amend	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
166-300-0025	5-27-2010	Amend	7-1-2010	177-098-0030	3-21-2010	Adopt	5-1-2010
166-400-0025	5-27-2010	Amend	7-1-2010	177-098-0040	3-21-2010	Adopt	5-1-2010
166-400-0060	5-27-2010	Amend	7-1-2010	177-098-0050	3-21-2010	Adopt	5-1-2010
166-450-0050	5-27-2010	Amend	7-1-2010	177-098-0060	3-21-2010	Adopt	5-1-2010
166-475-0050	5-27-2010	Amend	7-1-2010	177-098-0070	3-21-2010	Adopt	5-1-2010
166-475-0095	5-27-2010	Amend	7-1-2010	177-098-0080	3-21-2010	Adopt	5-1-2010
170-040-0110	11-19-2009	Adopt	1-1-2010	177-098-0090	3-21-2010	Adopt	5-1-2010
170-061-0000	2-2-2010	Amend	3-1-2010	177-098-0100	3-21-2010	Adopt	5-1-2010
170-061-0015	1-15-2010	Amend	2-1-2010	177-098-0110	3-21-2010	Adopt	5-1-2010
170-061-0015	1-26-2010	Amend(T)	3-1-2010	177-099-0100	2-1-2010	Amend	3-1-2010
170-061-0015	7-1-2010	Amend(T)	7-1-2010	177-099-0100(T)	2-1-2010	Repeal	3-1-2010
170-061-0015(T)	1-15-2010	Repeal	2-1-2010	177-200-0005	3-15-2010	Amend(T)	4-1-2010
170-061-0015(T)	7-1-2010	Suspend	7-1-2010	177-200-0010	3-15-2010	Amend(T)	4-1-2010
170-063-0000	1-15-2010	Amend	2-1-2010	177-200-0020	2-1-2010	Amend	3-1-2010
170-063-0000(T)	1-15-2010	Repeal	2-1-2010	177-200-0020	3-15-2010	Amend(T)	4-1-2010
173-001-0005	3-25-2010	Amend(T)	5-1-2010	177-200-0032	3-15-2010	Amend(T)	4-1-2010
173-001-0010	3-25-2010	Amend(T)	5-1-2010	177-200-0077	3-15-2010	Adopt(T)	4-1-2010
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
213-017-0005	1-1-2010	Amend	2-1-2010	257-045-0030	1-1-2010	Adopt(T)	2-1-2010
213-017-0006	12-13-2009	Amend	1-1-2010	257-045-0030	6-30-2010	Adopt	7-1-2010
213-017-0006	1-1-2010	Amend	2-1-2010	257-045-0030(T)	6-30-2010	Repeal	7-1-2010
213-017-0006(T)	12-13-2009	Repeal	1-1-2010	257-045-0040	1-1-2010	Adopt(T)	2-1-2010
213-017-0009(T)	1-1-2010	Suspend	1-1-2010	257-045-0040	6-30-2010	Adopt	7-1-2010
213-018-0022	12-13-2009	Adopt	1-1-2010	257-045-0040(T)	6-30-2010	Repeal	7-1-2010
213-018-0022(T)	12-13-2009	Repeal	1-1-2010	257-045-0050	1-1-2010	Adopt(T)	2-1-2010
213-018-0058	1-1-2010	Adopt	2-1-2010	257-045-0050	6-30-2010	Adopt	7-1-2010
250-010-0154	1-15-2010	Amend	2-1-2010	257-045-0050(T)	6-30-2010	Repeal	7-1-2010
250-010-0650	1-5-2010	Amend(T)	2-1-2010	257-050-0020	1-1-2010	Amend(T)	2-1-2010
250-010-0650	1-15-2010	Amend(T)	2-1-2010	257-050-0020	6-30-2010	Amend	7-1-2010
250-010-0650	5-6-2010	Amend	6-1-2010	257-050-0020(T)	6-30-2010	Repeal	7-1-2010
250-010-0650(T)	1-15-2010	Suspend	2-1-2010	257-050-0040	1-1-2010	Amend(T)	2-1-2010
250-010-0650(T)	5-6-2010	Repeal	6-1-2010	257-050-0040	6-30-2010	Amend	7-1-2010
250-020-0033	6-1-2010	Amend(T)	6-1-2010	257-050-0040(T)	6-30-2010	Repeal	7-1-2010
250-020-0151	6-15-2010	Amend(T)	7-1-2010	257-050-0050	1-1-2010	Amend(T)	2-1-2010
250-020-0221	1-15-2010	Amend	2-1-2010	257-050-0050	6-30-2010	Amend	7-1-2010
250-020-0221	5-6-2010	Amend(T)	6-1-2010	257-050-0050(T)	6-30-2010	Repeal	7-1-2010
250-020-0240	1-15-2010	Amend	2-1-2010	257-050-0060	1-1-2010	Amend(T)	2-1-2010
250-020-0241	6-1-2010	Amend(T)	7-1-2010	257-050-0060	6-30-2010	Amend	7-1-2010
250-030-0030	1-15-2010	Amend(T)	2-1-2010	257-050-0060(T)	6-30-2010	Repeal	7-1-2010
250-030-0030	5-6-2010	Amend	6-1-2010	257-050-0070	1-1-2010	Amend(T)	2-1-2010
250-030-0030(T)	5-6-2010	Repeal	6-1-2010	257-050-0070	6-30-2010	Amend	7-1-2010
255-032-0005	3-26-2010	Amend	5-1-2010	257-050-0070(T)	6-30-2010	Repeal	7-1-2010
255-032-0005(T)	3-26-2010	Repeal	5-1-2010	257-050-0090	1-1-2010	Amend(T)	2-1-2010
255-032-0011	3-26-2010	Amend	5-1-2010	257-050-0090	6-30-2010	Amend	7-1-2010
255-032-0011(T)	3-26-2010	Repeal	5-1-2010	257-050-0090(T)	6-30-2010	Repeal	7-1-2010
255-032-0015	3-26-2010	Amend	5-1-2010	257-050-0095	1-1-2010	Amend(T)	2-1-2010
255-032-0015(T)	3-26-2010	Repeal	5-1-2010	257-050-0095	6-30-2010	Amend	7-1-2010
255-032-0025	3-26-2010	Amend	5-1-2010	257-050-0095(T)	6-30-2010	Repeal	7-1-2010
255-032-0025(T)	3-26-2010	Repeal	5-1-2010	257-050-0100	1-1-2010	Amend(T)	2-1-2010
255-032-0026	3-26-2010	Repeal	5-1-2010	257-050-0100	6-30-2010	Amend	7-1-2010
255-032-0029	3-26-2010	Amend	5-1-2010	257-050-0100(T)	6-30-2010	Repeal	7-1-2010
255-032-0029(T)	3-26-2010	Repeal	5-1-2010	257-050-0110	1-1-2010	Amend(T)	2-1-2010
255-062-0005	1-5-2010	Adopt(T)	2-1-2010	257-050-0110	6-30-2010	Amend	7-1-2010
255-062-0010	1-5-2010	Adopt(T)	2-1-2010	257-050-0110(T)	6-30-2010	Repeal	7-1-2010
255-062-0015	1-5-2010	Adopt(T)	2-1-2010	257-050-0115	1-1-2010	Amend(T)	2-1-2010
255-062-0020	1-5-2010	Adopt(T)	2-1-2010	257-050-0115	6-30-2010	Amend	7-1-2010
255-062-0025	1-5-2010	Adopt(T)	2-1-2010	257-050-0115(T)	6-30-2010	Repeal	7-1-2010
255-062-0030	1-5-2010	Adopt(T)	2-1-2010	257-050-0125	1-1-2010	Amend(T)	2-1-2010
255-070-0001	1-1-2010	Amend	2-1-2010	257-050-0125	6-30-2010	Amend	7-1-2010
255-094-0000	2-26-2010	Am. & Ren.	4-1-2010	257-050-0125(T)	6-30-2010	Repeal	7-1-2010
255-094-0002	2-26-2010	Adopt	4-1-2010	257-050-0130	1-1-2010	Amend(T)	2-1-2010
255-094-0010	2-26-2010	Amend	4-1-2010	257-050-0130	6-30-2010	Amend	7-1-2010
255-094-0015	2-26-2010	Amend	4-1-2010	257-050-0130(T)	6-30-2010	Repeal	7-1-2010
255-094-0020	2-26-2010	Amend	4-1-2010	257-050-0140	1-1-2010	Amend(T)	2-1-2010
257-001-0005	1-1-2010	Amend(T)	2-1-2010	257-050-0140	6-30-2010	Amend	7-1-2010
257-001-0005	6-30-2010	Amend	7-1-2010	257-050-0140(T)	6-30-2010	Repeal	7-1-2010
257-001-0005(T)	6-30-2010	Repeal	7-1-2010	257-050-0145	1-1-2010	Amend(T)	2-1-2010
257-010-0055	5-28-2010	Amend(T)	7-1-2010	257-050-0145	6-30-2010	Amend	7-1-2010
257-045-0010	1-1-2010	Adopt(T)	2-1-2010	257-050-0145(T)	6-30-2010	Repeal	7-1-2010
257-045-0010	6-30-2010	Adopt	7-1-2010	257-050-0150	1-1-2010	Amend(T)	2-1-2010
257-045-0010(T)	6-30-2010	Repeal	7-1-2010	257-050-0150	6-30-2010	Amend	7-1-2010
257-045-0020	1-1-2010	Adopt(T)	2-1-2010	257-050-0150(T)	6-30-2010	Repeal	7-1-2010
257-045-0020	6-30-2010	Adopt	7-1-2010	257-050-0155	1-1-2010	Amend(T)	2-1-2010
257-045-0020(T)	6-30-2010	Repeal	7-1-2010	257-050-0155	6-30-2010	Amend	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
257-050-0155(T)	6-30-2010	Repeal	7-1-2010	291-097-0010	11-20-2009	Amend	1-1-2010
257-050-0157	1-1-2010	Amend(T)	2-1-2010	291-097-0010	4-14-2010	Amend(T)	5-1-2010
257-050-0157	6-30-2010	Amend	7-1-2010	291-097-0015	11-20-2009	Amend	1-1-2010
257-050-0157(T)	6-30-2010	Repeal	7-1-2010	291-097-0015	4-14-2010	Amend(T)	5-1-2010
257-050-0170	1-1-2010	Amend(T)	2-1-2010	291-097-0020	11-20-2009	Amend	1-1-2010
257-050-0170	6-30-2010	Amend	7-1-2010	291-097-0020	4-14-2010	Amend(T)	5-1-2010
257-050-0170(T)	6-30-2010	Repeal	7-1-2010	291-097-0023	11-20-2009	Adopt	1-1-2010
257-050-0180	1-1-2010	Amend(T)	2-1-2010	291-097-0023	4-14-2010	Amend(T)	5-1-2010
257-050-0180	6-30-2010	Amend	7-1-2010	291-097-0025	11-20-2009	Amend	1-1-2010
257-050-0180(T)	6-30-2010	Repeal	7-1-2010	291-097-0025	4-14-2010	Amend(T)	5-1-2010
257-050-0200	1-1-2010	Amend(T)	2-1-2010	291-097-0030	4-14-2010	Amend(T)	5-1-2010
257-050-0200	6-30-2010	Amend	7-1-2010	291-097-0040	11-20-2009	Amend	1-1-2010
257-050-0200(T)	6-30-2010	Repeal	7-1-2010	291-097-0040	4-14-2010	Amend(T)	5-1-2010
259-006-0000	6-2-2010	Amend	7-1-2010	291-097-0080	11-20-2009	Amend	1-1-2010
259-007-0000	6-2-2010	Amend	7-1-2010	291-097-0100	11-20-2009	Amend	1-1-2010
259-008-0000	12-15-2009	Amend	1-1-2010	291-157-0005	4-6-2010	Amend	5-1-2010
259-008-0015	1-11-2010	Amend	2-1-2010	291-157-0005(T)	4-6-2010	Repeal	5-1-2010
259-008-0015	3-15-2010	Amend	4-1-2010	291-157-0010	4-6-2010	Amend	5-1-2010
259-008-0017	5-1-2010	Adopt	5-1-2010	291-157-0010(T)	4-6-2010	Repeal	5-1-2010
259-008-0025	12-15-2009	Amend	1-1-2010	291-157-0015	4-6-2010	Amend	5-1-2010
259-008-0025	5-1-2010	Amend	5-1-2010	291-157-0015(T)	4-6-2010	Repeal	5-1-2010
259-008-0025(T)	12-15-2009	Repeal	1-1-2010	291-157-0020	4-6-2010	Repeal	5-1-2010
259-008-0040	5-1-2010	Amend	5-1-2010	291-157-0021	4-6-2010	Adopt	5-1-2010
259-008-0060	1-11-2010	Amend	2-1-2010	291-157-0021(T)	4-6-2010	Repeal	5-1-2010
259-008-0060	3-15-2010	Amend	4-1-2010	291-157-0025	4-6-2010	Repeal	5-1-2010
259-008-0060	6-2-2010	Amend	7-1-2010	291-157-0035	4-6-2010	Amend	5-1-2010
259-008-0064	1-11-2010	Amend	2-1-2010	291-157-0035(T)	4-6-2010	Repeal	5-1-2010
259-008-0064	3-15-2010	Amend	4-1-2010	291-157-0041	4-6-2010	Repeal	5-1-2010
259-008-0075	5-1-2010	Amend	5-1-2010	291-157-0055	4-6-2010	Repeal	5-1-2010
259-009-0005	12-15-2009	Amend(T)	1-1-2010	291-180-0274	1-4-2010	Adopt(T)	2-1-2010
259-009-0005	6-14-2010	Amend	7-1-2010	291-180-0274	6-10-2010	Adopt	7-1-2010
259-009-0062	12-15-2009	Amend(T)	1-1-2010	291-206-0005	2-24-2010	Adopt	4-1-2010
259-009-0062	6-14-2010	Amend	7-1-2010	291-206-0005	3-23-2010	Amend(T)	5-1-2010
259-030-0000	6-2-2010	Amend	7-1-2010	291-206-0010	2-24-2010	Adopt	4-1-2010
259-060-0500	7-1-2010	Amend(T)	7-1-2010	291-206-0010	3-23-2010	Amend(T)	5-1-2010
274-006-0001	1-1-2010	Adopt	2-1-2010	291-206-0015	2-24-2010	Adopt	4-1-2010
274-006-0002	1-1-2010	Adopt	2-1-2010	291-206-0015	3-23-2010	Amend(T)	5-1-2010
274-006-0004	1-1-2010	Adopt	2-1-2010	291-206-0020	2-24-2010	Adopt	4-1-2010
274-006-0005	1-1-2010	Adopt	2-1-2010	291-206-0020	3-23-2010	Amend(T)	5-1-2010
274-006-0010	1-1-2010	Adopt	2-1-2010	291-206-0025	2-24-2010	Adopt	4-1-2010
274-006-0011	1-1-2010	Adopt	2-1-2010	291-206-0025	3-23-2010	Amend(T)	5-1-2010
274-006-0012	1-1-2010	Adopt	2-1-2010	291-206-0030	2-24-2010	Adopt	4-1-2010
274-006-0013	1-1-2010	Adopt	2-1-2010	309-016-0000	3-4-2010	Amend(T)	4-1-2010
274-006-0014	1-1-2010	Adopt	2-1-2010	309-016-0000(T)	7-1-2010	Suspend	7-1-2010
274-006-0015	1-1-2010	Adopt	2-1-2010	309-016-0005	3-4-2010	Amend(T)	4-1-2010
274-006-0018	1-1-2010	Adopt	2-1-2010	309-016-0005(T)	7-1-2010	Suspend	7-1-2010
274-006-0020	1-1-2010	Adopt	2-1-2010	309-016-0010	3-4-2010	Amend(T)	4-1-2010
274-007-0001	6-1-2010	Adopt(T)	7-1-2010	309-016-0010(T)	7-1-2010	Suspend	7-1-2010
291-058-0046	2-24-2010	Amend	4-1-2010	309-016-0015	3-4-2010	Amend(T)	4-1-2010
291-070-0130	11-20-2009	Amend	1-1-2010	309-016-0015(T)	7-1-2010	Suspend	7-1-2010
291-084-0010	11-20-2009	Repeal	1-1-2010	309-016-0020	3-4-2010	Amend(T)	4-1-2010
291-084-0020	11-20-2009	Repeal	1-1-2010	309-016-0020(T)	7-1-2010	Suspend	7-1-2010
291-084-0030	11-20-2009	Repeal	1-1-2010	309-016-0027	3-4-2010	Suspend	4-1-2010
291-084-0040	11-20-2009	Repeal	1-1-2010	309-016-0030	3-4-2010	Amend(T)	4-1-2010
291-097-0005	11-20-2009	Amend	1-1-2010	309-016-0030(T)	7-1-2010	Suspend	7-1-2010
291-097-0005	4-14-2010	Amend(T)	5-1-2010	309-016-0035	3-4-2010	Amend(T)	4-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-016-0035(T)	7-1-2010	Suspend	7-1-2010	309-016-0420	3-4-2010	Suspend	4-1-2010
309-016-0040	3-4-2010	Amend(T)	4-1-2010	309-016-0430	3-4-2010	Suspend	4-1-2010
309-016-0040(T)	7-1-2010	Suspend	7-1-2010	309-016-0440	3-4-2010	Suspend	4-1-2010
309-016-0070	3-4-2010	Amend(T)	4-1-2010	309-016-0450	3-4-2010	Suspend	4-1-2010
309-016-0070(T)	7-1-2010	Suspend	7-1-2010	309-016-0600	7-1-2010	Adopt(T)	7-1-2010
309-016-0072	3-4-2010	Amend(T)	4-1-2010	309-016-0605	7-1-2010	Adopt(T)	7-1-2010
309-016-0072(T)	7-1-2010	Suspend	7-1-2010	309-016-0610	7-1-2010	Adopt(T)	7-1-2010
309-016-0075	3-4-2010	Amend(T)	4-1-2010	309-016-0615	7-1-2010	Adopt(T)	7-1-2010
309-016-0075(T)	7-1-2010	Suspend	7-1-2010	309-016-0620	7-1-2010	Adopt(T)	7-1-2010
309-016-0077	3-4-2010	Amend(T)	4-1-2010	309-016-0625	7-1-2010	Adopt(T)	7-1-2010
309-016-0077(T)	7-1-2010	Suspend	7-1-2010	309-016-0630	7-1-2010	Adopt(T)	7-1-2010
309-016-0080	3-4-2010	Amend(T)	4-1-2010	309-016-0635	7-1-2010	Adopt(T)	7-1-2010
309-016-0080(T)	7-1-2010	Suspend	7-1-2010	309-016-0640	7-1-2010	Adopt(T)	7-1-2010
309-016-0085	3-4-2010	Amend(T)	4-1-2010	309-016-0645	7-1-2010	Adopt(T)	7-1-2010
309-016-0085(T)	7-1-2010	Suspend	7-1-2010	309-016-0650	7-1-2010	Adopt(T)	7-1-2010
309-016-0088	3-4-2010	Amend(T)	4-1-2010	309-016-0660	7-1-2010	Adopt(T)	7-1-2010
309-016-0088(T)	7-1-2010	Suspend	7-1-2010	309-016-0665	7-1-2010	Adopt(T)	7-1-2010
309-016-0095	3-4-2010	Amend(T)	4-1-2010	309-016-0670	7-1-2010	Adopt(T)	7-1-2010
309-016-0095(T)	7-1-2010	Suspend	7-1-2010	309-016-0675	7-1-2010	Adopt(T)	7-1-2010
309-016-0100	3-4-2010	Amend(T)	4-1-2010	309-016-0680	7-1-2010	Adopt(T)	7-1-2010
309-016-0100(T)	7-1-2010	Suspend	7-1-2010	309-016-0685	7-1-2010	Adopt(T)	7-1-2010
309-016-0102	3-4-2010	Amend(T)	4-1-2010	309-016-0690	7-1-2010	Adopt(T)	7-1-2010
309-016-0102(T)	7-1-2010	Suspend	7-1-2010	309-016-0695	7-1-2010	Adopt(T)	7-1-2010
309-016-0105	3-4-2010	Amend(T)	4-1-2010	309-016-0700	7-1-2010	Adopt(T)	7-1-2010
309-016-0105(T)	7-1-2010	Suspend	7-1-2010	309-016-0705	7-1-2010	Adopt(T)	7-1-2010
309-016-0110	3-4-2010	Amend(T)	4-1-2010	309-016-0710	7-1-2010	Adopt(T)	7-1-2010
309-016-0110(T)	7-1-2010	Suspend	7-1-2010	309-016-0715	7-1-2010	Adopt(T)	7-1-2010
309-016-0115	3-4-2010	Amend(T)	4-1-2010	309-016-0720	7-1-2010	Adopt(T)	7-1-2010
309-016-0115(T)	7-1-2010	Suspend	7-1-2010	309-016-0725	7-1-2010	Adopt(T)	7-1-2010
309-016-0120	3-4-2010	Amend(T)	4-1-2010	309-016-0730	7-1-2010	Adopt(T)	7-1-2010
309-016-0120(T)	7-1-2010	Suspend	7-1-2010	309-016-0735	7-1-2010	Adopt(T)	7-1-2010
309-016-0130	3-4-2010	Suspend	4-1-2010	309-016-0740	7-1-2010	Adopt(T)	7-1-2010
309-016-0140	3-4-2010	Amend(T)	4-1-2010	309-016-0745	7-1-2010	Adopt(T)	7-1-2010
309-016-0140(T)	7-1-2010	Suspend	7-1-2010	309-016-0750	7-1-2010	Adopt(T)	7-1-2010
309-016-0150	3-4-2010	Suspend	4-1-2010	309-016-0755	7-1-2010	Adopt(T)	7-1-2010
309-016-0160	3-4-2010	Suspend	4-1-2010	309-032-0001	3-4-2010	Repeal	4-1-2010
309-016-0170	3-4-2010	Suspend	4-1-2010	309-032-0070	3-4-2010	Repeal	4-1-2010
309-016-0180	3-4-2010	Suspend	4-1-2010	309-032-0075	3-4-2010	Repeal	4-1-2010
309-016-0190	3-4-2010	Suspend	4-1-2010	309-032-0080	3-4-2010	Repeal	4-1-2010
309-016-0200	3-4-2010	Suspend	4-1-2010	309-032-0085	3-4-2010	Repeal	4-1-2010
309-016-0210	3-4-2010	Suspend	4-1-2010	309-032-0090	3-4-2010	Repeal	4-1-2010
309-016-0220	3-4-2010	Amend(T)	4-1-2010	309-032-0095	3-4-2010	Repeal	4-1-2010
309-016-0220(T)	7-1-2010	Suspend	7-1-2010	309-032-0100	3-4-2010	Repeal	4-1-2010
309-016-0230	3-4-2010	Suspend	4-1-2010	309-032-0105	3-4-2010	Repeal	4-1-2010
309-016-0300	3-4-2010	Suspend	4-1-2010	309-032-0110	3-4-2010	Repeal	4-1-2010
309-016-0310	3-4-2010	Suspend	4-1-2010	309-032-0115	3-4-2010	Repeal	4-1-2010
309-016-0320	3-4-2010	Suspend	4-1-2010	309-032-0220	3-4-2010	Repeal	4-1-2010
309-016-0330	3-4-2010	Suspend	4-1-2010	309-032-0225	3-4-2010	Repeal	4-1-2010
309-016-0340	3-4-2010	Suspend	4-1-2010	309-032-0230	3-4-2010	Repeal	4-1-2010
309-016-0350	3-4-2010	Suspend	4-1-2010	309-032-0235	3-4-2010	Repeal	4-1-2010
309-016-0360	3-4-2010	Suspend	4-1-2010	309-032-0240	3-4-2010	Repeal	4-1-2010
309-016-0370	3-4-2010	Suspend	4-1-2010	309-032-0245	3-4-2010	Repeal	4-1-2010
309-016-0380	3-4-2010	Suspend	4-1-2010	309-032-0250	3-4-2010	Repeal	4-1-2010
309-016-0390	3-4-2010	Suspend	4-1-2010	309-032-0455	3-4-2010	Repeal	4-1-2010
309-016-0400	3-4-2010	Suspend	4-1-2010	309-032-0460	3-4-2010	Repeal	4-1-2010
309-016-0410	3-4-2010	Suspend	4-1-2010	309-032-0465	3-4-2010	Repeal	4-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-034-0490	3-4-2010	Amend(T)	4-1-2010	325-030-0040	4-26-2010	Adopt	6-1-2010
309-035-0155	12-17-2009	Amend	2-1-2010	325-030-0045	4-26-2010	Adopt	6-1-2010
309-035-0380	12-17-2009	Amend	2-1-2010	325-030-0050	4-26-2010	Adopt	6-1-2010
309-036-0100	6-7-2010	Amend	7-1-2010	325-030-0055	4-26-2010	Adopt	6-1-2010
309-036-0105	6-7-2010	Amend	7-1-2010	325-030-0060	4-26-2010	Adopt	6-1-2010
309-036-0110	6-7-2010	Amend	7-1-2010	330-001-0005	1-27-2010	Amend	3-1-2010
309-036-0115	6-7-2010	Amend	7-1-2010	330-001-0025	1-27-2010	Adopt	3-1-2010
309-036-0120	6-7-2010	Amend	7-1-2010	330-075-0005	12-21-2009	Amend(T)	2-1-2010
309-036-0125	6-7-2010	Repeal	7-1-2010	330-075-0010	12-21-2009	Amend(T)	2-1-2010
309-036-0130	6-7-2010	Adopt	7-1-2010	330-075-0015	12-21-2009	Amend(T)	2-1-2010
309-036-0135	6-7-2010	Adopt	7-1-2010	330-075-0025	12-21-2009	Amend(T)	2-1-2010
309-036-0140	6-7-2010	Adopt	7-1-2010	330-075-0030	12-21-2009	Suspend	2-1-2010
309-040-0410	1-29-2010	Amend	3-1-2010	330-075-0035	12-21-2009	Amend(T)	2-1-2010
309-040-0410(T)	1-29-2010	Repeal	3-1-2010	330-090-0105	4-30-2010	Amend	6-1-2010
309-041-0550	12-9-2009	Renumber	1-1-2010	330-090-0105	5-27-2010	Amend(T)	7-1-2010
309-041-0560	12-9-2009	Renumber	1-1-2010	330-090-0105(T)	4-30-2010	Repeal	6-1-2010
309-041-0570	12-9-2009	Renumber	1-1-2010	330-090-0110	4-30-2010	Amend	6-1-2010
309-041-0580	12-9-2009	Renumber	1-1-2010	330-090-0110	5-27-2010	Amend(T)	7-1-2010
309-041-0590	12-9-2009	Renumber	1-1-2010	330-090-0110(T)	4-30-2010	Repeal	6-1-2010
309-041-0600	12-9-2009	Renumber	1-1-2010	330-090-0120	4-30-2010	Amend	6-1-2010
309-041-0610	12-9-2009	Renumber	1-1-2010	330-090-0120	5-27-2010	Amend(T)	7-1-2010
309-041-0620	12-9-2009	Renumber	1-1-2010	330-090-0120(T)	4-30-2010	Repeal	6-1-2010
309-041-0630	12-9-2009	Renumber	1-1-2010	330-090-0130	4-30-2010	Amend	6-1-2010
309-041-0640	12-9-2009	Renumber	1-1-2010	330-090-0130	5-27-2010	Amend(T)	7-1-2010
309-041-0650	12-9-2009	Renumber	1-1-2010	330-090-0130(T)	4-30-2010	Repeal	6-1-2010
309-041-0660	12-9-2009	Renumber	1-1-2010	330-090-0133	4-30-2010	Adopt	6-1-2010
309-041-0670	12-9-2009	Renumber	1-1-2010	330-090-0133	5-27-2010	Amend(T)	7-1-2010
309-041-0680	12-9-2009	Renumber	1-1-2010	330-090-0133(T)	4-30-2010	Repeal	6-1-2010
309-041-0690	12-9-2009	Renumber	1-1-2010	330-090-0135	4-30-2010	Amend	6-1-2010
309-041-0700	12-9-2009	Renumber	1-1-2010	330-090-0135(T)	4-30-2010	Repeal	6-1-2010
309-041-0710	12-9-2009	Renumber	1-1-2010	330-090-0140	1-8-2010	Amend	2-1-2010
309-041-0715	12-9-2009	Renumber	1-1-2010	330-090-0140	5-27-2010	Amend(T)	7-1-2010
309-041-0720	12-9-2009	Renumber	1-1-2010	330-090-0140(T)	1-8-2010	Repeal	2-1-2010
309-041-0730	12-9-2009	Renumber	1-1-2010	330-090-0150	4-30-2010	Amend	6-1-2010
309-041-0740	12-9-2009	Renumber	1-1-2010	330-090-0150	5-27-2010	Amend(T)	7-1-2010
309-041-0750	12-9-2009	Renumber	1-1-2010	330-090-0150(T)	4-30-2010	Repeal	6-1-2010
309-041-0760	12-9-2009	Renumber	1-1-2010	330-090-0350	5-27-2010	Adopt(T)	7-1-2010
309-041-0770	12-9-2009	Renumber	1-1-2010	330-090-0450	5-27-2010	Adopt(T)	7-1-2010
309-041-0780	12-9-2009	Renumber	1-1-2010	331-505-0000	4-1-2010	Amend	5-1-2010
309-041-0790	12-9-2009	Renumber	1-1-2010	331-505-0010	4-1-2010	Amend	5-1-2010
309-041-0800	12-9-2009	Renumber	1-1-2010	331-510-0000	4-1-2010	Amend	5-1-2010
309-041-0805	12-9-2009	Renumber	1-1-2010	331-515-0000	4-1-2010	Amend	5-1-2010
309-041-0810	12-9-2009	Renumber	1-1-2010	331-515-0010	4-1-2010	Amend	5-1-2010
309-041-0820	12-9-2009	Renumber	1-1-2010	331-515-0020	4-1-2010	Amend	5-1-2010
309-041-0830	12-9-2009	Renumber	1-1-2010	331-515-0030	4-1-2010	Amend	5-1-2010
309-114-0005	12-28-2009	Amend	2-1-2010	331-520-0000	4-1-2010	Amend	5-1-2010
309-114-0005	3-12-2010	Amend(T)	4-1-2010	331-520-0010	4-1-2010	Amend	5-1-2010
309-114-0020	3-24-2010	Amend(T)	5-1-2010	331-520-0030	4-1-2010	Amend	5-1-2010
325-030-0001	4-26-2010	Adopt	6-1-2010	331-520-0040	4-1-2010	Amend	5-1-2010
325-030-0005	4-26-2010	Adopt	6-1-2010	331-520-0060	4-1-2010	Repeal	5-1-2010
325-030-0010	4-26-2010	Adopt	6-1-2010	331-520-0070	4-1-2010	Amend	5-1-2010
325-030-0015	4-26-2010	Adopt	6-1-2010	331-525-0020	4-1-2010	Amend	5-1-2010
325-030-0020	4-26-2010	Adopt	6-1-2010	331-525-0035	4-1-2010	Amend	5-1-2010
325-030-0025	4-26-2010	Adopt	6-1-2010	331-525-0038	4-1-2010	Amend	5-1-2010
325-030-0030	4-26-2010	Adopt	6-1-2010	331-525-0040	4-1-2010	Amend	5-1-2010
325-030-0035	4-26-2010	Adopt	6-1-2010	331-525-0055	4-1-2010	Amend	5-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
331-525-0060	4-1-2010	Amend	5-1-2010	331-585-0040	4-1-2010	Amend	5-1-2010
331-525-0065	4-1-2010	Amend	5-1-2010	331-590-0000	4-1-2010	Amend	5-1-2010
331-530-0000	4-1-2010	Amend	5-1-2010	331-590-0020	4-1-2010	Amend	5-1-2010
331-530-0020	4-1-2010	Amend	5-1-2010	331-705-0060	12-1-2009	Amend(T)	1-1-2010
331-535-0000	4-1-2010	Amend	5-1-2010	331-705-0060	3-1-2010	Amend	4-1-2010
331-535-0010	4-1-2010	Amend	5-1-2010	331-705-0060(T)	3-1-2010	Repeal	4-1-2010
331-535-0020	4-1-2010	Amend	5-1-2010	331-800-0010	3-15-2010	Amend	4-1-2010
331-535-0030	4-1-2010	Amend	5-1-2010	331-800-0010	5-18-2010	Amend	7-1-2010
331-535-0040	4-1-2010	Amend	5-1-2010	331-800-0020	3-15-2010	Amend	4-1-2010
331-535-0050	4-1-2010	Amend	5-1-2010	331-800-0020	5-18-2010	Amend	7-1-2010
331-535-0060	4-1-2010	Amend	5-1-2010	331-810-0020	3-15-2010	Amend	4-1-2010
331-535-0070	4-1-2010	Amend	5-1-2010	331-810-0020	5-18-2010	Amend	7-1-2010
331-535-0080	4-1-2010	Amend	5-1-2010	331-810-0035	3-15-2010	Repeal	4-1-2010
331-540-0000	4-1-2010	Amend	5-1-2010	331-810-0035	5-18-2010	Repeal	7-1-2010
331-540-0010	4-1-2010	Amend	5-1-2010	331-810-0040	3-15-2010	Amend	4-1-2010
331-540-0020	4-1-2010	Amend	5-1-2010	331-810-0040	5-18-2010	Amend	7-1-2010
331-540-0030	4-1-2010	Amend	5-1-2010	331-840-0070	3-15-2010	Adopt	4-1-2010
331-545-0000	4-1-2010	Amend	5-1-2010	331-840-0070	5-18-2010	Adopt	7-1-2010
331-545-0020	4-1-2010	Amend	5-1-2010	332-020-0020	4-1-2010	Amend(T)	5-1-2010
331-550-0000	4-1-2010	Amend	5-1-2010	333-011-0106	2-3-2010	Amend	3-1-2010
331-555-0010	4-1-2010	Amend	5-1-2010	333-012-0500	1-14-2010	Amend	2-1-2010
331-555-0030	4-1-2010	Amend	5-1-2010	333-015-0035	1-14-2010	Amend	2-1-2010
331-555-0040	4-1-2010	Amend	5-1-2010	333-015-0040	1-14-2010	Amend	2-1-2010
331-560-0000	4-1-2010	Amend	5-1-2010	333-015-0075	1-14-2010	Amend	2-1-2010
331-560-0010	4-1-2010	Amend	5-1-2010	333-015-0085	1-14-2010	Amend	2-1-2010
331-560-0020	4-1-2010	Amend	5-1-2010	333-015-0100	1-1-2010	Adopt	2-1-2010
331-560-0030	4-1-2010	Amend	5-1-2010	333-015-0105	1-1-2010	Adopt	2-1-2010
331-560-0050	4-1-2010	Repeal	5-1-2010	333-015-0110	1-1-2010	Adopt	2-1-2010
331-560-0060	4-1-2010	Amend	5-1-2010	333-015-0115	1-1-2010	Adopt	2-1-2010
331-565-0000	4-1-2010	Amend	5-1-2010	333-015-0120	1-1-2010	Adopt	2-1-2010
331-565-0020	4-1-2010	Amend	5-1-2010	333-015-0125	1-1-2010	Adopt	2-1-2010
331-565-0025	4-1-2010	Amend	5-1-2010	333-015-0130	1-1-2010	Adopt	2-1-2010
331-565-0030	4-1-2010	Amend	5-1-2010	333-015-0135	1-1-2010	Adopt	2-1-2010
331-565-0040	4-1-2010	Amend	5-1-2010	333-015-0140	1-1-2010	Adopt	2-1-2010
331-565-0050	4-1-2010	Amend	5-1-2010	333-015-0145	1-1-2010	Adopt	2-1-2010
331-565-0060	4-1-2010	Amend	5-1-2010	333-015-0150	1-1-2010	Adopt	2-1-2010
331-565-0075	4-1-2010	Repeal	5-1-2010	333-015-0155	1-1-2010	Adopt	2-1-2010
331-565-0080	4-1-2010	Amend	5-1-2010	333-015-0160	1-1-2010	Adopt	2-1-2010
331-565-0085	4-1-2010	Amend	5-1-2010	333-015-0165	1-1-2010	Adopt	2-1-2010
331-565-0090	4-1-2010	Adopt	5-1-2010	333-017-0000	3-11-2010	Amend	4-1-2010
331-565-0095	4-1-2010	Adopt	5-1-2010	333-017-0005	3-11-2010	Amend	4-1-2010
331-570-0000	4-1-2010	Amend	5-1-2010	333-018-0000	3-11-2010	Amend	4-1-2010
331-570-0020	4-1-2010	Amend	5-1-2010	333-018-0010	3-11-2010	Amend	4-1-2010
331-575-0000	4-1-2010	Amend	5-1-2010	333-018-0013	3-11-2010	Adopt	4-1-2010
331-575-0010	4-1-2010	Amend	5-1-2010	333-018-0015	3-11-2010	Amend	4-1-2010
331-575-0020	4-1-2010	Amend	5-1-2010	333-018-0017	3-11-2010	Adopt	4-1-2010
331-575-0030	4-1-2010	Amend	5-1-2010	333-018-0018	3-11-2010	Amend	4-1-2010
331-575-0050	4-1-2010	Amend	5-1-2010	333-019-0017	3-11-2010	Amend	4-1-2010
331-580-0000	4-1-2010	Amend	5-1-2010	333-019-0027	3-11-2010	Amend	4-1-2010
331-580-0010	4-1-2010	Amend	5-1-2010	333-019-0036	3-11-2010	Amend	4-1-2010
331-580-0020	4-1-2010	Amend	5-1-2010	333-026-0030	3-11-2010	Adopt	4-1-2010
331-580-0030	4-1-2010	Amend	5-1-2010	333-029-0025	12-23-2009	Amend	2-1-2010
331-585-0000	4-1-2010	Amend	5-1-2010	333-029-0030	12-23-2009	Repeal	2-1-2010
331-585-0010	4-1-2010	Amend	5-1-2010	333-029-0045	12-23-2009	Amend	2-1-2010
331-585-0020	4-1-2010	Amend	5-1-2010	333-029-0050	12-23-2009	Amend	2-1-2010
331-585-0030	4-1-2010	Amend	5-1-2010	333-029-0060	12-23-2009	Amend	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-029-0070	12-23-2009	Amend	2-1-2010	333-061-0335	4-19-2010	Amend	6-1-2010
333-029-0080	12-23-2009	Amend	2-1-2010	333-062-0100	12-23-2009	Amend	2-1-2010
333-029-0115	12-23-2009	Amend	2-1-2010	333-062-0103	12-23-2009	Adopt	2-1-2010
333-050-0020	12-21-2009	Amend(T)	2-1-2010	333-070-0075	4-26-2010	Adopt	6-1-2010
333-050-0050	12-21-2009	Amend(T)	2-1-2010	333-070-0080	4-26-2010	Adopt	6-1-2010
333-050-0120	12-21-2009	Amend(T)	2-1-2010	333-070-0085	4-26-2010	Adopt	6-1-2010
333-060-0125	12-23-2009	Amend	2-1-2010	333-070-0090	4-26-2010	Adopt	6-1-2010
333-060-0128	12-23-2009	Adopt	2-1-2010	333-070-0095	4-26-2010	Adopt	6-1-2010
333-060-0505	12-23-2009	Amend	2-1-2010	333-070-0100	4-26-2010	Adopt	6-1-2010
333-060-0510	12-23-2009	Amend	2-1-2010	333-070-0105	4-26-2010	Adopt	6-1-2010
333-061-0005	4-19-2010	Amend	6-1-2010	333-070-0110	4-26-2010	Adopt	6-1-2010
333-061-0010	4-19-2010	Amend	6-1-2010	333-070-0115	4-26-2010	Adopt	6-1-2010
333-061-0015	4-19-2010	Amend	6-1-2010	333-070-0120	4-26-2010	Adopt	6-1-2010
333-061-0020	4-19-2010	Amend	6-1-2010	333-070-0125	4-26-2010	Adopt	6-1-2010
333-061-0030	4-19-2010	Amend	6-1-2010	333-070-0130	4-26-2010	Adopt	6-1-2010
333-061-0032	4-19-2010	Amend	6-1-2010	333-070-0135	4-26-2010	Adopt	6-1-2010
333-061-0034	4-19-2010	Amend	6-1-2010	333-070-0140	4-26-2010	Adopt	6-1-2010
333-061-0036	4-19-2010	Amend	6-1-2010	333-070-0145	4-26-2010	Adopt	6-1-2010
333-061-0040	4-19-2010	Amend	6-1-2010	333-070-0150	4-26-2010	Adopt	6-1-2010
333-061-0042	4-19-2010	Amend	6-1-2010	333-070-0155	4-26-2010	Adopt	6-1-2010
333-061-0043	4-19-2010	Amend	6-1-2010	333-070-0160	4-26-2010	Adopt	6-1-2010
333-061-0045	4-19-2010	Amend	6-1-2010	333-092-0000	12-21-2009	Repeal	2-1-2010
333-061-0050	4-19-2010	Amend	6-1-2010	333-092-0005	12-21-2009	Repeal	2-1-2010
333-061-0055	4-19-2010	Amend	6-1-2010	333-092-0010	12-21-2009	Repeal	2-1-2010
333-061-0057	4-19-2010	Amend	6-1-2010	333-092-0015	12-21-2009	Repeal	2-1-2010
333-061-0058	4-19-2010	Amend	6-1-2010	333-092-0020	12-21-2009	Repeal	2-1-2010
333-061-0060	4-19-2010	Amend	6-1-2010	333-092-0025	12-21-2009	Repeal	2-1-2010
333-061-0061	4-19-2010	Amend	6-1-2010	333-092-0030	12-21-2009	Repeal	2-1-2010
333-061-0062	4-19-2010	Amend	6-1-2010	333-092-0035	12-21-2009	Repeal	2-1-2010
333-061-0063	4-19-2010	Amend	6-1-2010	333-092-0040	12-21-2009	Repeal	2-1-2010
333-061-0064	4-19-2010	Amend	6-1-2010	333-092-0045	12-21-2009	Repeal	2-1-2010
333-061-0065	4-19-2010	Amend	6-1-2010	333-092-0050	12-21-2009	Repeal	2-1-2010
333-061-0070	4-19-2010	Amend	6-1-2010	333-092-0055	12-21-2009	Repeal	2-1-2010
333-061-0071	4-19-2010	Amend	6-1-2010	333-092-0060	12-21-2009	Repeal	2-1-2010
333-061-0072	4-19-2010	Amend	6-1-2010	333-092-0065	12-21-2009	Repeal	2-1-2010
333-061-0073	4-19-2010	Amend	6-1-2010	333-092-0070	12-21-2009	Repeal	2-1-2010
333-061-0076	4-19-2010	Amend	6-1-2010	333-092-0075	12-21-2009	Repeal	2-1-2010
333-061-0077	4-19-2010	Amend	6-1-2010	333-092-0080	12-21-2009	Repeal	2-1-2010
333-061-0090	4-19-2010	Amend	6-1-2010	333-092-0085	12-21-2009	Repeal	2-1-2010
333-061-0215	4-19-2010	Repeal	6-1-2010	333-092-0090	12-21-2009	Repeal	2-1-2010
333-061-0228	4-19-2010	Amend	6-1-2010	333-092-0095	12-21-2009	Repeal	2-1-2010
333-061-0230	4-19-2010	Amend	6-1-2010	333-100-0020	2-16-2010	Amend	4-1-2010
333-061-0235	4-19-2010	Amend	6-1-2010	333-100-0065	2-16-2010	Amend	4-1-2010
333-061-0245	4-19-2010	Amend	6-1-2010	333-102-0010	2-16-2010	Amend	4-1-2010
333-061-0265	4-19-2010	Amend	6-1-2010	333-102-0015	2-16-2010	Amend	4-1-2010
333-061-0272	3-16-2010	Amend(T)	5-1-2010	333-102-0020	2-16-2010	Repeal	4-1-2010
333-061-0274	3-16-2010	Adopt(T)	5-1-2010	333-102-0035	2-16-2010	Amend	4-1-2010
333-061-0290	4-19-2010	Amend	6-1-2010	333-102-0105	2-16-2010	Amend	4-1-2010
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-102-0340	2-16-2010	Amend	4-1-2010	335-070-0065	11-16-2009	Amend	1-1-2010
333-103-0001	2-16-2010	Amend	4-1-2010	335-095-0060	11-16-2009	Amend	1-1-2010
333-103-0010	2-16-2010	Amend	4-1-2010	337-001-0000	6-15-2010	Amend	7-1-2010
333-106-0005	2-16-2010	Amend	4-1-2010	337-001-0005	6-15-2010	Amend	7-1-2010
333-106-0215	2-16-2010	Amend	4-1-2010	337-010-0006	6-15-2010	Amend	7-1-2010
333-106-0320	2-16-2010	Amend	4-1-2010	337-010-0007	6-15-2010	Adopt	7-1-2010
333-116-0020	2-16-2010	Amend	4-1-2010	337-010-0008	6-15-2010	Amend	7-1-2010
333-116-0035	2-16-2010	Amend	4-1-2010	337-010-0009	6-15-2010	Adopt	7-1-2010
333-116-0140	2-16-2010	Amend	4-1-2010	337-010-0010	6-15-2010	Amend	7-1-2010
333-116-0170	2-16-2010	Amend	4-1-2010	337-010-0011	6-15-2010	Amend	7-1-2010
333-116-0190	2-16-2010	Amend	4-1-2010	337-010-0012	6-15-2010	Repeal	7-1-2010
333-116-0300	2-16-2010	Amend	4-1-2010	337-010-0013	6-15-2010	Adopt	7-1-2010
333-116-0360	2-16-2010	Amend	4-1-2010	337-010-0014	6-15-2010	Adopt	7-1-2010
333-116-0485	2-16-2010	Adopt	4-1-2010	337-010-0015	6-15-2010	Amend	7-1-2010
333-116-0660	2-16-2010	Amend	4-1-2010	337-010-0016	6-15-2010	Adopt	7-1-2010
333-116-0670	2-16-2010	Amend	4-1-2010	337-010-0020	6-15-2010	Repeal	7-1-2010
333-116-0683	2-16-2010	Amend	4-1-2010	337-010-0023	6-15-2010	Adopt	7-1-2010
333-116-0687	2-16-2010	Amend	4-1-2010	337-010-0025	6-15-2010	Amend	7-1-2010
333-116-0690	2-16-2010	Amend	4-1-2010	337-010-0026	6-15-2010	Adopt	7-1-2010
333-116-0700	2-16-2010	Amend	4-1-2010	337-010-0030	6-15-2010	Amend	7-1-2010
333-116-0810	2-16-2010	Amend	4-1-2010	337-010-0031	6-15-2010	Amend	7-1-2010
333-116-0905	2-16-2010	Amend	4-1-2010	337-010-0036	6-15-2010	Repeal	7-1-2010
333-118-0020	2-16-2010	Amend	4-1-2010	337-010-0045	6-15-2010	Amend	7-1-2010
333-118-0050	2-16-2010	Amend	4-1-2010	337-010-0055	6-15-2010	Repeal	7-1-2010
333-118-0051	2-16-2010	Adopt	4-1-2010	337-010-0060	6-15-2010	Repeal	7-1-2010
333-118-0052	2-16-2010	Adopt	4-1-2010	337-010-0061	6-15-2010	Repeal	7-1-2010
333-118-0053	2-16-2010	Adopt	4-1-2010	337-010-0065	6-15-2010	Repeal	7-1-2010
333-118-0070	2-16-2010	Amend	4-1-2010	337-010-0075	6-15-2010	Repeal	7-1-2010
333-118-0110	2-16-2010	Amend	4-1-2010	337-020-0010	6-15-2010	Repeal	7-1-2010
333-118-0120	2-16-2010	Amend	4-1-2010	337-020-0015	6-15-2010	Amend	7-1-2010
333-118-0125	2-16-2010	Adopt	4-1-2010	337-020-0040	6-15-2010	Amend	7-1-2010
333-118-0140	2-16-2010	Amend	4-1-2010	337-021-0005	6-15-2010	Amend	7-1-2010
333-118-0150	2-16-2010	Amend	4-1-2010	337-021-0010	6-15-2010	Amend	7-1-2010
333-118-0160	2-16-2010	Amend	4-1-2010	337-021-0020	6-15-2010	Amend	7-1-2010
333-118-0162	2-16-2010	Adopt	4-1-2010	337-021-0030	6-15-2010	Amend	7-1-2010
333-118-0190	2-16-2010	Amend	4-1-2010	337-021-0040	6-15-2010	Amend	7-1-2010
333-118-0200	2-16-2010	Amend	4-1-2010	337-021-0070	6-15-2010	Amend	7-1-2010
333-119-0010	2-16-2010	Amend	4-1-2010	337-030-0002	6-15-2010	Adopt	7-1-2010
333-119-0020	2-16-2010	Amend	4-1-2010	337-030-0005	6-15-2010	Adopt	7-1-2010
333-119-0080	2-16-2010	Amend	4-1-2010	337-030-0010	6-15-2010	Adopt	7-1-2010
333-119-0090	2-16-2010	Amend	4-1-2010	337-030-0015	6-15-2010	Adopt	7-1-2010
333-119-0100	2-16-2010	Amend	4-1-2010	337-030-0020	6-15-2010	Adopt	7-1-2010
333-120-0015	2-16-2010	Amend	4-1-2010	337-030-0025	6-15-2010	Adopt	7-1-2010
333-120-0800	2-16-2010	Amend	4-1-2010	339-005-0000	3-1-2010	Amend	2-1-2010
333-124-0001	2-16-2010	Adopt	4-1-2010	340-045-0033	1-22-2010	Amend	3-1-2010
333-124-0010	2-16-2010	Adopt	4-1-2010	340-054-0010	5-4-2010	Amend(T)	6-1-2010
333-270-0010	12-3-2009	Adopt	1-1-2010	340-054-0025	5-4-2010	Amend(T)	6-1-2010
333-270-0020	12-3-2009	Adopt	1-1-2010	340-054-0065	5-4-2010	Amend(T)	6-1-2010
333-270-0030	12-3-2009	Adopt	1-1-2010	340-071-0140	1-4-2010	Amend	2-1-2010
333-270-0040	12-3-2009	Adopt	1-1-2010	340-093-0030	5-14-2010	Amend	6-1-2010
333-270-0050	12-3-2009	Adopt	1-1-2010	340-093-0260	5-14-2010	Adopt	6-1-2010
333-270-0060	12-3-2009	Adopt	1-1-2010	340-093-0270	5-14-2010	Adopt	6-1-2010
333-270-0070	12-3-2009	Adopt	1-1-2010	340-093-0280	5-14-2010	Adopt	6-1-2010
333-270-0080	12-3-2009	Adopt	1-1-2010	340-093-0290	5-14-2010	Adopt	6-1-2010
333-300-0000	12-21-2009	Repeal	2-1-2010	340-097-0120	5-14-2010	Amend	6-1-2010
334-001-0055	4-12-2010	Adopt	5-1-2010	340-200-0020	5-21-2010	Amend	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-200-0025	5-21-2010	Amend	7-1-2010	340-252-0230	3-5-2010	Amend	4-1-2010
340-200-0040	12-16-2009	Amend	2-1-2010	340-252-0240	3-5-2010	Repeal	4-1-2010
340-200-0040	3-5-2010	Amend	4-1-2010	340-252-0250	3-5-2010	Repeal	4-1-2010
340-200-0040	5-21-2010	Amend	7-1-2010	340-252-0260	3-5-2010	Repeal	4-1-2010
340-202-0060	5-21-2010	Amend	7-1-2010	340-252-0270	3-5-2010	Repeal	4-1-2010
340-202-0090	5-21-2010	Amend	7-1-2010	340-252-0280	3-5-2010	Repeal	4-1-2010
340-202-0130	5-21-2010	Amend	7-1-2010	340-252-0290	3-5-2010	Repeal	4-1-2010
340-204-0010	5-21-2010	Amend	7-1-2010	345-001-0010	11-24-2009	Amend	1-1-2010
340-204-0030	5-21-2010	Amend	7-1-2010	345-001-0220	5-11-2010	Amend	6-1-2010
340-206-0010	5-21-2010	Amend	7-1-2010	345-024-0590	11-24-2009	Amend	1-1-2010
340-206-0030	5-21-2010	Amend	7-1-2010	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
340-252-0100	3-5-2010	Repeal	4-1-2010	350-090-0340	6-1-2010	Repeal	6-1-2010
340-252-0110	3-5-2010	Repeal	4-1-2010	350-090-0350	6-1-2010	Repeal	6-1-2010
340-252-0120	3-5-2010	Repeal	4-1-2010	350-090-0360	6-1-2010	Repeal	6-1-2010
340-252-0130	3-5-2010	Repeal	4-1-2010	350-090-0370	6-1-2010	Repeal	6-1-2010
340-252-0140	3-5-2010	Repeal	4-1-2010	350-090-0380	6-1-2010	Repeal	6-1-2010
340-252-0150	3-5-2010	Repeal	4-1-2010	350-090-0390	6-1-2010	Repeal	6-1-2010
340-252-0160	3-5-2010	Repeal	4-1-2010	350-090-0400	6-1-2010	Repeal	6-1-2010
340-252-0170	3-5-2010	Repeal	4-1-2010	350-090-0410	6-1-2010	Repeal	6-1-2010
340-252-0180	3-5-2010	Repeal	4-1-2010	350-090-0420	6-1-2010	Repeal	6-1-2010
340-252-0190	3-5-2010	Repeal	4-1-2010	350-090-0430	6-1-2010	Repeal	6-1-2010
340-252-0200	3-5-2010	Repeal	4-1-2010	350-090-0440	6-1-2010	Repeal	6-1-2010
340-252-0210	3-5-2010	Repeal	4-1-2010	350-090-0450	6-1-2010	Repeal	6-1-2010
340-252-0220	3-5-2010	Repeal	4-1-2010	350-090-0460	6-1-2010	Repeal	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
407-007-0220	1-1-2010	Amend	2-1-2010	410-120-0045	7-1-2010	Adopt	7-1-2010
407-007-0230	1-1-2010	Amend	2-1-2010	410-120-1200	1-1-2010	Amend	1-1-2010
407-007-0240	1-1-2010	Amend	2-1-2010	410-120-1210	1-1-2010	Amend	1-1-2010
407-007-0250	1-1-2010	Amend	2-1-2010	410-120-1230	1-1-2010	Amend	1-1-2010
407-007-0275	5-5-2010	Adopt(T)	6-1-2010	410-120-1295	12-4-2009	Amend(T)	1-1-2010
407-007-0280	1-1-2010	Amend	2-1-2010	410-120-1295	1-1-2010	Amend	1-1-2010
407-007-0290	1-1-2010	Amend	2-1-2010	410-120-1295	3-26-2010	Amend	5-1-2010
407-007-0300	1-1-2010	Amend	2-1-2010	410-120-1295(T)	12-4-2009	Suspend	1-1-2010
407-007-0315	1-1-2010	Adopt	2-1-2010	410-120-1340	1-1-2010	Amend	1-1-2010
407-007-0320	1-1-2010	Amend	2-1-2010	410-120-1380	1-1-2010	Amend	1-1-2010
407-007-0325	1-1-2010	Adopt	2-1-2010	410-120-1570	1-1-2010	Amend	1-1-2010
407-007-0330	1-1-2010	Amend	2-1-2010	410-120-1600	1-1-2010	Amend	1-1-2010
407-007-0340	1-1-2010	Amend	2-1-2010	410-121-0000	1-1-2010	Amend	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-121-0000	7-1-2010	Amend	7-1-2010	410-130-0245	7-1-2010	Amend	7-1-2010
410-121-0030	1-1-2010	Amend	1-1-2010	410-130-0255	7-1-2010	Amend	7-1-2010
410-121-0030	7-1-2010	Amend	7-1-2010	410-130-0595	4-15-2010	Amend(T)	5-1-2010
410-121-0032	1-1-2010	Amend	1-1-2010	410-136-0245	1-1-2010	Adopt	1-1-2010
410-121-0040	1-1-2010	Amend	1-1-2010	410-136-0245	4-1-2010	Amend(T)	5-1-2010
410-121-0040	7-1-2010	Amend	7-1-2010	410-138-0009	1-1-2010	Amend	1-1-2010
410-121-0060	1-1-2010	Amend	1-1-2010	410-138-0020	1-1-2010	Amend	1-1-2010
410-121-0100	1-1-2010	Amend	1-1-2010	410-138-0300	11-16-2009	Amend(T)	1-1-2010
410-121-0100	7-1-2010	Amend	7-1-2010	410-138-0300	1-1-2010	Amend	1-1-2010
410-121-0135	1-1-2010	Amend	1-1-2010	410-138-0300(T)	1-1-2010	Repeal	1-1-2010
410-121-0144	7-1-2010	Repeal	7-1-2010	410-138-0320	1-1-2010	Repeal	1-1-2010
410-121-0145	2-5-2010	Amend	3-1-2010	410-138-0340	11-16-2009	Suspend	1-1-2010
410-121-0146	4-1-2010	Amend(T)	5-1-2010	410-138-0340	1-1-2010	Repeal	1-1-2010
410-121-0146	7-1-2010	Amend	7-1-2010	410-138-0360	11-16-2009	Amend(T)	1-1-2010
410-121-0147	7-1-2010	Amend	7-1-2010	410-138-0360	1-1-2010	Amend	1-1-2010
410-121-0185	7-1-2010	Amend	7-1-2010	410-138-0360(T)	1-1-2010	Repeal	1-1-2010
410-121-0420	1-1-2010	Amend	1-1-2010	410-138-0380	11-16-2009	Amend(T)	1-1-2010
410-122-0010	7-1-2010	Amend	7-1-2010	410-138-0380	1-1-2010	Amend	1-1-2010
410-122-0020	7-1-2010	Amend	7-1-2010	410-138-0380(T)	1-1-2010	Repeal	1-1-2010
410-122-0040	7-1-2010	Amend	7-1-2010	410-138-0390	11-16-2009	Adopt(T)	1-1-2010
410-122-0055	7-1-2010	Amend	7-1-2010	410-138-0390	1-1-2010	Adopt	1-1-2010
410-122-0080	7-1-2010	Amend	7-1-2010	410-138-0390(T)	1-1-2010	Repeal	1-1-2010
410-122-0182	1-1-2010	Amend	1-1-2010	410-138-0520	1-1-2010	Repeal	1-1-2010
410-122-0184	7-1-2010	Amend	7-1-2010	410-138-0560	1-1-2010	Amend	1-1-2010
410-122-0202	7-1-2010	Amend	7-1-2010	410-138-0620	1-1-2010	Repeal	1-1-2010
410-122-0203	1-1-2010	Amend	1-1-2010	410-138-0680	1-1-2010	Amend	1-1-2010
410-122-0203	7-1-2010	Amend	7-1-2010	410-138-0720	1-1-2010	Repeal	1-1-2010
410-122-0205	7-1-2010	Amend	7-1-2010	410-140-0050	1-1-2010	Amend	1-1-2010
410-122-0207	7-1-2010	Amend	7-1-2010	410-140-0115	1-1-2010	Repeal	1-1-2010
410-122-0208	7-1-2010	Amend	7-1-2010	410-140-0140	1-1-2010	Amend	1-1-2010
410-122-0210	7-1-2010	Amend	7-1-2010	410-140-0160	1-1-2010	Amend	1-1-2010
410-122-0211	7-1-2010	Amend	7-1-2010	410-140-0200	1-1-2010	Amend	1-1-2010
410-122-0280	7-1-2010	Amend	7-1-2010	410-140-0260	1-1-2010	Amend	1-1-2010
410-122-0325	7-1-2010	Amend	7-1-2010	410-141-0000	1-1-2010	Amend	1-1-2010
410-122-0340	7-1-2010	Amend	7-1-2010	410-141-0000	7-1-2010	Amend	7-1-2010
410-122-0540	7-1-2010	Amend	7-1-2010	410-141-0070	7-1-2010	Amend	7-1-2010
410-122-0560	7-1-2010	Amend	7-1-2010	410-141-0160	7-1-2010	Amend	7-1-2010
410-122-0625	7-1-2010	Amend	7-1-2010	410-141-0200	7-1-2010	Amend	7-1-2010
410-122-0630	7-1-2010	Amend	7-1-2010	410-141-0220	7-1-2010	Amend	7-1-2010
410-122-0655	7-1-2010	Amend	7-1-2010	410-141-0261	1-1-2010	Amend	1-1-2010
410-122-0658	7-1-2010	Amend	7-1-2010	410-141-0263	1-1-2010	Amend	1-1-2010
410-122-0660	1-1-2010	Amend	1-1-2010	410-141-0264	1-1-2010	Amend	1-1-2010
410-122-0662	1-1-2010	Amend	1-1-2010	410-141-0300	7-1-2010	Amend	7-1-2010
410-122-0662	7-1-2010	Amend	7-1-2010	410-141-0405	1-1-2010	Amend	1-1-2010
410-122-0680	7-1-2010	Amend	7-1-2010	410-141-0405	7-1-2010	Amend	7-1-2010
410-122-0720	7-1-2010	Amend	7-1-2010	410-141-0407	7-1-2010	Amend	7-1-2010
410-123-1000	1-1-2010	Amend	1-1-2010	410-141-0420	1-1-2010	Amend	1-1-2010
410-123-1000	7-1-2010	Amend	7-1-2010	410-141-0420	7-1-2010	Amend	7-1-2010
410-123-1160	1-1-2010	Amend	1-1-2010	410-141-0480	6-3-2010	Amend(T)	7-1-2010
410-123-1160	7-1-2010	Amend	7-1-2010	410-141-0520	1-1-2010	Amend(T)	1-1-2010
410-123-1220	1-1-2010	Amend	1-1-2010	410-141-0520	1-15-2010	Amend(T)	2-1-2010
410-123-1220	7-1-2010	Amend	7-1-2010	410-141-0520	3-17-2010	Amend	4-1-2010
410-123-1260	1-1-2010	Amend	1-1-2010	410-141-0520	4-1-2010	Amend(T)	5-1-2010
410-123-1260	7-1-2010	Amend	7-1-2010	410-141-0520	4-26-2010	Amend	6-1-2010
410-130-0200	7-1-2010	Amend	7-1-2010	410-141-0520(T)	1-1-2010	Suspend	1-1-2010
410-130-0220	7-1-2010	Amend	7-1-2010	410-141-0520(T)	1-15-2010	Suspend	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-141-0520(T)	3-17-2010	Repeal	4-1-2010	411-054-0025	3-11-2010	Amend(T)	4-1-2010
410-141-0520(T)	4-26-2010	Repeal	6-1-2010	411-054-0025(T)	3-11-2010	Suspend	4-1-2010
410-141-0740	7-1-2010	Amend	7-1-2010	411-054-0065	1-1-2010	Amend(T)	2-1-2010
410-146-0021	1-1-2010	Amend	1-1-2010	411-054-0105	1-1-2010	Amend(T)	2-1-2010
410-146-0085	1-1-2010	Amend	1-1-2010	411-054-0120	1-1-2010	Amend(T)	2-1-2010
410-146-0240	1-1-2010	Amend	1-1-2010	411-054-0133	1-1-2010	Adopt(T)	2-1-2010
410-146-0340	1-1-2010	Repeal	1-1-2010	411-070-0000	12-1-2009	Amend	1-1-2010
410-147-0120	1-1-2010	Amend	1-1-2010	411-070-0005	12-1-2009	Amend	1-1-2010
410-147-0320	1-1-2010	Amend	1-1-2010	411-070-0005(T)	12-1-2009	Repeal	1-1-2010
410-147-0365	5-1-2010	Amend(T)	5-1-2010	411-070-0010	12-1-2009	Amend	1-1-2010
410-147-0400	1-1-2010	Amend	1-1-2010	411-070-0025	12-1-2009	Amend	1-1-2010
410-147-0620	1-1-2010	Repeal	1-1-2010	411-070-0027	12-1-2009	Amend	1-1-2010
410-149-0000	1-1-2010	Repeal	1-1-2010	411-070-0029	12-1-2009	Amend	1-1-2010
410-149-0020	1-1-2010	Repeal	1-1-2010	411-070-0033	12-1-2009	Amend	1-1-2010
410-149-0040	1-1-2010	Repeal	1-1-2010	411-070-0035	12-1-2009	Amend	1-1-2010
410-149-0060	1-1-2010	Repeal	1-1-2010	411-070-0040	12-1-2009	Amend	1-1-2010
410-149-0080	1-1-2010	Repeal	1-1-2010	411-070-0043	12-1-2009	Amend	1-1-2010
410-150-0080	1-1-2010	Amend	1-1-2010	411-070-0080	12-1-2009	Amend	1-1-2010
410-150-0120	1-1-2010	Repeal	1-1-2010	411-070-0110	12-1-2009	Amend	1-1-2010
410-150-0160	1-1-2010	Repeal	1-1-2010	411-070-0125	12-1-2009	Amend	1-1-2010
410-150-0240	1-1-2010	Repeal	1-1-2010	411-070-0130	12-1-2009	Amend	1-1-2010
411-001-0100	1-1-2010	Amend	2-1-2010	411-070-0300	12-1-2009	Amend	1-1-2010
411-001-0110	1-1-2010	Amend	2-1-2010	411-070-0350	12-1-2009	Amend	1-1-2010
411-001-0115	1-1-2010	Adopt	2-1-2010	411-070-0359	12-1-2009	Amend	1-1-2010
411-001-0118	1-1-2010	Adopt	2-1-2010	411-070-0415	12-1-2009	Amend	1-1-2010
411-001-0120	1-1-2010	Amend	2-1-2010	411-070-0417	12-1-2009	Amend	1-1-2010
411-020-0002	1-1-2010	Amend(T)	2-1-2010	411-070-0430	12-1-2009	Amend	1-1-2010
411-020-0020	1-1-2010	Amend(T)	2-1-2010	411-070-0442	12-1-2009	Amend	1-1-2010
411-020-0025	1-1-2010	Adopt(T)	2-1-2010	411-070-0442(T)	12-1-2009	Repeal	1-1-2010
411-020-0030	1-1-2010	Amend(T)	2-1-2010	411-070-0452	12-1-2009	Amend	1-1-2010
411-020-0085	1-1-2010	Adopt(T)	2-1-2010	411-070-0470	12-1-2009	Amend	1-1-2010
411-020-0100	1-1-2010	Amend(T)	2-1-2010	411-085-0005	1-1-2010	Amend(T)	2-1-2010
411-020-0120	1-1-2010	Amend(T)	2-1-2010	411-085-0020	1-1-2010	Amend	2-1-2010
411-031-0020	5-30-2010	Amend	7-1-2010	411-085-0020	1-1-2010	Amend(T)	2-1-2010
411-031-0030	5-30-2010	Amend	7-1-2010	411-089-0030	1-1-2010	Amend(T)	2-1-2010
411-031-0040	12-1-2009	Amend(T)	1-1-2010	411-089-0075	1-1-2010	Adopt(T)	2-1-2010
411-031-0040	5-30-2010	Amend	7-1-2010	411-089-0140	1-1-2010	Amend(T)	2-1-2010
411-031-0040(T)	5-30-2010	Repeal	7-1-2010	411-089-0150	1-1-2010	Suspend	2-1-2010
411-031-0050	5-30-2010	Amend	7-1-2010	411-300-0110	1-1-2010	Amend(T)	2-1-2010
411-050-0400	1-1-2010	Amend(T)	2-1-2010	411-300-0155	1-1-2010	Amend(T)	2-1-2010
411-050-0410	1-1-2010	Amend(T)	2-1-2010	411-300-0155	3-18-2010	Amend(T)	5-1-2010
411-050-0412	1-1-2010	Amend(T)	2-1-2010	411-300-0155(T)	3-18-2010	Suspend	5-1-2010
411-050-0412	3-11-2010	Amend(T)	4-1-2010	411-300-0170	1-1-2010	Amend(T)	2-1-2010
411-050-0412(T)	3-11-2010	Suspend	4-1-2010	411-300-0170	3-18-2010	Amend(T)	5-1-2010
411-050-0415	1-1-2010	Amend(T)	2-1-2010	411-300-0170(T)	3-18-2010	Suspend	5-1-2010
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-305-0140	1-1-2010	Amend(T)	2-1-2010	411-328-0670	1-1-2010	Amend(T)	2-1-2010
411-305-0140	3-18-2010	Amend(T)	5-1-2010	411-328-0670	3-18-2010	Amend(T)	5-1-2010
411-305-0140(T)	3-18-2010	Suspend	5-1-2010	411-328-0670(T)	3-18-2010	Suspend	5-1-2010
411-308-0010	12-28-2009	Adopt	2-1-2010	411-330-0010	1-1-2010	Amend(T)	2-1-2010
411-308-0010(T)	12-28-2009	Repeal	2-1-2010	411-330-0020	1-1-2010	Amend(T)	2-1-2010
411-308-0020	12-28-2009	Adopt	2-1-2010	411-330-0060	1-1-2010	Amend(T)	2-1-2010
411-308-0020	1-1-2010	Amend(T)	2-1-2010	411-330-0060	3-18-2010	Amend(T)	5-1-2010
411-308-0020(T)	12-28-2009	Repeal	2-1-2010	411-330-0060(T)	3-18-2010	Suspend	5-1-2010
411-308-0030	12-28-2009	Adopt	2-1-2010	411-330-0070	1-1-2010	Amend(T)	2-1-2010
411-308-0030	1-1-2010	Amend(T)	2-1-2010	411-330-0070	3-18-2010	Amend(T)	5-1-2010
411-308-0030(T)	12-28-2009	Repeal	2-1-2010	411-330-0070(T)	3-18-2010	Suspend	5-1-2010
411-308-0040	12-28-2009	Adopt	2-1-2010	411-330-0100	1-1-2010	Amend(T)	2-1-2010
411-308-0040(T)	12-28-2009	Repeal	2-1-2010	411-330-0120	1-1-2010	Amend(T)	2-1-2010
411-308-0050	12-28-2009	Adopt	2-1-2010	411-330-0140	1-1-2010	Amend(T)	2-1-2010
411-308-0050(T)	12-28-2009	Repeal	2-1-2010	411-330-0160	1-1-2010	Amend(T)	2-1-2010
411-308-0060	12-28-2009	Adopt	2-1-2010	411-335-0020	1-1-2010	Amend(T)	2-1-2010
411-308-0060(T)	12-28-2009	Repeal	2-1-2010	411-335-0030	1-1-2010	Amend(T)	2-1-2010
411-308-0070	12-28-2009	Adopt	2-1-2010	411-335-0030	3-18-2010	Amend(T)	5-1-2010
411-308-0070(T)	12-28-2009	Repeal	2-1-2010	411-335-0030(T)	3-18-2010	Suspend	5-1-2010
411-308-0080	12-28-2009	Adopt	2-1-2010	411-335-0100	1-1-2010	Amend(T)	2-1-2010
411-308-0080(T)	12-28-2009	Repeal	2-1-2010	411-340-0020	1-1-2010	Amend(T)	2-1-2010
411-308-0090	12-28-2009	Adopt	2-1-2010	411-340-0030	1-1-2010	Amend(T)	2-1-2010
411-308-0090	1-1-2010	Amend(T)	2-1-2010	411-340-0040	1-1-2010	Amend(T)	2-1-2010
411-308-0090(T)	12-28-2009	Repeal	2-1-2010	411-340-0050	1-1-2010	Amend(T)	2-1-2010
411-308-0100	12-28-2009	Adopt	2-1-2010	411-340-0070	1-1-2010	Amend(T)	2-1-2010
411-308-0100	1-1-2010	Amend(T)	2-1-2010	411-340-0070	3-18-2010	Amend(T)	5-1-2010
411-308-0100(T)	12-28-2009	Repeal	2-1-2010	411-340-0070(T)	3-18-2010	Suspend	5-1-2010
411-308-0110	12-28-2009	Adopt	2-1-2010	411-340-0080	1-1-2010	Amend(T)	2-1-2010
411-308-0110	1-1-2010	Amend(T)	2-1-2010	411-340-0130	1-1-2010	Amend(T)	2-1-2010
411-308-0110	3-18-2010	Amend(T)	5-1-2010	411-340-0140	1-1-2010	Amend(T)	2-1-2010
411-308-0110(T)	12-28-2009	Repeal	2-1-2010	411-340-0140	3-18-2010	Amend(T)	5-1-2010
411-308-0110(T)	3-18-2010	Suspend	5-1-2010	411-340-0140(T)	3-18-2010	Suspend	5-1-2010
411-308-0120	12-28-2009	Adopt	2-1-2010	411-340-0160	1-1-2010	Amend(T)	2-1-2010
411-308-0120(T)	12-28-2009	Repeal	2-1-2010	411-340-0160	3-18-2010	Amend(T)	5-1-2010
411-308-0130	12-28-2009	Adopt	2-1-2010	411-340-0160(T)	3-18-2010	Suspend	5-1-2010
411-308-0130	1-1-2010	Amend(T)	2-1-2010	411-345-0020	1-1-2010	Amend(T)	2-1-2010
411-308-0130	3-18-2010	Amend(T)	5-1-2010	411-345-0080	1-1-2010	Amend(T)	2-1-2010
411-308-0130(T)	12-28-2009	Repeal	2-1-2010	411-345-0100	1-1-2010	Amend(T)	2-1-2010
411-308-0130(T)	3-18-2010	Suspend	5-1-2010	411-345-0210	1-1-2010	Amend(T)	2-1-2010
411-308-0140	12-28-2009	Adopt	2-1-2010	411-345-0210	3-18-2010	Amend(T)	5-1-2010
411-308-0140(T)	12-28-2009	Repeal	2-1-2010	411-345-0210(T)	3-18-2010	Suspend	5-1-2010
411-308-0150	12-28-2009	Adopt	2-1-2010	411-345-0230	1-1-2010	Amend(T)	2-1-2010
411-308-0150(T)	12-28-2009	Repeal	2-1-2010	411-345-0290	1-1-2010	Amend(T)	2-1-2010
411-320-0020	1-1-2010	Amend(T)	2-1-2010	411-346-0110	1-1-2010	Amend(T)	2-1-2010
411-320-0030	1-1-2010	Amend(T)	2-1-2010	411-346-0150	1-1-2010	Amend(T)	2-1-2010
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-350-0110	1-1-2010	Amend(T)	2-1-2010	413-040-0005	12-29-2009	Amend	2-1-2010
411-350-0110	3-18-2010	Amend(T)	5-1-2010	413-040-0006	12-29-2009	Amend	2-1-2010
411-350-0110(T)	3-18-2010	Suspend	5-1-2010	413-040-0008	12-29-2009	Amend	2-1-2010
411-350-0120	1-1-2010	Amend(T)	2-1-2010	413-040-0009	12-29-2009	Amend	2-1-2010
411-355-0010	1-1-2010	Amend(T)	2-1-2010	413-040-0010	12-29-2009	Amend	2-1-2010
411-355-0040	1-1-2010	Amend(T)	2-1-2010	413-040-0011	12-29-2009	Amend	2-1-2010
411-355-0050	1-1-2010	Amend(T)	2-1-2010	413-040-0013	12-29-2009	Amend	2-1-2010
411-355-0050	3-18-2010	Amend(T)	5-1-2010	413-040-0016	12-29-2009	Amend	2-1-2010
411-355-0050(T)	3-18-2010	Suspend	5-1-2010	413-040-0017	12-29-2009	Amend	2-1-2010
411-355-0060	1-1-2010	Amend(T)	2-1-2010	413-040-0024	12-29-2009	Amend	2-1-2010
411-355-0090	1-1-2010	Amend(T)	2-1-2010	413-040-0032	12-29-2009	Amend	2-1-2010
411-355-0090	3-18-2010	Amend(T)	5-1-2010	413-040-0240	3-15-2010	Amend(T)	4-1-2010
411-355-0090(T)	3-18-2010	Suspend	5-1-2010	413-070-0600	12-29-2009	Amend	2-1-2010
411-355-0120	1-1-2010	Amend(T)	2-1-2010	413-070-0620	12-29-2009	Amend	2-1-2010
411-360-0020	1-1-2010	Amend(T)	2-1-2010	413-070-0625	12-29-2009	Amend	2-1-2010
411-360-0040	1-1-2010	Amend(T)	2-1-2010	413-070-0630	12-29-2009	Amend	2-1-2010
411-360-0040	3-18-2010	Amend(T)	5-1-2010	413-070-0640	12-29-2009	Amend	2-1-2010
411-360-0040(T)	3-18-2010	Suspend	5-1-2010	413-070-0645	12-29-2009	Amend	2-1-2010
411-360-0050	1-1-2010	Amend(T)	2-1-2010	413-070-0900	12-16-2009	Amend(T)	2-1-2010
411-360-0090	1-1-2010	Amend(T)	2-1-2010	413-070-0900	6-15-2010	Amend	7-1-2010
411-360-0090	3-18-2010	Amend(T)	5-1-2010	413-070-0905	12-16-2009	Amend(T)	2-1-2010
411-360-0090(T)	3-18-2010	Suspend	5-1-2010	413-070-0905	2-1-2010	Amend(T)	3-1-2010
411-360-0110	1-1-2010	Amend(T)	2-1-2010	413-070-0905	6-15-2010	Amend	7-1-2010
411-360-0110	3-18-2010	Amend(T)	5-1-2010	413-070-0905(T)	2-1-2010	Suspend	3-1-2010
411-360-0110(T)	3-18-2010	Suspend	5-1-2010	413-070-0909	12-16-2009	Amend(T)	2-1-2010
411-360-0210	1-1-2010	Amend(T)	2-1-2010	413-070-0909	6-15-2010	Amend	7-1-2010
411-360-0270	1-1-2010	Amend(T)	2-1-2010	413-070-0915	12-16-2009	Amend(T)	2-1-2010
411-360-0270	3-18-2010	Amend(T)	5-1-2010	413-070-0915	6-15-2010	Repeal	7-1-2010
411-360-0270(T)	3-18-2010	Suspend	5-1-2010	413-070-0917	12-16-2009	Amend(T)	2-1-2010
413-010-0500	12-29-2009	Amend	2-1-2010	413-070-0917	6-15-2010	Amend	7-1-2010
413-010-0505	12-29-2009	Adopt	2-1-2010	413-070-0919	12-16-2009	Adopt(T)	2-1-2010
413-010-0510	12-29-2009	Adopt	2-1-2010	413-070-0919	6-15-2010	Adopt	7-1-2010
413-010-0515	12-29-2009	Adopt	2-1-2010	413-070-0920	12-16-2009	Am. & Ren.(T)	2-1-2010
413-010-0520	12-29-2009	Adopt	2-1-2010	413-070-0920	6-15-2010	Am. & Ren.	7-1-2010
413-010-0525	12-29-2009	Adopt	2-1-2010	413-070-0925	12-16-2009	Amend(T)	2-1-2010
413-010-0530	12-29-2009	Adopt	2-1-2010	413-070-0925	2-1-2010	Amend(T)	3-1-2010
413-010-0535	12-29-2009	Adopt	2-1-2010	413-070-0925	6-15-2010	Amend	7-1-2010
413-015-0115	6-15-2010	Amend(T)	7-1-2010	413-070-0925(T)	2-1-2010	Suspend	3-1-2010
413-015-0415	1-1-2010	Amend(T)	2-1-2010	413-070-0930	12-16-2009	Am. & Ren.(T)	2-1-2010
413-015-0415	4-2-2010	Amend	5-1-2010	413-070-0930	6-15-2010	Am. & Ren.	7-1-2010
413-015-0415(T)	4-2-2010	Repeal	5-1-2010	413-070-0935	12-16-2009	Am. & Ren.(T)	2-1-2010
413-015-0420	2-12-2010	Amend(T)	3-1-2010	413-070-0935	6-15-2010	Am. & Ren.	7-1-2010
413-015-0420	4-2-2010	Amend	5-1-2010	413-070-0937	12-16-2009	Am. & Ren.(T)	2-1-2010
413-015-0420(T)	4-2-2010	Repeal	5-1-2010	413-070-0937	6-15-2010	Am. & Ren.	7-1-2010
413-015-1105	6-15-2010	Amend(T)	7-1-2010	413-070-0939	2-1-2010	Amend(T)	3-1-2010
413-015-1110	6-15-2010	Amend(T)	7-1-2010	413-070-0939(T)	2-1-2010	Suspend	3-1-2010
413-015-1120	6-15-2010	Amend(T)	7-1-2010	413-070-0940	12-16-2009	Am. & Ren.(T)	2-1-2010
413-020-0200	12-29-2009	Amend	2-1-2010	413-070-0940	6-15-2010	Am. & Ren.	7-1-2010
413-020-0210	12-29-2009	Amend	2-1-2010	413-070-0945	12-16-2009	Am. & Ren.(T)	2-1-2010
413-020-0230	12-29-2009	Amend	2-1-2010	413-070-0945	6-15-2010	Am. & Ren.	7-1-2010
413-020-0233	12-29-2009	Amend	2-1-2010	413-070-0949	2-1-2010	Amend(T)	3-1-2010
413-020-0236	12-29-2009	Amend	2-1-2010	413-070-0949(T)	2-1-2010	Suspend	3-1-2010
413-020-0240	12-29-2009	Amend	2-1-2010	413-070-0955	12-16-2009	Am. & Ren.(T)	2-1-2010
413-020-0245	12-29-2009	Amend	2-1-2010	413-070-0955	6-15-2010	Am. & Ren.	7-1-2010
413-020-0255	12-29-2009	Amend	2-1-2010	413-070-0960	12-16-2009	Am. & Ren.(T)	2-1-2010
413-040-0000	12-29-2009	Amend	2-1-2010	413-070-0960	6-15-2010	Am. & Ren.	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-070-0964	2-1-2010	Amend(T)	3-1-2010	413-100-0135	6-15-2010	Amend	7-1-2010
413-070-0964(T)	2-1-2010	Suspend	3-1-2010	413-100-0150	6-15-2010	Amend	7-1-2010
413-070-0965	12-16-2009	Am. & Ren.(T)	2-1-2010	413-100-0160	6-15-2010	Amend	7-1-2010
413-070-0965	6-15-2010	Am. & Ren.	7-1-2010	413-100-0170	6-15-2010	Amend	7-1-2010
413-070-0969	12-16-2009	Adopt(T)	2-1-2010	413-100-0180	6-15-2010	Amend	7-1-2010
413-070-0969	6-15-2010	Adopt	7-1-2010	413-100-0190	6-15-2010	Amend	7-1-2010
413-070-0970	12-16-2009	Amend(T)	2-1-2010	413-100-0210	6-15-2010	Amend	7-1-2010
413-070-0970	6-15-2010	Amend	7-1-2010	413-100-0230	6-15-2010	Amend	7-1-2010
413-070-0974	2-1-2010	Amend(T)	3-1-2010	413-100-0240	6-15-2010	Amend	7-1-2010
413-070-0974(T)	2-1-2010	Suspend	3-1-2010	413-100-0250	6-15-2010	Amend	7-1-2010
413-070-0979	6-15-2010	Adopt	7-1-2010	413-100-0270	6-15-2010	Amend	7-1-2010
413-080-0000	12-29-2009	Repeal	2-1-2010	413-100-0320	6-15-2010	Amend	7-1-2010
413-080-0010	12-29-2009	Repeal	2-1-2010	413-100-0335	12-16-2009	Adopt(T)	2-1-2010
413-080-0020	12-29-2009	Repeal	2-1-2010	413-100-0335	6-15-2010	Adopt	7-1-2010
413-080-0030	12-29-2009	Repeal	2-1-2010	413-100-0345	12-16-2009	Adopt(T)	2-1-2010
413-080-0040	12-29-2009	Amend	2-1-2010	413-100-0345	6-15-2010	Adopt	7-1-2010
413-080-0050	12-29-2009	Amend	2-1-2010	413-130-0000	12-29-2009	Amend	2-1-2010
413-080-0052	12-29-2009	Amend	2-1-2010	413-130-0010	12-29-2009	Amend	2-1-2010
413-080-0055	12-29-2009	Amend	2-1-2010	413-130-0020	12-29-2009	Amend	2-1-2010
413-080-0059	12-29-2009	Amend	2-1-2010	413-130-0030	12-29-2009	Amend	2-1-2010
413-080-0063	12-29-2009	Amend	2-1-2010	413-130-0040	12-29-2009	Amend	2-1-2010
413-080-0067	12-29-2009	Amend	2-1-2010	413-130-0045	12-29-2009	Adopt	2-1-2010
413-090-0000	12-29-2009	Amend	2-1-2010	413-130-0050	12-29-2009	Amend	2-1-2010
413-090-0005	12-29-2009	Amend	2-1-2010	413-130-0060	12-29-2009	Amend	2-1-2010
413-090-0010	12-29-2009	Amend	2-1-2010	413-130-0070	12-29-2009	Amend	2-1-2010
413-090-0021	12-29-2009	Adopt	2-1-2010	413-130-0075	12-29-2009	Amend	2-1-2010
413-090-0030	12-29-2009	Amend	2-1-2010	413-130-0080	12-29-2009	Amend	2-1-2010
413-090-0040	12-29-2009	Amend	2-1-2010	413-130-0090	12-29-2009	Amend	2-1-2010
413-090-0050	12-29-2009	Amend	2-1-2010	413-130-0100	12-29-2009	Amend	2-1-2010
413-090-0100	12-29-2009	Amend	2-1-2010	413-130-0110	12-29-2009	Amend	2-1-2010
413-090-0110	12-29-2009	Amend	2-1-2010	413-130-0115	12-29-2009	Amend	2-1-2010
413-090-0120	12-29-2009	Amend	2-1-2010	413-130-0120	12-29-2009	Repeal	2-1-2010
413-090-0130	12-29-2009	Amend	2-1-2010	413-130-0125	12-29-2009	Amend	2-1-2010
413-090-0133	12-29-2009	Adopt	2-1-2010	413-130-0127	12-29-2009	Repeal	2-1-2010
413-090-0135	12-29-2009	Adopt	2-1-2010	413-130-0130	12-29-2009	Amend	2-1-2010
413-090-0136	12-29-2009	Adopt	2-1-2010	414-061-0000	1-1-2010	Amend(T)	2-1-2010
413-090-0140	12-29-2009	Amend	2-1-2010	414-061-0010	1-1-2010	Amend(T)	2-1-2010
413-090-0150	12-29-2009	Amend	2-1-2010	414-061-0020	1-1-2010	Amend(T)	2-1-2010
413-090-0160	12-29-2009	Repeal	2-1-2010	414-061-0030	1-1-2010	Amend(T)	2-1-2010
413-090-0170	12-29-2009	Repeal	2-1-2010	414-061-0040	1-1-2010	Amend(T)	2-1-2010
413-090-0180	12-29-2009	Repeal	2-1-2010	414-061-0050	1-1-2010	Amend(T)	2-1-2010
413-090-0190	12-29-2009	Repeal	2-1-2010	414-061-0060	1-1-2010	Amend(T)	2-1-2010
413-090-0200	12-29-2009	Repeal	2-1-2010	414-061-0070	1-1-2010	Amend(T)	2-1-2010
413-090-0210	12-29-2009	Amend	2-1-2010	414-061-0080	1-1-2010	Amend(T)	2-1-2010
413-100-0000	6-15-2010	Amend	7-1-2010	414-061-0090	1-1-2010	Amend(T)	2-1-2010
413-100-0010	6-15-2010	Amend	7-1-2010	414-061-0100	1-1-2010	Amend(T)	2-1-2010
413-100-0020	12-16-2009	Amend(T)	2-1-2010	414-061-0110	1-1-2010	Amend(T)	2-1-2010
413-100-0020	6-15-2010	Amend	7-1-2010	414-061-0120	1-1-2010	Amend(T)	2-1-2010
413-100-0030	6-15-2010	Amend	7-1-2010	414-205-0000	1-1-2010	Amend(T)	2-1-2010
413-100-0060	6-15-2010	Amend	7-1-2010	414-205-0010	1-1-2010	Amend(T)	2-1-2010
413-100-0070	6-15-2010	Amend	7-1-2010	414-205-0020	1-1-2010	Amend(T)	2-1-2010
413-100-0080	6-15-2010	Amend	7-1-2010	414-205-0035	1-1-2010	Amend(T)	2-1-2010
413-100-0090	6-15-2010	Amend	7-1-2010	414-205-0040	1-1-2010	Amend(T)	2-1-2010
413-100-0110	6-15-2010	Amend	7-1-2010	414-205-0055	1-1-2010	Amend(T)	2-1-2010
413-100-0120	6-15-2010	Amend	7-1-2010	414-205-0065	1-1-2010	Amend(T)	2-1-2010
413-100-0130	6-15-2010	Amend	7-1-2010	414-205-0075	1-1-2010	Amend(T)	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
415-051-0090	3-4-2010	Repeal	4-1-2010	416-800-0045	6-25-2010	Adopt	7-1-2010
415-051-0100	3-4-2010	Repeal	4-1-2010	416-800-0050	6-25-2010	Adopt	7-1-2010
415-051-0105	3-4-2010	Repeal	4-1-2010	416-800-0055	6-25-2010	Adopt	7-1-2010
415-051-0110	3-4-2010	Repeal	4-1-2010	416-800-0060	6-25-2010	Repeal	7-1-2010
415-051-0130	3-4-2010	Repeal	4-1-2010	416-800-0065	6-25-2010	Adopt	7-1-2010
415-051-0140	3-4-2010	Repeal	4-1-2010	416-800-0070	6-25-2010	Amend	7-1-2010
415-051-0155	3-4-2010	Repeal	4-1-2010	416-800-0080	6-25-2010	Adopt	7-1-2010
415-051-0165	3-4-2010	Repeal	4-1-2010	416-800-0090	6-25-2010	Adopt	7-1-2010
415-052-0100	12-3-2009	Adopt	1-1-2010	416-800-0095	6-25-2010	Adopt	7-1-2010
415-052-0105	12-3-2009	Adopt	1-1-2010	436-001-0003	1-1-2010	Amend	1-1-2010
415-052-0110	12-3-2009	Adopt	1-1-2010	436-001-0019	1-1-2010	Amend	1-1-2010
415-057-0000	5-6-2010	Adopt	6-1-2010	436-001-0265	1-1-2010	Am. & Ren.	1-1-2010
415-057-0010	5-6-2010	Adopt	6-1-2010	436-001-0265	1-1-2010	Am. & Ren.	1-1-2010
415-057-0020	5-6-2010	Adopt	6-1-2010	436-001-0420	1-1-2010	Adopt	1-1-2010
415-057-0030	5-6-2010	Adopt	6-1-2010	436-001-0430	1-1-2010	Adopt	1-1-2010
415-057-0040	5-6-2010	Adopt	6-1-2010	436-001-0440	1-1-2010	Adopt	1-1-2010
415-057-0050	5-6-2010	Adopt	6-1-2010	436-009-0002	7-1-2010	Amend	7-1-2010
415-057-0060	5-6-2010	Adopt	6-1-2010	436-009-0003	7-1-2010	Amend	7-1-2010
415-057-0070	5-6-2010	Adopt	6-1-2010	436-009-0004	7-1-2010	Amend	7-1-2010
415-057-0080	5-6-2010	Adopt	6-1-2010	436-009-0005	7-1-2010	Amend	7-1-2010
415-057-0090	5-6-2010	Adopt	6-1-2010	436-009-0008	7-1-2010	Amend	7-1-2010
415-057-0100	5-6-2010	Adopt	6-1-2010	436-009-0010	1-1-2010	Amend	1-1-2010
415-057-0110	5-6-2010	Adopt	6-1-2010	436-009-0010	7-1-2010	Amend	7-1-2010
415-057-0120	5-6-2010	Adopt	6-1-2010	436-009-0015	7-1-2010	Amend	7-1-2010
415-057-0130	5-6-2010	Adopt	6-1-2010	436-009-0020	7-1-2010	Amend	7-1-2010
415-057-0140	5-6-2010	Adopt	6-1-2010	436-009-0022	7-1-2010	Amend	7-1-2010
415-057-0150	5-6-2010	Adopt	6-1-2010	436-009-0025	7-1-2010	Amend	7-1-2010
415-060-0030	1-1-2010	Amend	1-1-2010	436-009-0030	7-1-2010	Amend	7-1-2010
416-470-0000	2-19-2010	Amend	3-1-2010	436-009-0040	7-1-2010	Amend	7-1-2010
416-470-0010	2-19-2010	Amend	3-1-2010	436-009-0050	7-1-2010	Amend	7-1-2010
416-470-0020	2-19-2010	Amend	3-1-2010	436-009-0060	7-1-2010	Amend	7-1-2010
416-470-0030	2-19-2010	Amend	3-1-2010	436-009-0070	1-1-2010	Amend	1-1-2010
416-470-0040	2-19-2010	Amend	3-1-2010	436-009-0070	7-1-2010	Amend	7-1-2010
416-470-0050	2-19-2010	Amend	3-1-2010	436-009-0100	7-1-2010	Am. & Ren.	7-1-2010
416-470-0060	2-19-2010	Repeal	3-1-2010	436-009-0110	7-1-2010	Adopt	7-1-2010
416-470-0070	2-19-2010	Repeal	3-1-2010	436-009-0115	7-1-2010	Adopt	7-1-2010
416-470-0080	2-19-2010	Repeal	3-1-2010	436-009-0120	7-1-2010	Adopt	7-1-2010
416-470-0090	2-19-2010	Repeal	3-1-2010	436-009-0125	7-1-2010	Adopt	7-1-2010
416-470-0100	2-19-2010	Repeal	3-1-2010	436-009-0130	7-1-2010	Adopt	7-1-2010
416-490-0000	2-19-2010	Amend	3-1-2010	436-009-0135	7-1-2010	Adopt	7-1-2010
416-490-0010	2-19-2010	Amend	3-1-2010	436-009-0140	7-1-2010	Adopt	7-1-2010
416-490-0020	2-19-2010	Amend	3-1-2010	436-009-0145	7-1-2010	Adopt	7-1-2010
416-490-0030	2-19-2010	Amend	3-1-2010	436-009-0150	7-1-2010	Adopt	7-1-2010
416-490-0031	2-19-2010	Adopt	3-1-2010	436-009-0155	7-1-2010	Adopt	7-1-2010
416-490-0032	2-19-2010	Adopt	3-1-2010	436-009-0160	7-1-2010	Adopt	7-1-2010
416-490-0033	2-19-2010	Adopt	3-1-2010	436-009-0165	7-1-2010	Adopt	7-1-2010
416-490-0034	2-19-2010	Adopt	3-1-2010	436-009-0170	7-1-2010	Adopt	7-1-2010
416-490-0035	2-19-2010	Adopt	3-1-2010	436-009-0175	7-1-2010	Adopt	7-1-2010
416-490-0040	2-19-2010	Repeal	3-1-2010	436-009-0180	7-1-2010	Adopt	7-1-2010
416-490-0050	2-19-2010	Amend	3-1-2010	436-009-0185	7-1-2010	Adopt	7-1-2010
416-530-0090	12-16-2009	Amend	1-1-2010	436-010-0008	1-1-2010	Amend	1-1-2010
416-800-0000	6-25-2010	Amend	7-1-2010	436-010-0225	7-1-2010	Adopt	7-1-2010
416-800-0010	6-25-2010	Amend	7-1-2010	436-010-0240	1-1-2010	Amend	1-1-2010
416-800-0020	6-25-2010	Amend	7-1-2010	436-010-0265	1-1-2010	Amend	1-1-2010
416-800-0031	6-25-2010	Adopt	7-1-2010	436-010-0280	1-1-2010	Amend	1-1-2010
416-800-0041	6-25-2010	Adopt	7-1-2010	436-010-0330	7-1-2010	Amend	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-015-0090	7-1-2010	Amend	7-1-2010	436-060-0140	1-1-2010	Amend	1-1-2010
436-030-0002	1-1-2010	Amend	1-1-2010	436-060-0147	1-1-2010	Amend	1-1-2010
436-030-0003	1-1-2010	Amend	1-1-2010	436-060-0150	1-1-2010	Amend	1-1-2010
436-030-0005	1-1-2010	Amend	1-1-2010	436-060-0153	1-1-2010	Amend	1-1-2010
436-030-0007	1-1-2010	Amend	1-1-2010	436-060-0155	1-1-2010	Amend	1-1-2010
436-030-0009	1-1-2010	Repeal	1-1-2010	436-060-0180	1-1-2010	Amend	1-1-2010
436-030-0015	1-1-2010	Amend	1-1-2010	436-060-0195	1-1-2010	Amend	1-1-2010
436-030-0017	1-1-2010	Amend	1-1-2010	436-060-0200	1-1-2010	Amend	1-1-2010
436-030-0020	1-1-2010	Amend	1-1-2010	436-060-0400	1-1-2010	Adopt	1-1-2010
436-030-0034	1-1-2010	Amend	1-1-2010	436-060-0500	1-1-2010	Amend	1-1-2010
436-030-0065	1-1-2010	Amend	1-1-2010	436-060-0510	1-1-2010	Amend	1-1-2010
436-030-0115	1-1-2010	Amend	1-1-2010	436-075-0110	1-1-2010	Repeal	1-1-2010
436-030-0135	1-1-2010	Amend	1-1-2010	436-105-0003	1-1-2010	Amend	1-1-2010
436-030-0145	1-1-2010	Amend	1-1-2010	436-105-0005	1-1-2010	Amend	1-1-2010
436-030-0155	1-1-2010	Amend	1-1-2010	436-105-0500	1-1-2010	Amend	1-1-2010
436-030-0165	1-1-2010	Amend	1-1-2010	436-105-0520	1-1-2010	Amend	1-1-2010
436-030-0185	1-1-2010	Amend	1-1-2010	436-105-0540	1-1-2010	Amend	1-1-2010
436-030-0580	1-1-2010	Amend	1-1-2010	436-105-0550	1-1-2010	Amend	1-1-2010
436-035-0002	6-1-2010	Amend	6-1-2010	436-110-0005	1-1-2010	Amend	1-1-2010
436-035-0003	6-1-2010	Amend	6-1-2010	436-110-0240	4-15-2010	Amend(T)	5-1-2010
436-035-0005	6-1-2010	Amend	6-1-2010	436-110-0290	4-15-2010	Amend(T)	5-1-2010
436-035-0007	6-1-2010	Amend	6-1-2010	436-110-0310	1-1-2010	Amend	1-1-2010
436-035-0011	6-1-2010	Amend	6-1-2010	436-110-0325	1-1-2010	Amend	1-1-2010
436-035-0012	6-1-2010	Amend	6-1-2010	436-110-0330	1-1-2010	Amend	1-1-2010
436-035-0013	6-1-2010	Amend	6-1-2010	436-110-0335	1-1-2010	Amend	1-1-2010
436-035-0014	6-1-2010	Amend	6-1-2010	436-110-0336	1-1-2010	Amend	1-1-2010
436-035-0015	6-1-2010	Amend	6-1-2010	436-110-0336	4-15-2010	Amend(T)	5-1-2010
436-035-0019	6-1-2010	Amend	6-1-2010	436-110-0337	1-1-2010	Amend	1-1-2010
436-035-0050	6-1-2010	Amend	6-1-2010	436-110-0345	1-1-2010	Amend	1-1-2010
436-035-0060	6-1-2010	Amend	6-1-2010	436-110-0347	1-1-2010	Amend	1-1-2010
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-120-0840	1-1-2010	Amend	1-1-2010	441-730-0015	6-4-2010	Amend	7-1-2010
436-120-0900	1-1-2010	Amend	1-1-2010	441-730-0025	6-4-2010	Amend	7-1-2010
436-120-0915	1-1-2010	Amend	1-1-2010	441-730-0026	3-22-2010	Adopt	5-1-2010
436-150-0005	1-1-2010	Amend	1-1-2010	441-730-0027	3-22-2010	Adopt	5-1-2010
436-150-0010	1-1-2010	Amend	1-1-2010	441-730-0030	6-4-2010	Amend	7-1-2010
436-150-0030	1-1-2010	Amend	1-1-2010	441-730-0050	6-4-2010	Amend	7-1-2010
436-160-0310	1-1-2010	Amend	1-1-2010	441-730-0070	3-22-2010	Amend	5-1-2010
436-160-0340	1-1-2010	Amend	1-1-2010	441-730-0070	6-4-2010	Amend	7-1-2010
437-002-0005	2-19-2010	Amend	4-1-2010	441-730-0080	6-4-2010	Amend	7-1-2010
437-002-0005	2-25-2010	Amend	4-1-2010	441-730-0100	6-4-2010	Amend	7-1-2010
437-002-0080	2-25-2010	Amend	4-1-2010	441-730-0110	6-4-2010	Amend	7-1-2010
437-002-0100	2-19-2010	Amend	4-1-2010	441-730-0120	6-4-2010	Amend	7-1-2010
437-002-0120	2-25-2010	Amend	4-1-2010	441-730-0125	3-22-2010	Adopt	5-1-2010
437-002-0280	2-25-2010	Amend	4-1-2010	441-730-0130	6-4-2010	Amend	7-1-2010
437-002-0360	6-15-2010	Amend	7-1-2010	441-730-0140	6-4-2010	Amend	7-1-2010
437-002-2102	2-19-2010	Adopt	4-1-2010	441-730-0160	6-4-2010	Amend	7-1-2010
437-003-0001	6-15-2010	Amend	7-1-2010	441-730-0165	6-4-2010	Repeal	7-1-2010
437-004-1035	2-25-2010	Amend	4-1-2010	441-730-0170	6-4-2010	Amend	7-1-2010
437-004-1050	2-25-2010	Amend	4-1-2010	441-730-0180	6-4-2010	Amend	7-1-2010
437-004-1060	2-25-2010	Amend	4-1-2010	441-730-0200	6-4-2010	Amend	7-1-2010
437-004-2310	2-25-2010	Amend	4-1-2010	441-730-0205	6-4-2010	Amend	7-1-2010
437-005-0001	2-25-2010	Amend	4-1-2010	441-730-0246	12-7-2009	Amend	1-1-2010
437-005-0001	6-15-2010	Amend	7-1-2010	441-730-0246	6-4-2010	Amend	7-1-2010
437-005-0002	2-25-2010	Amend	4-1-2010	441-730-0246(T)	12-7-2009	Repeal	1-1-2010
437-005-0003	2-25-2010	Amend	4-1-2010	441-730-0255	6-4-2010	Amend	7-1-2010
437-007-0305	2-25-2010	Amend	4-1-2010	441-730-0260	6-4-2010	Amend	7-1-2010
440-005-0015	5-1-2010	Amend	5-1-2010	441-730-0271	6-4-2010	Repeal	7-1-2010
440-005-0020	5-1-2010	Amend	5-1-2010	441-730-0272	6-4-2010	Repeal	7-1-2010
440-005-0025	5-1-2010	Amend	5-1-2010	441-730-0275	6-4-2010	Repeal	7-1-2010
440-005-0030	5-1-2010	Amend	5-1-2010	441-730-0280	6-4-2010	Amend	7-1-2010
440-015-0001	2-1-2010	Repeal	3-1-2010	441-730-0310	6-4-2010	Repeal	7-1-2010
440-015-0010	2-1-2010	Repeal	3-1-2010	441-730-0320	3-22-2010	Amend	5-1-2010
440-015-0020	2-1-2010	Repeal	3-1-2010	441-730-0320	6-4-2010	Amend	7-1-2010
440-015-0030	2-1-2010	Repeal	3-1-2010	441-735-0000	6-4-2010	Adopt	7-1-2010
440-015-0040	2-1-2010	Repeal	3-1-2010	441-735-0010	6-4-2010	Adopt	7-1-2010
440-015-0050	2-1-2010	Repeal	3-1-2010	441-735-0015	6-4-2010	Adopt	7-1-2010
440-015-0060	2-1-2010	Repeal	3-1-2010	441-735-0025	6-4-2010	Adopt	7-1-2010
440-015-0070	2-1-2010	Repeal	3-1-2010	441-735-0030	6-4-2010	Adopt	7-1-2010
440-015-0080	2-1-2010	Repeal	3-1-2010	441-735-0050	6-4-2010	Adopt	7-1-2010
440-015-0090	2-1-2010	Repeal	3-1-2010	441-735-0060	6-4-2010	Adopt	7-1-2010
440-015-0100	2-1-2010	Adopt	3-1-2010	441-735-0070	6-4-2010	Adopt	7-1-2010
440-015-0105	2-1-2010	Adopt	3-1-2010	441-735-0080	6-4-2010	Adopt	7-1-2010
440-015-0110	2-1-2010	Adopt	3-1-2010	441-735-0100	6-4-2010	Adopt	7-1-2010
440-015-0115	2-1-2010	Adopt	3-1-2010	441-735-0110	6-4-2010	Adopt	7-1-2010
441-002-0005	5-1-2010	Repeal	6-1-2010	441-735-0120	6-4-2010	Adopt	7-1-2010
441-002-0010	5-1-2010	Repeal	6-1-2010	441-735-0130	6-4-2010	Adopt	7-1-2010
441-002-0020	5-1-2010	Repeal	6-1-2010	441-735-0140	6-4-2010	Adopt	7-1-2010
441-002-0030	5-1-2010	Repeal	6-1-2010	441-735-0160	6-4-2010	Adopt	7-1-2010
441-002-0040	5-1-2010	Repeal	6-1-2010	441-735-0165	6-4-2010	Adopt	7-1-2010
441-500-0020	3-16-2010	Amend	5-1-2010	441-735-0205	6-4-2010	Adopt	7-1-2010
441-505-3046	12-7-2009	Amend	1-1-2010	441-735-0240	6-4-2010	Adopt	7-1-2010
441-505-3046(T)	12-7-2009	Repeal	1-1-2010	441-735-0250	6-4-2010	Adopt	7-1-2010
441-710-0540	12-7-2009	Amend	1-1-2010	441-735-0255	6-4-2010	Adopt	7-1-2010
441-710-0540(T)	12-7-2009	Repeal	1-1-2010	441-735-0271	6-4-2010	Adopt	7-1-2010
441-730-0000	6-4-2010	Amend	7-1-2010	441-735-0272	6-4-2010	Adopt	7-1-2010
441-730-0010	6-4-2010	Amend	7-1-2010	441-735-0275	6-4-2010	Adopt	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
441-735-0280	6-4-2010	Adopt	7-1-2010	441-880-0050	1-4-2010	Am. & Ren.	2-1-2010
441-735-0310	6-4-2010	Adopt	7-1-2010	441-880-0200	1-4-2010	Adopt	2-1-2010
441-735-0320	6-4-2010	Adopt	7-1-2010	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
441-865-0025	1-4-2010	Amend	2-1-2010	441-910-9000(T)	1-6-2010	Suspend	2-1-2010
441-865-0025	3-22-2010	Amend	5-1-2010	441-910-9001(T)	1-6-2010	Suspend	2-1-2010
441-865-0030	1-4-2010	Amend	2-1-2010	442-005-0010	1-7-2010	Amend(T)	2-1-2010
441-865-0040	1-4-2010	Amend	2-1-2010	442-005-0050	1-7-2010	Amend(T)	2-1-2010
441-865-0050	1-4-2010	Amend	2-1-2010	442-005-0060	1-7-2010	Amend(T)	2-1-2010
441-865-0060	3-22-2010	Amend	5-1-2010	442-005-0100	1-7-2010	Amend(T)	2-1-2010
441-865-0080	1-4-2010	Amend	2-1-2010	442-010-0010	3-23-2010	Adopt(T)	5-1-2010
441-865-0090	1-4-2010	Amend	2-1-2010	442-010-0020	3-23-2010	Adopt(T)	5-1-2010
441-870-0030	1-4-2010	Amend	2-1-2010	442-010-0030	3-23-2010	Adopt(T)	5-1-2010
441-870-0040	1-4-2010	Amend	2-1-2010	442-010-0040	3-23-2010	Adopt(T)	5-1-2010
441-870-0050	1-4-2010	Amend	2-1-2010	442-010-0050	3-23-2010	Adopt(T)	5-1-2010
441-870-0070	1-4-2010	Amend	2-1-2010	442-010-0060	3-23-2010	Adopt(T)	5-1-2010
441-870-0080	1-4-2010	Amend	2-1-2010	442-010-0070	3-23-2010	Adopt(T)	5-1-2010
441-870-0080	3-22-2010	Amend	5-1-2010	442-010-0080	3-23-2010	Adopt(T)	5-1-2010
441-870-0081	3-22-2010	Adopt	5-1-2010	442-010-0090	3-23-2010	Adopt(T)	5-1-2010
441-875-0010	1-4-2010	Repeal	2-1-2010	442-010-0100	3-23-2010	Adopt(T)	5-1-2010
441-875-0020	1-4-2010	Amend	2-1-2010	442-010-0110	3-23-2010	Adopt(T)	5-1-2010
441-875-0030	1-4-2010	Amend	2-1-2010	442-010-0120	3-23-2010	Adopt(T)	5-1-2010
441-875-0040	1-4-2010	Amend	2-1-2010	442-010-0130	3-23-2010	Adopt(T)	5-1-2010
441-880-0010	1-4-2010	Amend	2-1-2010	442-010-0140	3-23-2010	Adopt(T)	5-1-2010
441-880-0020	1-4-2010	Am. & Ren.	2-1-2010	442-010-0150	3-23-2010	Adopt(T)	5-1-2010
441-880-0021	1-4-2010	Adopt	2-1-2010	442-010-0160	3-23-2010	Adopt(T)	5-1-2010
441-880-0022	1-4-2010	Adopt	2-1-2010	442-010-0170	3-23-2010	Adopt(T)	5-1-2010
441-880-0030	1-4-2010	Amend	2-1-2010	442-010-0180	3-23-2010	Adopt(T)	5-1-2010
441-880-0040	1-4-2010	Amend	2-1-2010	442-010-0190	3-23-2010	Adopt(T)	5-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
443-002-0070	2-9-2010	Amend	3-1-2010	461-115-0230	1-1-2010	Amend(T)	2-1-2010
443-002-0090	2-9-2010	Amend	3-1-2010	461-115-0230	4-1-2010	Amend	5-1-2010
459-005-0001	5-28-2010	Amend	7-1-2010	461-115-0230	4-1-2010	Amend(T)	5-1-2010
459-009-0120	5-28-2010	Repeal	7-1-2010	461-115-0230(T)	4-1-2010	Repeal	5-1-2010
459-010-0010	5-28-2010	Amend	7-1-2010	461-115-0430	1-1-2010	Amend(T)	2-1-2010
459-010-0014	5-28-2010	Amend	7-1-2010	461-115-0430	4-1-2010	Amend	5-1-2010
459-010-0042	5-28-2010	Repeal	7-1-2010	461-115-0430	4-1-2010	Amend(T)	5-1-2010
459-011-0050	5-28-2010	Amend	7-1-2010	461-115-0430(T)	4-1-2010	Repeal	5-1-2010
459-014-0100	5-28-2010	Repeal	7-1-2010	461-115-0651	4-1-2010	Amend	5-1-2010
459-015-0001	5-28-2010	Amend	7-1-2010	461-115-0690	4-1-2010	Amend	5-1-2010
459-015-0005	5-28-2010	Amend	7-1-2010	461-115-0705	1-1-2010	Amend	2-1-2010
459-017-0060	12-1-2009	Amend	1-1-2010	461-115-0705	1-1-2010	Amend(T)	2-1-2010
459-035-0000	4-5-2010	Amend(T)	5-1-2010	461-115-0705	5-28-2010	Amend(T)	7-1-2010
459-035-0001	4-5-2010	Amend(T)	5-1-2010	461-115-0705(T)	1-1-2010	Repeal	2-1-2010
459-035-0020	4-5-2010	Amend(T)	5-1-2010	461-115-0705(T)	5-28-2010	Suspend	7-1-2010
459-035-0030	4-5-2010	Amend(T)	5-1-2010	461-120-0010	1-1-2010	Amend(T)	2-1-2010
459-035-0040	4-5-2010	Amend(T)	5-1-2010	461-120-0125	1-1-2010	Amend	2-1-2010
459-045-0000	5-28-2010	Repeal	7-1-2010	461-120-0125	1-1-2010	Amend(T)	2-1-2010
459-045-0001	5-28-2010	Amend	7-1-2010	461-120-0125(T)	1-1-2010	Repeal	2-1-2010
459-045-0010	5-28-2010	Amend	7-1-2010	461-120-0210	1-1-2010	Amend	2-1-2010
459-045-0012	5-28-2010	Adopt	7-1-2010	461-120-0210	1-1-2010	Amend(T)	2-1-2010
459-045-0014	5-28-2010	Adopt	7-1-2010	461-120-0210(T)	1-1-2010	Repeal	2-1-2010
459-045-0020	5-28-2010	Amend	7-1-2010	461-120-0310	1-1-2010	Amend	2-1-2010
459-045-0030	5-28-2010	Amend	7-1-2010	461-120-0310(T)	1-1-2010	Repeal	2-1-2010
459-045-0032	5-28-2010	Adopt	7-1-2010	461-120-0315	1-1-2010	Amend	2-1-2010
459-045-0034	5-28-2010	Adopt	7-1-2010	461-120-0315(T)	1-1-2010	Repeal	2-1-2010
459-045-0040	5-28-2010	Amend	7-1-2010	461-120-0345	1-1-2010	Amend	2-1-2010
459-045-0050	5-28-2010	Amend	7-1-2010	461-120-0345(T)	1-1-2010	Repeal	2-1-2010
459-045-0060	5-28-2010	Amend	7-1-2010	461-120-0510	1-1-2010	Amend	2-1-2010
459-045-0080	5-28-2010	Amend	7-1-2010	461-120-0510(T)	1-1-2010	Repeal	2-1-2010
459-045-0090	5-28-2010	Amend	7-1-2010	461-125-0170	1-1-2010	Amend	2-1-2010
459-075-0150	5-28-2010	Amend	7-1-2010	461-125-0170(T)	1-1-2010	Repeal	2-1-2010
461-001-0015	4-1-2010	Amend	5-1-2010	461-125-0310	1-1-2010	Amend	2-1-2010
461-025-0310	1-1-2010	Amend	2-1-2010	461-135-0095	1-1-2010	Amend	2-1-2010
461-101-0010	1-1-2010	Amend	2-1-2010	461-135-0095(T)	1-1-2010	Repeal	2-1-2010
461-101-0010	1-1-2010	Amend(T)	2-1-2010	461-135-0096	1-1-2010	Amend	2-1-2010
461-101-0010(T)	1-1-2010	Repeal	2-1-2010	461-135-0096(T)	1-1-2010	Repeal	2-1-2010
461-105-0006	1-1-2010	Adopt	2-1-2010	461-135-01195	4-1-2010	Amend	5-1-2010
461-105-0006	4-1-2010	Amend	5-1-2010	461-135-0150	5-1-2010	Amend(T)	6-1-2010
461-105-0006(T)	1-1-2010	Repeal	2-1-2010	461-135-0498	4-1-2010	Adopt	5-1-2010
461-110-0210	1-1-2010	Amend	2-1-2010	461-135-0570	2-5-2010	Amend(T)	3-1-2010
461-110-0210	1-1-2010	Amend(T)	2-1-2010	461-135-0570	4-1-2010	Amend	5-1-2010
461-110-0210(T)	1-1-2010	Repeal	2-1-2010	461-135-0570	4-1-2010	Amend(T)	5-1-2010
461-110-0370	1-1-2010	Amend	2-1-2010	461-135-0570(T)	4-1-2010	Repeal	5-1-2010
461-110-0400	1-1-2010	Amend(T)	2-1-2010	461-135-0575	4-1-2010	Amend	5-1-2010
461-110-0430	1-1-2010	Amend	2-1-2010	461-135-0730	4-1-2010	Amend	5-1-2010
461-110-0530	1-1-2010	Amend(T)	2-1-2010	461-135-0832	4-1-2010	Amend	5-1-2010
461-110-0630	1-1-2010	Amend(T)	2-1-2010	461-135-0835	1-1-2010	Amend	2-1-2010
461-115-0030	1-1-2010	Amend	2-1-2010	461-135-0835	4-1-2010	Amend	5-1-2010
461-115-0030	1-1-2010	Amend(T)	2-1-2010	461-135-0835	5-27-2010	Amend(T)	7-1-2010
461-115-0030(T)	1-1-2010	Repeal	2-1-2010	461-135-0900	5-17-2010	Amend(T)	7-1-2010
461-115-0050	1-1-2010	Amend	2-1-2010	461-135-0990	1-1-2010	Amend	2-1-2010
461-115-0050	1-1-2010	Amend(T)	2-1-2010	461-135-0990(T)	1-1-2010	Repeal	2-1-2010
461-115-0050(T)	1-1-2010	Repeal	2-1-2010	461-135-1100	12-1-2009	Amend(T)	1-1-2010
461-115-0071	1-1-2010	Amend	2-1-2010	461-135-1100	1-1-2010	Amend	2-1-2010
461-115-0090	1-1-2010	Amend	2-1-2010	461-135-1100	1-1-2010	Amend(T)	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-135-1100	4-21-2010	Amend(T)	6-1-2010	461-155-0580	1-1-2010	Amend	2-1-2010
461-135-1100(T)	12-1-2009	Suspend	1-1-2010	461-155-0630	1-1-2010	Amend	2-1-2010
461-135-1100(T)	1-1-2010	Repeal	2-1-2010	461-155-0640	1-1-2010	Amend	2-1-2010
461-135-1100(T)	4-21-2010	Suspend	6-1-2010	461-155-0660	1-1-2010	Amend	2-1-2010
461-135-1101	1-1-2010	Adopt(T)	2-1-2010	461-155-0670	1-1-2010	Amend	2-1-2010
461-135-1102	4-21-2010	Amend(T)	6-1-2010	461-155-0680	1-1-2010	Amend	2-1-2010
461-135-1125	1-1-2010	Amend	2-1-2010	461-155-0688	1-1-2010	Adopt	2-1-2010
461-135-1125	4-21-2010	Amend(T)	6-1-2010	461-155-0693	1-1-2010	Adopt	2-1-2010
461-135-1125(T)	1-1-2010	Repeal	2-1-2010	461-155-0700	4-1-2010	Amend	5-1-2010
461-135-1149	1-1-2010	Adopt	2-1-2010	461-160-0015	1-1-2010	Amend	2-1-2010
461-135-1149	1-1-2010	Amend(T)	2-1-2010	461-160-0015	1-1-2010	Amend(T)	2-1-2010
461-135-1149(T)	1-1-2010	Repeal	2-1-2010	461-160-0015(T)	1-1-2010	Repeal	2-1-2010
461-135-1175	4-1-2010	Amend(T)	5-1-2010	461-160-0580	1-1-2010	Amend	2-1-2010
461-135-1180	1-1-2010	Repeal	2-1-2010	461-160-0610	1-1-2010	Amend	2-1-2010
461-135-1185	1-1-2010	Amend	2-1-2010	461-160-0700	1-1-2010	Amend	2-1-2010
461-135-1195	11-16-2009	Amend(T)	1-1-2010	461-160-0700(T)	1-1-2010	Repeal	2-1-2010
461-135-1195(T)	4-1-2010	Repeal	5-1-2010	461-165-0010	1-1-2010	Amend	2-1-2010
461-135-1225	1-1-2010	Amend	2-1-2010	461-165-0030	1-1-2010	Amend(T)	2-1-2010
461-135-1230	1-1-2010	Amend	2-1-2010	461-165-0100	4-1-2010	Amend	5-1-2010
461-145-0022	4-1-2010	Amend	5-1-2010	461-165-0150	4-1-2010	Repeal	5-1-2010
461-145-0130	1-1-2010	Amend	2-1-2010	461-165-0200	1-1-2010	Amend	2-1-2010
461-145-0130	1-1-2010	Amend(T)	2-1-2010	461-165-0200	4-1-2010	Amend	5-1-2010
461-145-0130	4-1-2010	Amend	5-1-2010	461-165-0210	1-1-2010	Amend	2-1-2010
461-145-0130	5-19-2010	Amend(T)	7-1-2010	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	461-175-0222	5-27-2010	Amend	7-1-2010
461-145-0550(T)	4-1-2010	Repeal	5-1-2010	461-175-0270	1-1-2010	Amend	2-1-2010
461-145-0810	1-1-2010	Amend	2-1-2010	461-175-0270	4-1-2010	Amend	5-1-2010
461-145-0930	1-1-2010	Amend	2-1-2010	461-180-0050	4-1-2010	Amend	5-1-2010
461-150-0055	1-1-2010	Amend	2-1-2010	461-180-0085	1-1-2010	Amend	2-1-2010
461-150-0055(T)	1-1-2010	Repeal	2-1-2010	461-180-0085(T)	1-1-2010	Repeal	2-1-2010
461-150-0060	4-1-2010	Amend	5-1-2010	461-180-0090	1-1-2010	Amend	2-1-2010
461-150-0090	12-1-2009	Amend(T)	1-1-2010	461-180-0090	1-1-2010	Amend(T)	2-1-2010
461-150-0090	4-1-2010	Amend	5-1-2010	461-180-0090	1-26-2010	Amend(T)	3-1-2010
461-150-0090(T)	4-1-2010	Repeal	5-1-2010	461-180-0090(T)	1-1-2010	Repeal	2-1-2010
461-155-0175	1-1-2010	Repeal	2-1-2010	461-180-0090(T)	1-26-2010	Suspend	3-1-2010
461-155-0180	3-31-2010	Amend	5-1-2010	461-190-0199	1-1-2010	Amend	2-1-2010
461-155-0225	1-1-2010	Amend	2-1-2010	461-193-0000	4-1-2010	Amend	5-1-2010
461-155-0225(T)	1-1-2010	Repeal	2-1-2010	461-193-0031	1-1-2010	Amend	2-1-2010
461-155-0250	1-1-2010	Amend	2-1-2010	461-193-0042	4-1-2010	Amend	5-1-2010
461-155-0270	1-1-2010	Amend(T)	2-1-2010	461-193-0121	1-1-2010	Repeal	2-1-2010
461-155-0360	1-1-2010	Amend	2-1-2010	461-193-0240	1-1-2010	Amend	2-1-2010
461-155-0360(T)	1-1-2010	Repeal	2-1-2010	461-193-0240	5-17-2010	Amend(T)	7-1-2010
461-155-0530	1-1-2010	Amend	2-1-2010	461-193-0920	1-1-2010	Repeal	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-193-0980	1-1-2010	Repeal	2-1-2010	573-041-0037	1-11-2010	Repeal	2-1-2010
461-193-1360	1-1-2010	Repeal	2-1-2010	573-041-0037	4-22-2010	Repeal	6-1-2010
461-193-1370	1-1-2010	Repeal	2-1-2010	573-041-0040	1-11-2010	Repeal	2-1-2010
461-193-1380	1-1-2010	Amend	2-1-2010	573-041-0040	4-22-2010	Repeal	6-1-2010
461-195-0501	1-1-2010	Amend	2-1-2010	573-041-0045	1-11-2010	Repeal	2-1-2010
461-195-0511	1-1-2010	Repeal	2-1-2010	573-041-0045	4-22-2010	Repeal	6-1-2010
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	573-050-0025	6-8-2010	Amend	7-1-2010
471-007-0270	1-31-2010	Adopt	3-1-2010	573-050-0045	6-8-2010	Amend	7-1-2010
471-007-0270(T)	1-31-2010	Repeal	3-1-2010	574-050-0005	1-27-2010	Amend	3-1-2010
471-007-0280	1-31-2010	Adopt	3-1-2010	575-031-0025	11-24-2009	Amend(T)	1-1-2010
471-007-0280(T)	1-31-2010	Repeal	3-1-2010	577-060-0020	7-1-2010	Amend(T)	5-1-2010
471-007-0285	1-31-2010	Adopt	3-1-2010	579-020-0006	12-15-2009	Amend	1-1-2010
471-007-0285(T)	1-31-2010	Repeal	3-1-2010	579-020-0006	5-13-2010	Amend	6-1-2010
471-007-0290	1-31-2010	Adopt	3-1-2010	580-040-0035	1-19-2010	Amend	3-1-2010
471-007-0290(T)	1-31-2010	Repeal	3-1-2010	580-040-0040	2-11-2010	Amend	3-1-2010
471-007-0300	1-31-2010	Adopt	3-1-2010	580-040-0040(T)	2-11-2010	Repeal	3-1-2010
471-007-0300(T)	1-31-2010	Repeal	3-1-2010	581-001-0053	12-10-2009	Amend	1-1-2010
471-007-0310	1-31-2010	Adopt	3-1-2010	581-011-0087	2-8-2010	Amend	3-1-2010
471-007-0310(T)	1-31-2010	Repeal	3-1-2010	581-015-2000	12-10-2009	Amend	1-1-2010
471-030-0220	4-14-2010	Adopt	5-1-2010	581-015-2090	12-10-2009	Amend	1-1-2010
471-030-0225	3-3-2010	Adopt(T)	4-1-2010	581-015-2270	12-10-2009	Amend	1-1-2010
571-060-0005	7-1-2010	Amend	6-1-2010	581-015-2275	12-10-2009	Amend	1-1-2010
573-041-0005	1-11-2010	Repeal	2-1-2010	581-015-2440	12-10-2009	Amend	1-1-2010
573-041-0005	4-22-2010	Repeal	6-1-2010	581-015-2570	12-10-2009	Amend	1-1-2010
573-041-0010	1-11-2010	Repeal	2-1-2010	581-015-2571	12-10-2009	Adopt	1-1-2010
573-041-0010	4-22-2010	Repeal	6-1-2010	581-015-2572	12-10-2009	Adopt	1-1-2010
573-041-0020	1-11-2010	Repeal	2-1-2010	581-015-2573	12-10-2009	Adopt	1-1-2010
573-041-0020	4-22-2010	Repeal	6-1-2010	581-015-2574	12-10-2009	Adopt	1-1-2010
573-041-0025	1-11-2010	Repeal	2-1-2010	581-015-2735	12-10-2009	Amend	1-1-2010
573-041-0025	4-22-2010	Repeal	6-1-2010	581-016-0520	12-10-2009	Amend	1-1-2010
573-041-0027	1-11-2010	Repeal	2-1-2010	581-016-0526	12-10-2009	Amend	1-1-2010
573-041-0027	4-22-2010	Repeal	6-1-2010	581-016-0536	12-10-2009	Amend	1-1-2010
573-041-0030	1-11-2010	Repeal	2-1-2010	581-016-0537	12-10-2009	Amend	1-1-2010
573-041-0030	4-22-2010	Repeal	6-1-2010	581-016-0538	12-10-2009	Amend	1-1-2010
573-041-0035	1-11-2010	Repeal	2-1-2010	581-016-0541	12-10-2009	Amend	1-1-2010
573-041-0035	4-22-2010	Repeal	6-1-2010	581-016-0560	12-10-2009	Amend	1-1-2010
573-041-0036	1-11-2010	Repeal	2-1-2010	581-016-0890	12-10-2009	Repeal	1-1-2010
573-041-0036	4-22-2010	Repeal	6-1-2010	581-016-0900	12-10-2009	Repeal	1-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
581-016-0910	12-10-2009	Repeal	1-1-2010	584-042-0006	3-5-2010	Suspend	4-1-2010
581-016-0920	12-10-2009	Repeal	1-1-2010	584-042-0009	3-5-2010	Suspend	4-1-2010
581-016-0930	12-10-2009	Repeal	1-1-2010	584-042-0021	3-5-2010	Adopt(T)	4-1-2010
581-016-0940	12-10-2009	Repeal	1-1-2010	584-042-0031	3-5-2010	Adopt(T)	4-1-2010
581-016-0950	12-10-2009	Repeal	1-1-2010	584-042-0044	3-5-2010	Adopt(T)	4-1-2010
581-016-0960	12-10-2009	Repeal	1-1-2010	584-050-0006	12-15-2009	Amend	1-1-2010
581-016-0970	12-10-2009	Repeal	1-1-2010	584-050-0015	4-2-2010	Amend	5-1-2010
581-016-0980	12-10-2009	Repeal	1-1-2010	584-050-0030	12-15-2009	Amend	1-1-2010
581-016-0990	12-10-2009	Repeal	1-1-2010	584-050-0035	12-15-2009	Amend	1-1-2010
581-016-1000	12-10-2009	Repeal	1-1-2010	584-050-0100	4-2-2010	Amend	5-1-2010
581-016-1010	12-10-2009	Repeal	1-1-2010	584-052-0015	12-15-2009	Amend	1-1-2010
581-016-1020	12-10-2009	Repeal	1-1-2010	584-052-0030	4-2-2010	Amend	5-1-2010
581-016-1030	12-10-2009	Repeal	1-1-2010	584-060-0012	12-15-2009	Amend	1-1-2010
581-016-1040	12-10-2009	Repeal	1-1-2010	584-060-0013	12-15-2009	Amend	1-1-2010
581-016-1050	12-10-2009	Repeal	1-1-2010	584-060-0014	1-28-2010	Amend	3-1-2010
581-020-0301	12-10-2009	Amend(T)	1-1-2010	584-060-0071	12-15-2009	Amend	1-1-2010
581-020-0333	12-10-2009	Adopt(T)	1-1-2010	584-060-0071	12-18-2009	Amend	2-1-2010
581-020-0335	12-10-2009	Adopt(T)	1-1-2010	584-060-0162	1-1-2010	Amend	1-1-2010
581-020-0337	12-10-2009	Adopt(T)	1-1-2010	584-060-0171	12-15-2009	Amend	1-1-2010
581-020-0359	12-10-2009	Amend(T)	1-1-2010	584-060-0181	12-15-2009	Amend	1-1-2010
581-020-0362	12-10-2009	Adopt(T)	1-1-2010	584-060-0220	12-15-2009	Adopt	1-1-2010
581-021-0037	12-10-2009	Amend	1-1-2010	584-065-0030	12-15-2009	Repeal	1-1-2010
581-021-0037	3-18-2010	Amend	5-1-2010	584-065-0035	12-15-2009	Adopt	1-1-2010
581-021-0041	5-27-2010	Amend	7-1-2010	584-065-0040	12-15-2009	Repeal	1-1-2010
581-021-0110	12-10-2009	Amend	1-1-2010	584-070-0012	12-15-2009	Amend	1-1-2010
581-021-0500	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
581-022-0610	12-10-2009	Amend	1-1-2010	584-070-0112	12-15-2009	Amend	1-1-2010
581-022-0610	5-27-2010	Amend	7-1-2010	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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
603-052-0051	1-28-2010	Amend	3-1-2010	635-006-0020	1-1-2010	Amend	1-1-2010
603-052-0127	1-28-2010	Amend	3-1-2010	635-006-0212	4-27-2010	Amend(T)	6-1-2010
603-052-0860	1-21-2010	Amend	3-1-2010	635-006-0215	4-1-2010	Amend(T)	5-1-2010
603-052-0880	1-21-2010	Amend	3-1-2010	635-006-0215	4-27-2010	Amend(T)	6-1-2010
603-052-1200	2-4-2010	Amend	3-1-2010	635-006-0215(T)	4-27-2010	Suspend	6-1-2010
603-052-1236	2-4-2010	Adopt	3-1-2010	635-006-0225	4-27-2010	Amend(T)	6-1-2010
603-054-0024	1-28-2010	Amend	3-1-2010	635-006-0232	1-13-2010	Amend	2-1-2010
603-056-0315	4-21-2010	Amend	6-1-2010	635-006-0850	1-1-2010	Amend	2-1-2010
603-057-0160	12-7-2009	Amend	1-1-2010	635-006-0890	1-1-2010	Amend	2-1-2010
603-076-0101	1-15-2010	Adopt	2-1-2010	635-006-0910	1-1-2010	Amend	1-1-2010
603-076-0106	1-15-2010	Adopt	2-1-2010	635-006-1025	1-1-2010	Amend	1-1-2010
607-010-0020	7-1-2010	Amend	7-1-2010	635-006-1075	1-1-2010	Amend	1-1-2010
609-010-0100	5-28-2010	Adopt	7-1-2010	635-006-1085	1-1-2010	Amend	1-1-2010
609-010-0110	5-28-2010	Adopt	7-1-2010	635-007-0605	1-1-2010	Amend	1-1-2010
609-010-0120	5-28-2010	Adopt	7-1-2010	635-007-0910	1-1-2010	Amend	1-1-2010
609-010-0130	5-28-2010	Adopt	7-1-2010	635-008-0145	1-1-2010	Amend	1-1-2010
609-010-0140	5-28-2010	Adopt	7-1-2010	635-011-0100	1-1-2010	Amend	1-1-2010
617-040-0010	5-21-2010	Amend	7-1-2010	635-011-0170	3-15-2010	Adopt	4-1-2010
629-045-0005	5-19-2010	Repeal	7-1-2010	635-012-0020	6-30-2011	Adopt	2-1-2010
629-045-0010	5-19-2010	Repeal	7-1-2010	635-012-0020	6-30-2011	Adopt	3-1-2010
629-045-0020	5-19-2010	Adopt	7-1-2010	635-012-0030	6-30-2011	Adopt	2-1-2010
629-045-0025	5-19-2010	Adopt	7-1-2010	635-012-0030	6-30-2011	Adopt	3-1-2010
629-045-0030	5-19-2010	Adopt	7-1-2010	635-012-0040	6-30-2011	Adopt	2-1-2010
629-045-0035	5-19-2010	Adopt	7-1-2010	635-012-0050	6-30-2011	Adopt	2-1-2010
629-045-0040	5-19-2010	Adopt	7-1-2010	635-012-0050	6-30-2011	Adopt	3-1-2010
629-045-0045	5-19-2010	Adopt	7-1-2010	635-012-0060	6-30-2011	Adopt	2-1-2010
629-045-0050	5-19-2010	Adopt	7-1-2010	635-012-0060	6-30-2011	Adopt	3-1-2010
629-045-0055	5-19-2010	Adopt	7-1-2010	635-013-0003	1-1-2010	Amend	1-1-2010
629-045-0060	5-19-2010	Adopt	7-1-2010	635-013-0003	5-25-2010	Amend	7-1-2010
629-045-0065	5-19-2010	Adopt	7-1-2010	635-013-0004	1-1-2010	Amend	1-1-2010
635-001-0035	1-1-2010	Amend	2-1-2010	635-013-0007	8-1-2010	Amend	7-1-2010
635-002-0014	5-17-2010	Adopt	7-1-2010	635-013-0009	3-15-2010	Amend(T)	4-1-2010
635-003-0003	5-25-2010	Amend	7-1-2010	635-013-0009	8-1-2010	Amend	7-1-2010
635-003-0085	8-1-2010	Amend	7-1-2010	635-013-0009(T)	8-1-2010	Repeal	7-1-2010
635-004-0005	3-15-2010	Amend	4-1-2010	635-014-0080	1-1-2010	Amend	1-1-2010
635-004-0005	4-1-2010	Amend	5-1-2010	635-014-0090	1-1-2010	Amend	1-1-2010
635-004-0009	3-15-2010	Amend	4-1-2010	635-014-0090	4-21-2010	Amend(T)	6-1-2010
635-004-0009	4-1-2010	Amend	5-1-2010	635-014-0090	6-1-2010	Amend(T)	7-1-2010
635-004-0016	1-1-2010	Amend(T)	2-1-2010	635-014-0090	8-1-2010	Amend	7-1-2010
635-004-0016	3-15-2010	Amend	4-1-2010	635-014-0090(T)	6-1-2010	Suspend	7-1-2010
635-004-0016	4-1-2010	Amend	5-1-2010	635-016-0080	1-1-2010	Amend	1-1-2010
635-004-0016(T)	4-1-2010	Repeal	5-1-2010	635-016-0090	11-19-2009	Amend(T)	1-1-2010
635-004-0017	6-12-2010	Amend(T)	7-1-2010	635-016-0090	1-1-2010	Amend	1-1-2010
635-004-0019	3-3-2010	Amend(T)	4-1-2010	635-016-0090	5-22-2010	Amend(T)	7-1-2010
635-004-0019	5-12-2010	Amend(T)	6-1-2010	635-016-0090	8-1-2010	Amend	7-1-2010
635-004-0019(T)	5-12-2010	Suspend	6-1-2010	635-016-0090(T)	11-19-2009	Suspend	1-1-2010
635-004-0020	1-1-2010	Amend	2-1-2010	635-017-0080	1-1-2010	Amend	1-1-2010
635-004-0027	1-1-2010	Amend(T)	2-1-2010	635-017-0090	1-1-2010	Amend	1-1-2010
635-004-0033	1-1-2010	Amend	2-1-2010	635-017-0090	5-14-2010	Amend	6-1-2010
635-004-0036	1-1-2010	Amend	2-1-2010	635-017-0090	5-22-2010	Amend(T)	6-1-2010
635-004-0066	1-1-2010	Adopt	2-1-2010	635-017-0095	1-1-2010	Amend	1-1-2010
635-004-0068	1-1-2010	Adopt	2-1-2010	635-017-0095	4-1-2010	Amend	5-1-2010
635-004-0070	1-1-2010	Amend	2-1-2010	635-018-0080	1-1-2010	Amend	1-1-2010
635-004-0080	1-1-2010	Amend	2-1-2010	635-018-0090	1-1-2010	Amend	1-1-2010
635-005-0005	1-1-2010	Amend	2-1-2010	635-018-0090	4-1-2010	Amend(T)	3-1-2010
635-006-0001	1-1-2010	Amend	1-1-2010	635-018-0090	4-15-2010	Amend(T)	4-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-018-0090	5-22-2010	Amend(T)	7-1-2010	635-041-0065	2-11-2010	Amend(T)	3-1-2010
635-018-0090(T)	4-15-2010	Suspend	4-1-2010	635-041-0065	2-26-2010	Amend(T)	4-1-2010
635-018-0090(T)	5-22-2010	Suspend	7-1-2010	635-041-0065	3-3-2010	Amend(T)	4-1-2010
635-019-0080	1-1-2010	Amend	1-1-2010	635-041-0065(T)	2-11-2010	Suspend	3-1-2010
635-019-0090	1-1-2010	Amend	1-1-2010	635-041-0065(T)	2-26-2010	Suspend	4-1-2010
635-019-0090	5-22-2010	Amend(T)	6-1-2010	635-041-0065(T)	3-3-2010	Suspend	4-1-2010
635-021-0080	1-1-2010	Amend	1-1-2010	635-041-0076	4-27-2010	Amend(T)	6-1-2010
635-021-0090	1-1-2010	Amend	1-1-2010	635-041-0076	4-29-2010	Amend(T)	6-1-2010
635-021-0090	5-1-2010	Amend(T)	6-1-2010	635-041-0076	5-11-2010	Amend(T)	6-1-2010
635-021-0090	5-22-2010	Amend(T)	6-1-2010	635-041-0076	5-19-2010	Amend(T)	7-1-2010
635-021-0090	5-22-2010	Amend(T)	7-1-2010	635-041-0076	5-21-2010	Amend(T)	7-1-2010
635-021-0090	6-11-2010	Amend(T)	7-1-2010	635-041-0076	6-2-2010	Amend(T)	7-1-2010
635-021-0090(T)	5-22-2010	Suspend	7-1-2010	635-041-0076	6-16-2010	Amend(T)	7-1-2010
635-021-0090(T)	5-22-2010	Suspend	7-1-2010	635-041-0076(T)	4-29-2010	Suspend	6-1-2010
635-021-0090(T)	6-11-2010	Suspend	7-1-2010	635-041-0076(T)	5-11-2010	Suspend	6-1-2010
635-023-0080	1-1-2010	Amend	1-1-2010	635-041-0076(T)	5-19-2010	Suspend	7-1-2010
635-023-0090	1-1-2010	Amend	1-1-2010	635-041-0076(T)	5-21-2010	Suspend	7-1-2010
635-023-0090	1-1-2010	Amend(T)	2-1-2010	635-041-0076(T)	6-2-2010	Suspend	7-1-2010
635-023-0090	3-11-2010	Amend(T)	4-1-2010	635-041-0076(T)	6-16-2010	Suspend	7-1-2010
635-023-0090(T)	3-11-2010	Suspend	4-1-2010	635-042-0022	3-30-2010	Amend(T)	5-1-2010
635-023-0095	1-1-2010	Amend	1-1-2010	635-042-0022	4-7-2010	Amend(T)	5-1-2010
635-023-0095	2-21-2010	Amend(T)	4-1-2010	635-042-0022(T)	4-7-2010	Suspend	5-1-2010
635-023-0095	3-1-2010	Amend(T)	4-1-2010	635-042-0027	6-17-2010	Amend(T)	7-1-2010
635-023-0095	4-1-2010	Amend	5-1-2010	635-042-0110	4-1-2010	Amend	5-1-2010
635-023-0095	4-29-2010	Amend(T)	6-1-2010	635-042-0130	1-1-2010	Amend(T)	2-1-2010
635-023-0095	5-6-2010	Amend(T)	6-1-2010	635-042-0130	2-8-2010	Amend(T)	3-1-2010
635-023-0095(T)	3-1-2010	Suspend	4-1-2010	635-042-0130	3-11-2010	Amend(T)	4-1-2010
635-023-0095(T)	4-1-2010	Repeal	5-1-2010	635-042-0130(T)	2-8-2010	Suspend	3-1-2010
635-023-0095(T)	5-6-2010	Suspend	6-1-2010	635-042-0130(T)	3-11-2010	Suspend	4-1-2010
635-023-0125	1-1-2010	Amend	1-1-2010	635-042-0135	1-1-2010	Amend(T)	2-1-2010
635-023-0125	3-1-2010	Amend(T)	4-1-2010	635-042-0145	2-22-2010	Amend(T)	4-1-2010
635-023-0125	3-2-2010	Amend(T)	4-1-2010	635-042-0145	2-26-2010	Amend(T)	4-1-2010
635-023-0125	4-24-2010	Amend(T)	6-1-2010	635-042-0145	3-14-2010	Amend(T)	4-1-2010
635-023-0125	4-29-2010	Amend(T)	6-1-2010	635-042-0145	3-24-2010	Amend(T)	5-1-2010
635-023-0125	5-8-2010	Amend(T)	6-1-2010	635-042-0145	4-1-2010	Amend(T)	5-1-2010
635-023-0125(T)	3-2-2010	Suspend	4-1-2010	635-042-0145	4-21-2010	Amend(T)	6-1-2010
635-023-0125(T)	4-24-2010	Suspend	6-1-2010	635-042-0145	5-4-2010	Amend(T)	6-1-2010
635-023-0125(T)	4-29-2010	Suspend	6-1-2010	635-042-0145	5-11-2010	Amend(T)	6-1-2010
635-023-0125(T)	5-8-2010	Suspend	6-1-2010	635-042-0145	5-18-2010	Amend(T)	7-1-2010
635-023-0128	1-1-2010	Amend	1-1-2010	635-042-0145(T)	2-26-2010	Suspend	4-1-2010
635-023-0128	6-16-2010	Amend	7-1-2010	635-042-0145(T)	3-14-2010	Suspend	4-1-2010
635-023-0130	1-1-2010	Amend	1-1-2010	635-042-0145(T)	3-24-2010	Suspend	5-1-2010
635-023-0130	6-16-2010	Amend	7-1-2010	635-042-0145(T)	4-1-2010	Suspend	5-1-2010
635-023-0134	1-1-2010	Amend	1-1-2010	635-042-0145(T)	4-21-2010	Suspend	6-1-2010
635-023-0134	4-24-2010	Amend(T)	5-1-2010	635-042-0145(T)	5-4-2010	Suspend	6-1-2010
635-039-0080	1-1-2010	Amend	1-1-2010	635-042-0145(T)	5-11-2010	Suspend	6-1-2010
635-039-0080	3-15-2010	Amend	4-1-2010	635-042-0145(T)	5-18-2010	Suspend	7-1-2010
635-039-0080	4-1-2010	Amend	5-1-2010	635-042-0160	2-21-2010	Amend(T)	4-1-2010
635-039-0085	3-15-2010	Amend	4-1-2010	635-042-0160	4-21-2010	Amend(T)	6-1-2010
635-039-0085	4-1-2010	Amend	5-1-2010	635-042-0160	5-4-2010	Amend(T)	6-1-2010
635-039-0090	1-1-2010	Amend	1-1-2010	635-042-0160	5-11-2010	Amend(T)	6-1-2010
635-041-0005	4-15-2010	Amend(T)	5-1-2010	635-042-0160	5-18-2010	Amend(T)	7-1-2010
635-041-0015	4-15-2010	Amend(T)	5-1-2010	635-042-0160(T)	4-21-2010	Suspend	6-1-2010
635-041-0020	4-15-2010	Amend(T)	5-1-2010	635-042-0160(T)	5-4-2010	Suspend	6-1-2010
635-041-0025	4-15-2010	Amend(T)	5-1-2010	635-042-0160(T)	5-11-2010	Suspend	6-1-2010
635-041-0065	2-3-2010	Amend(T)	3-1-2010	635-042-0160(T)	5-18-2010	Suspend	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-042-0170	4-19-2010	Amend(T)	4-1-2010	635-065-0015(T)	5-18-2010	Suspend	7-1-2010
635-042-0170	4-21-2010	Amend(T)	6-1-2010	635-065-0015(T)	6-15-2010	Repeal	7-1-2010
635-042-0170	5-4-2010	Amend(T)	6-1-2010	635-065-0765	1-25-2010	Amend(T)	3-1-2010
635-042-0170	5-11-2010	Amend(T)	6-1-2010	635-065-0765	2-26-2010	Amend(T)	4-1-2010
635-042-0170	5-18-2010	Amend(T)	7-1-2010	635-065-0765	3-30-2010	Amend(T)	5-1-2010
635-042-0170(T)	4-21-2010	Suspend	6-1-2010	635-065-0765	6-15-2010	Amend	7-1-2010
635-042-0170(T)	5-4-2010	Suspend	6-1-2010	635-065-0765(T)	6-15-2010	Repeal	7-1-2010
635-042-0170(T)	5-11-2010	Suspend	6-1-2010	635-067-0000	6-15-2010	Amend	7-1-2010
635-042-0170(T)	5-18-2010	Suspend	7-1-2010	635-067-0016	6-15-2010	Repeal	7-1-2010
635-042-0180	2-22-2010	Amend(T)	4-1-2010	635-068-0000	3-1-2010	Amend	4-1-2010
635-042-0180	4-1-2010	Amend(T)	5-1-2010	635-068-0000	6-15-2010	Amend	7-1-2010
635-042-0180	4-21-2010	Amend(T)	6-1-2010	635-069-0000	2-1-2010	Amend	2-1-2010
635-042-0180	5-4-2010	Amend(T)	6-1-2010	635-069-0000	6-15-2010	Amend	7-1-2010
635-042-0180	5-11-2010	Amend(T)	6-1-2010	635-070-0000	4-1-2010	Amend	4-1-2010
635-042-0180	5-18-2010	Amend(T)	7-1-2010	635-070-0000	4-1-2010	Amend	4-1-2010
635-042-0180(T)	4-1-2010	Suspend	5-1-2010	635-070-0000	6-15-2010	Amend	7-1-2010
635-042-0180(T)	4-21-2010	Suspend	6-1-2010	635-071-0000	4-1-2010	Amend	4-1-2010
635-042-0180(T)	5-4-2010	Suspend	6-1-2010	635-071-0000	4-1-2010	Amend	4-1-2010
635-042-0180(T)	5-11-2010	Suspend	6-1-2010	635-071-0000	6-15-2010	Amend	7-1-2010
635-042-0180(T)	5-18-2010	Suspend	7-1-2010	635-073-0000	2-1-2010	Amend	2-1-2010
635-043-0051	6-2-2010	Amend(T)	7-1-2010	635-073-0000	6-15-2010	Amend	7-1-2010
635-043-0105	1-12-2010	Amend	2-1-2010	635-073-0065	2-1-2010	Amend	2-1-2010
635-044-0051	1-1-2010	Adopt(T)	2-1-2010	635-073-0070	2-1-2010	Amend	2-1-2010
635-044-0051	5-17-2010	Adopt	7-1-2010	635-073-0076	6-15-2010	Adopt	7-1-2010
635-044-0051(T)	5-17-2010	Repeal	7-1-2010	635-075-0020	6-15-2010	Amend	7-1-2010
635-048-0080	12-15-2009	Amend	1-1-2010	635-090-0030	1-1-2010	Amend	1-1-2010
635-050-0045	6-15-2010	Amend	7-1-2010	635-090-0050	1-1-2010	Amend	1-1-2010
635-050-0050	6-15-2010	Amend	7-1-2010	635-200-0030	6-15-2010	Amend	7-1-2010
635-050-0070	6-15-2010	Amend	7-1-2010	635-500-0703	1-1-2010	Amend	2-1-2010
635-050-0080	6-15-2010	Amend	7-1-2010	635-500-6550	2-8-2010	Adopt	3-1-2010
635-050-0090	6-15-2010	Amend	7-1-2010	635-600-0000	1-1-2010	Amend	1-1-2010
635-050-0100	6-15-2010	Amend	7-1-2010	635-600-0005	1-1-2010	Amend	1-1-2010
635-050-0110	6-15-2010	Amend	7-1-2010	635-600-0010	1-1-2010	Amend	1-1-2010
635-050-0120	6-15-2010	Amend	7-1-2010	635-600-0030	1-1-2010	Amend	1-1-2010
635-050-0130	6-15-2010	Amend	7-1-2010	635-600-0040	1-1-2010	Amend	1-1-2010
635-050-0140	6-15-2010	Amend	7-1-2010	641-010-0005	7-1-2010	Amend	7-1-2010
635-050-0150	6-15-2010	Amend	7-1-2010	642-010-0010	7-1-2010	Amend	7-1-2010
635-050-0170	6-15-2010	Amend	7-1-2010	645-010-0015	2-23-2010	Amend(T)	4-1-2010
635-050-0183	6-15-2010	Amend	7-1-2010	647-010-0010	7-1-2010	Amend	6-1-2010
635-050-0189	6-15-2010	Amend	7-1-2010	660-027-0070	4-30-2010	Amend	6-1-2010
635-055-0000	12-15-2009	Amend	1-1-2010	660-028-0010	1-28-2010	Adopt	3-1-2010
635-055-0035	12-15-2009	Amend	1-1-2010	660-028-0020	1-28-2010	Adopt	3-1-2010
635-055-0037	12-15-2009	Amend	1-1-2010	660-028-0030	1-28-2010	Adopt	3-1-2010
635-055-0070	12-15-2009	Amend	1-1-2010	660-033-0120	12-7-2009	Amend	1-1-2010
635-058-0000	1-12-2010	Adopt	2-1-2010	660-033-0130	12-7-2009	Amend	1-1-2010
635-058-0010	1-12-2010	Adopt	2-1-2010	660-036-0005	11-25-2009	Adopt	1-1-2010
635-058-0020	1-12-2010	Adopt	2-1-2010	660-041-0000	2-9-2010	Amend	3-1-2010
635-059-0000	1-12-2010	Adopt	2-1-2010	660-041-0000	5-7-2010	Amend(T)	6-1-2010
635-059-0010	1-12-2010	Adopt	2-1-2010	660-041-0010	5-7-2010	Amend(T)	6-1-2010
635-059-0050	1-12-2010	Adopt	2-1-2010	660-041-0020	2-9-2010	Amend	3-1-2010
635-060-0030	5-12-2010	Amend(T)	6-1-2010	660-041-0080	2-9-2010	Amend	3-1-2010
635-065-0015	3-3-2010	Amend(T)	4-1-2010	660-041-0080	5-7-2010	Amend(T)	6-1-2010
635-065-0015	5-12-2010	Amend(T)	6-1-2010	660-041-0090	5-7-2010	Amend(T)	6-1-2010
635-065-0015	5-18-2010	Amend(T)	7-1-2010	660-041-0105	5-7-2010	Adopt(T)	6-1-2010
635-065-0015	6-15-2010	Amend	7-1-2010	660-041-0110	5-7-2010	Amend(T)	6-1-2010
635-065-0015(T)	5-12-2010	Suspend	6-1-2010	660-041-0120	5-7-2010	Amend(T)	6-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
660-041-0170	5-7-2010	Amend(T)	6-1-2010	731-070-0070	12-22-2009	Am. & Ren.	2-1-2010
660-043-0100	5-13-2010	Adopt	6-1-2010	731-070-0080	12-22-2009	Amend	2-1-2010
661-010-0015	1-1-2010	Amend	2-1-2010	731-070-0110	12-22-2009	Amend	2-1-2010
661-010-0038	1-1-2010	Amend	2-1-2010	731-070-0120	12-22-2009	Amend	2-1-2010
661-010-0050	1-1-2010	Amend	2-1-2010	731-070-0130	12-22-2009	Amend	2-1-2010
690-020-0021	1-1-2010	Am. & Ren.	1-1-2010	731-070-0140	12-22-2009	Amend	2-1-2010
690-020-0022	1-1-2010	Amend	1-1-2010	731-070-0160	12-22-2009	Amend	2-1-2010
690-020-0025	1-1-2010	Amend	1-1-2010	731-070-0170	12-22-2009	Amend	2-1-2010
690-020-0029	1-1-2010	Amend	1-1-2010	731-070-0180	12-22-2009	Amend	2-1-2010
690-020-0035	1-1-2010	Amend	1-1-2010	731-070-0190	12-22-2009	Amend	2-1-2010
690-020-0039	1-1-2010	Am. & Ren.	1-1-2010	731-070-0200	12-22-2009	Amend	2-1-2010
690-020-0100	1-1-2010	Adopt	1-1-2010	731-070-0210	12-22-2009	Amend	2-1-2010
690-020-0200	1-1-2010	Adopt	1-1-2010	731-070-0220	12-22-2009	Amend	2-1-2010
690-180-0005	11-23-2009	Suspend	1-1-2010	731-070-0240	12-22-2009	Amend	2-1-2010
690-180-0010	11-23-2009	Suspend	1-1-2010	731-070-0245	12-22-2009	Adopt	2-1-2010
690-180-0100	11-23-2009	Suspend	1-1-2010	731-070-0250	12-22-2009	Amend	2-1-2010
690-180-0200	11-23-2009	Suspend	1-1-2010	731-070-0260	12-22-2009	Amend	2-1-2010
690-190-0005	11-23-2009	Adopt	1-1-2010	731-070-0270	12-22-2009	Repeal	2-1-2010
690-190-0010	11-23-2009	Adopt	1-1-2010	731-070-0280	12-22-2009	Amend	2-1-2010
690-190-0100	11-23-2009	Adopt	1-1-2010	731-070-0295	12-22-2009	Amend	2-1-2010
690-190-0200	11-23-2009	Adopt	1-1-2010	731-070-0300	12-22-2009	Amend	2-1-2010
690-340-0030	12-15-2009	Amend	1-1-2010	731-070-0320	12-22-2009	Amend	2-1-2010
690-382-0400	12-15-2009	Amend	1-1-2010	731-070-0350	12-22-2009	Amend	2-1-2010
690-522-0010	6-9-2010	Adopt	7-1-2010	731-070-0360	12-22-2009	Amend	2-1-2010
690-522-0020	6-9-2010	Adopt	7-1-2010	731-146-0010	1-1-2010	Amend(T)	2-1-2010
690-522-0030	6-9-2010	Adopt	7-1-2010	731-146-0010	5-18-2010	Amend	7-1-2010
690-522-0040	6-9-2010	Adopt	7-1-2010	731-146-0010(T)	5-18-2010	Repeal	7-1-2010
690-522-0050	6-9-2010	Adopt	7-1-2010	731-147-0010	1-1-2010	Amend(T)	2-1-2010
731-005-0410	1-1-2010	Amend(T)	2-1-2010	731-147-0010	5-18-2010	Amend	7-1-2010
731-005-0410	5-18-2010	Amend	7-1-2010	731-147-0010(T)	5-18-2010	Repeal	7-1-2010
731-005-0410(T)	5-18-2010	Repeal	7-1-2010	731-148-0010	1-1-2010	Amend(T)	2-1-2010
731-005-0470	1-1-2010	Amend(T)	2-1-2010	731-148-0010	5-18-2010	Amend	7-1-2010
731-005-0470	5-18-2010	Amend	7-1-2010	731-148-0010(T)	5-18-2010	Repeal	7-1-2010
731-005-0470(T)	5-18-2010	Repeal	7-1-2010	731-149-0010	1-1-2010	Amend(T)	2-1-2010
731-005-0670	1-1-2010	Amend(T)	2-1-2010	731-149-0010	5-18-2010	Amend	7-1-2010
731-005-0670	5-18-2010	Amend	7-1-2010	731-149-0010(T)	5-18-2010	Repeal	7-1-2010
731-005-0670(T)	5-18-2010	Repeal	7-1-2010	732-005-0000	1-29-2010	Amend	3-1-2010
731-007-0210	1-1-2010	Amend(T)	2-1-2010	732-005-0000(T)	1-29-2010	Repeal	3-1-2010
731-007-0210	5-18-2010	Amend	7-1-2010	732-005-0010	1-29-2010	Amend	3-1-2010
731-007-0210(T)	5-18-2010	Repeal	7-1-2010	732-005-0010(T)	1-29-2010	Repeal	3-1-2010
731-007-0260	1-1-2010	Amend(T)	2-1-2010	732-005-0016	1-29-2010	Amend	3-1-2010
731-007-0260	5-18-2010	Amend	7-1-2010	732-005-0016(T)	1-29-2010	Repeal	3-1-2010
731-007-0260(T)	5-18-2010	Repeal	7-1-2010	732-005-0021	1-29-2010	Amend	3-1-2010
731-007-0290	1-1-2010	Amend(T)	2-1-2010	732-005-0021(T)	1-29-2010	Repeal	3-1-2010
731-007-0290	5-18-2010	Amend	7-1-2010	732-005-0027	1-29-2010	Amend	3-1-2010
731-007-0290(T)	5-18-2010	Repeal	7-1-2010	732-005-0027(T)	1-29-2010	Repeal	3-1-2010
731-035-0020	11-17-2009	Amend	1-1-2010	732-005-0031	1-29-2010	Amend	3-1-2010
731-035-0050	11-17-2009	Amend	1-1-2010	732-005-0031(T)	1-29-2010	Repeal	3-1-2010
731-035-0060	11-17-2009	Amend	1-1-2010	732-005-0036	1-29-2010	Amend	3-1-2010
731-035-0070	11-17-2009	Amend	1-1-2010	732-005-0036(T)	1-29-2010	Repeal	3-1-2010
731-070-0010	12-22-2009	Amend	2-1-2010	732-005-0046	1-29-2010	Amend	3-1-2010
731-070-0020	12-22-2009	Amend	2-1-2010	732-005-0046(T)	1-29-2010	Repeal	3-1-2010
731-070-0030	12-22-2009	Amend	2-1-2010	732-005-0051	1-29-2010	Amend	3-1-2010
731-070-0050	12-22-2009	Amend	2-1-2010	732-005-0051(T)	1-29-2010	Repeal	3-1-2010
731-070-0055	12-22-2009	Amend	2-1-2010	732-005-0056	1-29-2010	Amend	3-1-2010
731-070-0060	12-22-2009	Amend	2-1-2010	732-005-0056(T)	1-29-2010	Repeal	3-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
732-005-0061	1-29-2010	Amend	3-1-2010	735-024-0080	1-1-2010	Suspend	2-1-2010
732-005-0061(T)	1-29-2010	Repeal	3-1-2010	735-024-0130	1-1-2010	Amend(T)	2-1-2010
732-005-0066	1-29-2010	Amend	3-1-2010	735-032-0010	2-25-2010	Amend	4-1-2010
732-005-0066(T)	1-29-2010	Repeal	3-1-2010	735-032-0010(T)	2-25-2010	Repeal	4-1-2010
732-005-0076	1-29-2010	Amend	3-1-2010	735-040-0097	1-28-2010	Amend	3-1-2010
732-005-0076(T)	1-29-2010	Repeal	3-1-2010	735-040-0097(T)	1-28-2010	Repeal	3-1-2010
732-005-0081	1-29-2010	Amend	3-1-2010	735-040-0098	1-28-2010	Adopt	3-1-2010
732-005-0081(T)	1-29-2010	Repeal	3-1-2010	735-040-0098(T)	1-28-2010	Repeal	3-1-2010
732-030-0005	1-29-2010	Adopt	3-1-2010	735-046-0010	1-28-2010	Amend	3-1-2010
732-030-0005(T)	1-29-2010	Repeal	3-1-2010	735-046-0010(T)	1-28-2010	Repeal	3-1-2010
732-030-0010	1-29-2010	Adopt	3-1-2010	735-046-0050	1-28-2010	Amend	3-1-2010
732-030-0010(T)	1-29-2010	Repeal	3-1-2010	735-046-0050(T)	1-28-2010	Repeal	3-1-2010
732-030-0015	1-29-2010	Adopt	3-1-2010	735-050-0050	1-1-2010	Amend	2-1-2010
732-030-0015(T)	1-29-2010	Repeal	3-1-2010	735-050-0060	1-1-2010	Amend	2-1-2010
732-030-0020	1-29-2010	Adopt	3-1-2010	735-050-0062	1-1-2010	Amend	2-1-2010
732-030-0020(T)	1-29-2010	Repeal	3-1-2010	735-050-0064	1-1-2010	Amend	2-1-2010
732-030-0025	1-29-2010	Adopt	3-1-2010	735-050-0070	1-1-2010	Amend	2-1-2010
732-030-0025(T)	1-29-2010	Repeal	3-1-2010	735-050-0080	1-1-2010	Amend	2-1-2010
732-030-0030	1-29-2010	Adopt	3-1-2010	735-050-0120	1-1-2010	Amend	2-1-2010
732-030-0030(T)	1-29-2010	Repeal	3-1-2010	735-062-0003	1-1-2010	Repeal	2-1-2010
732-030-0035	1-29-2010	Adopt	3-1-2010	735-062-0007	1-1-2010	Amend	2-1-2010
732-030-0035(T)	1-29-2010	Repeal	3-1-2010	735-062-0010	1-1-2010	Amend	2-1-2010
733-030-0011	6-11-2010	Amend	7-1-2010	735-062-0015	1-1-2010	Amend	2-1-2010
733-030-0021	6-11-2010	Amend	7-1-2010	735-062-0020	1-1-2010	Amend	2-1-2010
733-030-0036	6-11-2010	Amend	7-1-2010	735-062-0035	1-1-2010	Amend	2-1-2010
733-030-0055	6-11-2010	Amend	7-1-2010	735-062-0060	3-17-2010	Amend	5-1-2010
733-030-0080	6-11-2010	Amend	7-1-2010	735-062-0070	1-28-2010	Amend	3-1-2010
733-030-0500	3-15-2010	Adopt	4-1-2010	735-062-0090	1-1-2010	Amend	2-1-2010
733-030-0510	3-15-2010	Adopt	4-1-2010	735-062-0125	1-1-2010	Amend	2-1-2010
733-030-0520	3-15-2010	Adopt	4-1-2010	735-062-0190	1-1-2010	Amend	2-1-2010
734-020-0148	1-28-2010	Adopt(T)	3-1-2010	735-062-0290	1-28-2010	Adopt	3-1-2010
734-020-0148	5-18-2010	Amend	7-1-2010	735-063-0000	3-17-2010	Amend	5-1-2010
734-020-0148(T)	5-18-2010	Repeal	7-1-2010	735-063-0050	3-17-2010	Amend	5-1-2010
734-030-0005	4-28-2010	Amend(T)	6-1-2010	735-063-0060	3-17-2010	Amend	5-1-2010
734-030-0010	4-28-2010	Amend(T)	6-1-2010	735-063-0070	3-17-2010	Amend	5-1-2010
734-030-0015	4-28-2010	Amend(T)	6-1-2010	735-063-0075	3-17-2010	Amend	5-1-2010
734-030-0020	4-28-2010	Amend(T)	6-1-2010	735-064-0100	1-1-2010	Amend	2-1-2010
734-065-0005	11-17-2009	Repeal	1-1-2010	735-064-0220	1-1-2010	Amend	2-1-2010
734-065-0010	11-17-2009	Amend	1-1-2010	735-070-0000	1-1-2010	Amend	2-1-2010
734-065-0015	11-17-2009	Amend	1-1-2010	735-070-0000	4-28-2010	Amend	6-1-2010
734-065-0020	11-17-2009	Amend	1-1-2010	735-070-0043	1-1-2010	Repeal	2-1-2010
734-065-0025	11-17-2009	Amend	1-1-2010	735-070-0170	1-1-2010	Amend	2-1-2010
734-065-0030	11-17-2009	Repeal	1-1-2010	735-072-0035	1-1-2010	Amend	2-1-2010
734-065-0035	11-17-2009	Amend	1-1-2010	735-080-0020	1-1-2010	Amend	2-1-2010
734-065-0040	11-17-2009	Amend	1-1-2010	735-080-0040	1-1-2010	Amend	2-1-2010
734-065-0045	11-17-2009	Amend	1-1-2010	735-080-0060	1-1-2010	Amend	2-1-2010
734-065-0050	11-17-2009	Amend	1-1-2010	735-090-0120	1-1-2010	Amend	2-1-2010
734-074-0008	3-17-2010	Amend	5-1-2010	735-090-0125	1-1-2010	Adopt	2-1-2010
734-074-0020	3-17-2010	Amend	5-1-2010	735-150-0005	2-25-2010	Amend	4-1-2010
735-001-0050	5-18-2010	Amend	7-1-2010	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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
735-158-0005	1-1-2010	Amend(T)	2-1-2010	736-050-0120	2-3-2010	Amend	3-1-2010
735-158-0010	1-1-2010	Amend(T)	2-1-2010	736-050-0120(T)	2-3-2010	Repeal	3-1-2010
736-004-0005	12-8-2009	Amend	1-1-2010	736-050-0125	2-3-2010	Amend	3-1-2010
736-004-0010	12-8-2009	Amend	1-1-2010	736-050-0125(T)	2-3-2010	Repeal	3-1-2010
736-004-0015	12-8-2009	Amend	1-1-2010	736-050-0130	2-3-2010	Repeal	3-1-2010
736-004-0020	12-8-2009	Amend	1-1-2010	736-050-0130(T)	2-3-2010	Repeal	3-1-2010
736-004-0025	12-8-2009	Amend	1-1-2010	736-050-0135	2-3-2010	Amend	3-1-2010
736-004-0030	12-8-2009	Amend	1-1-2010	736-050-0135(T)	2-3-2010	Repeal	3-1-2010
736-004-0035	12-8-2009	Adopt	1-1-2010	736-050-0140	2-3-2010	Amend	3-1-2010
736-004-0060	12-8-2009	Amend	1-1-2010	736-050-0140(T)	2-3-2010	Repeal	3-1-2010
736-004-0062	12-8-2009	Amend	1-1-2010	736-050-0150	2-3-2010	Repeal	3-1-2010
736-004-0065	12-8-2009	Amend	1-1-2010	736-050-0150(T)	2-3-2010	Repeal	3-1-2010
736-004-0080	12-8-2009	Repeal	1-1-2010	736-140-0005	12-8-2009	Adopt	1-1-2010
736-004-0085	12-8-2009	Amend	1-1-2010	736-140-0015	12-8-2009	Adopt	1-1-2010
736-004-0090	12-8-2009	Amend	1-1-2010	736-146-0010	12-4-2009	Amend	1-1-2010
736-004-0095	12-8-2009	Amend	1-1-2010	736-146-0012	12-4-2009	Amend	1-1-2010
736-004-0110	12-8-2009	Amend	1-1-2010	736-146-0015	12-4-2009	Amend	1-1-2010
736-004-0115	12-8-2009	Amend	1-1-2010	736-146-0020	12-4-2009	Amend	1-1-2010
736-004-0120	12-8-2009	Adopt	1-1-2010	736-146-0025	12-4-2009	Repeal	1-1-2010
736-004-0125	12-8-2009	Adopt	1-1-2010	736-146-0030	12-4-2009	Repeal	1-1-2010
736-009-0005	12-8-2009	Repeal	1-1-2010	736-146-0040	12-4-2009	Repeal	1-1-2010
736-009-0006	12-8-2009	Adopt	1-1-2010	736-146-0050	12-4-2009	Amend	1-1-2010
736-009-0010	12-8-2009	Repeal	1-1-2010	736-146-0060	12-4-2009	Amend	1-1-2010
736-009-0015	12-8-2009	Repeal	1-1-2010	736-146-0070	12-4-2009	Amend	1-1-2010
736-009-0020	12-8-2009	Amend	1-1-2010	736-146-0080	12-4-2009	Amend	1-1-2010
736-009-0021	12-8-2009	Adopt	1-1-2010	736-146-0090	12-4-2009	Amend	1-1-2010
736-009-0022	12-8-2009	Adopt	1-1-2010	736-146-0100	12-4-2009	Amend	1-1-2010
736-009-0025	12-8-2009	Amend	1-1-2010	736-146-0110	12-4-2009	Amend	1-1-2010
736-009-0030	12-8-2009	Amend	1-1-2010	736-146-0120	12-4-2009	Amend	1-1-2010
736-010-0055	2-3-2010	Amend(T)	3-1-2010	736-146-0130	12-4-2009	Amend	1-1-2010
736-010-0055	6-15-2010	Amend	7-1-2010	736-146-0140	12-4-2009	Amend	1-1-2010
736-010-0055(T)	6-15-2010	Repeal	7-1-2010	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	738-010-0025	7-7-2010	Amend	7-1-2010
736-050-0112(T)	2-3-2010	Repeal	3-1-2010	738-010-0035	1-7-2010	Amend(T)	2-1-2010
736-050-0115	2-3-2010	Repeal	3-1-2010	738-010-0035	7-7-2010	Amend	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
738-015-0005	1-7-2010	Amend(T)	2-1-2010	801-050-0070	1-1-2010	Amend	1-1-2010
738-015-0005	7-7-2010	Amend	7-1-2010	801-050-0080	1-1-2010	Amend	1-1-2010
740-055-0020	12-22-2009	Amend	2-1-2010	804-003-0000	2-17-2010	Amend	4-1-2010
740-100-0010	4-1-2010	Amend	5-1-2010	804-020-0003	12-11-2009	Amend	1-1-2010
740-100-0060	4-1-2010	Amend	5-1-2010	804-022-0000	2-17-2010	Amend	4-1-2010
740-100-0065	4-1-2010	Amend	5-1-2010	804-022-0025	12-11-2009	Adopt	1-1-2010
740-100-0070	4-1-2010	Amend	5-1-2010	804-025-0020	2-17-2010	Amend	4-1-2010
740-100-0080	4-1-2010	Amend	5-1-2010	804-030-0000	12-11-2009	Amend	1-1-2010
740-100-0085	4-1-2010	Amend	5-1-2010	804-030-0003	2-17-2010	Adopt	4-1-2010
740-100-0090	4-1-2010	Amend	5-1-2010	804-035-0010	2-17-2010	Amend	4-1-2010
740-110-0010	4-1-2010	Amend	5-1-2010	804-035-0020	2-17-2010	Amend	4-1-2010
740-200-0040	1-1-2010	Amend	2-1-2010	804-035-0030	2-17-2010	Amend	4-1-2010
740-200-0045	1-1-2010	Amend	2-1-2010	804-040-0000	12-11-2009	Amend	1-1-2010
800-001-0020	2-1-2010	Amend	3-1-2010	804-040-0000	2-17-2010	Amend	4-1-2010
800-010-0015	2-1-2010	Amend	3-1-2010	806-010-0020	10-3-2010	Amend	7-1-2010
800-010-0017	2-1-2010	Amend	3-1-2010	806-010-0035	10-3-2010	Amend	7-1-2010
800-010-0025	2-1-2010	Amend	3-1-2010	806-010-0060	4-6-2010	Amend	5-1-2010
800-010-0030	2-1-2010	Amend	3-1-2010	806-010-0060	10-3-2010	Amend	7-1-2010
800-010-0040	2-1-2010	Amend	3-1-2010	806-010-0145	4-6-2010	Amend	5-1-2010
800-010-0041	2-1-2010	Amend	3-1-2010	808-002-0200	1-1-2010	Amend	2-1-2010
800-010-0050	2-1-2010	Amend	3-1-2010	808-002-0220	1-1-2010	Amend	2-1-2010
800-015-0005	2-1-2010	Amend	3-1-2010	808-002-0500	1-1-2010	Amend	2-1-2010
800-015-0010	2-1-2010	Amend	3-1-2010	808-002-0620	1-1-2010	Amend	2-1-2010
800-015-0020	2-1-2010	Amend	3-1-2010	808-002-0775	1-1-2010	Adopt	2-1-2010
800-020-0015	2-1-2010	Amend	3-1-2010	808-002-0808	1-1-2010	Adopt	2-1-2010
800-020-0025	2-1-2010	Amend	3-1-2010	808-002-0882	1-1-2010	Adopt	2-1-2010
800-020-0065	2-1-2010	Amend	3-1-2010	808-002-0884	1-1-2010	Adopt	2-1-2010
800-025-0020	2-1-2010	Amend	3-1-2010	808-002-0885	6-1-2010	Amend	7-1-2010
800-025-0023	2-1-2010	Amend	3-1-2010	808-002-0895	1-1-2010	Adopt	2-1-2010
800-025-0025	2-1-2010	Amend	3-1-2010	808-003-0010	6-1-2010	Amend	7-1-2010
800-025-0027	2-1-2010	Amend	3-1-2010	808-003-0010	6-2-2010	Amend	7-1-2010
800-025-0029	2-1-2010	Amend	3-1-2010	808-003-0018	6-1-2010	Amend	7-1-2010
800-025-0030	2-1-2010	Amend	3-1-2010	808-003-0020	1-1-2010	Amend	2-1-2010
800-025-0040	2-1-2010	Amend	3-1-2010	808-003-0040	1-1-2010	Amend	2-1-2010
800-025-0050	2-1-2010	Amend	3-1-2010	808-003-0055	1-1-2010	Amend	2-1-2010
800-030-0035	2-1-2010	Amend	3-1-2010	808-003-0060	1-1-2010	Amend	2-1-2010
800-030-0050	2-1-2010	Amend	3-1-2010	808-003-0075	1-1-2010	Amend	2-1-2010
801-001-0035	1-1-2010	Amend	1-1-2010	808-003-0080	1-1-2010	Amend	2-1-2010
801-005-0010	1-1-2010	Amend	1-1-2010	808-003-0085	1-1-2010	Amend	2-1-2010
801-010-0010	1-1-2010	Amend	1-1-2010	808-003-0100	1-1-2010	Amend	2-1-2010
801-010-0060	1-1-2010	Amend	1-1-2010	808-003-0105	1-1-2010	Repeal	2-1-2010
801-010-0075	1-1-2010	Amend	1-1-2010	808-003-0125	1-1-2010	Amend	2-1-2010
801-010-0080	1-1-2010	Amend	1-1-2010	808-003-0130	6-2-2010	Amend	7-1-2010
801-010-0100	1-1-2010	Amend	1-1-2010	808-003-0210	1-1-2010	Amend	2-1-2010
801-010-0120	1-1-2010	Amend	1-1-2010	808-003-0610	12-1-2009	Amend(T)	1-1-2010
801-010-0345	1-1-2010	Amend	1-1-2010	808-003-0610	6-2-2010	Amend	7-1-2010
801-020-0690	1-1-2010	Amend	1-1-2010	808-005-0020	1-27-2010	Amend	3-1-2010
801-030-0020	1-1-2010	Amend	1-1-2010	808-005-0020	6-1-2010	Amend	7-1-2010
801-040-0010	1-1-2010	Amend	1-1-2010	808-040-0020	1-27-2010	Amend	3-1-2010
801-050-0005	1-1-2010	Amend	1-1-2010	808-040-0060	1-27-2010	Amend	3-1-2010
801-050-0010	1-1-2010	Amend	1-1-2010	808-040-0060	6-1-2010	Amend	7-1-2010
801-050-0020	1-1-2010	Amend	1-1-2010	809-055-0000	12-11-2009	Amend	1-1-2010
801-050-0030	1-1-2010	Amend	1-1-2010	811-010-0071	12-22-2009	Amend	2-1-2010
801-050-0035	1-1-2010	Amend	1-1-2010	811-010-0110	6-15-2010	Amend	7-1-2010
801-050-0040	1-1-2010	Amend	1-1-2010	811-010-0120	4-15-2010	Amend	5-1-2010
801-050-0065	1-1-2010	Amend	1-1-2010	811-015-0002	6-15-2010	Adopt	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
811-035-0005	12-22-2009	Amend	2-1-2010	812-008-0070	1-1-2010	Amend	1-1-2010
811-035-0015	12-22-2009	Amend	2-1-2010	812-008-0090	1-1-2010	Amend	2-1-2010
812-001-0200	1-1-2010	Amend	1-1-2010	812-008-0110	1-1-2010	Amend	1-1-2010
812-001-0200	2-1-2010	Amend	3-1-2010	812-008-0202	1-1-2010	Amend	1-1-2010
812-002-0390	5-18-2010	Adopt(T)	7-1-2010	812-009-0340	2-3-2010	Amend(T)	3-1-2010
812-003-0120	1-1-2010	Amend	1-1-2010	812-009-0340	4-28-2010	Amend	6-1-2010
812-003-0140	1-1-2010	Amend	1-1-2010	812-012-0110	1-1-2010	Amend	2-1-2010
812-003-0140	7-1-2010	Amend	6-1-2010	812-012-0110	4-28-2010	Amend	6-1-2010
812-003-0290	6-4-2010	Amend(T)	7-1-2010	812-020-0055	5-18-2010	Amend(T)	7-1-2010
812-003-0330	6-4-2010	Amend(T)	7-1-2010	812-020-0062	1-1-2010	Amend	1-1-2010
812-004-0320	1-1-2010	Amend	1-1-2010	812-020-0070	2-1-2010	Amend	3-1-2010
812-004-0340	4-28-2010	Amend	6-1-2010	812-020-0082	2-1-2010	Repeal	3-1-2010
812-005-0800	2-1-2010	Amend	3-1-2010	812-021-0025	1-1-2010	Amend	2-1-2010
812-005-0800	4-28-2010	Amend	6-1-2010	812-030-0000	2-1-2010	Adopt	3-1-2010
812-007-0000	2-1-2010	Amend	3-1-2010	812-030-0010	2-1-2010	Adopt	3-1-2010
812-007-0010	2-1-2010	Repeal	3-1-2010	812-030-0100	2-1-2010	Adopt	3-1-2010
812-007-0020	2-1-2010	Amend	3-1-2010	812-030-0110	2-1-2010	Adopt	3-1-2010
812-007-0020	3-11-2010	Amend(T)	4-1-2010	812-030-0200	2-1-2010	Adopt	3-1-2010
812-007-0020	6-1-2010	Amend(T)	7-1-2010	812-030-0210	2-1-2010	Adopt	3-1-2010
812-007-0020(T)	6-1-2010	Suspend	7-1-2010	812-030-0220	2-1-2010	Adopt	3-1-2010
812-007-0025	2-1-2010	Adopt	3-1-2010	812-030-0230	2-1-2010	Adopt	3-1-2010
812-007-0030	2-1-2010	Repeal	3-1-2010	812-030-0240	2-1-2010	Adopt	3-1-2010
812-007-0040	2-1-2010	Repeal	3-1-2010	812-030-0250	2-1-2010	Adopt	3-1-2010
812-007-0050	2-1-2010	Repeal	3-1-2010	812-030-0300	2-1-2010	Adopt	3-1-2010
812-007-0060	2-1-2010	Repeal	3-1-2010	813-007-0005	1-7-2010	Adopt	2-1-2010
812-007-0070	2-1-2010	Repeal	3-1-2010	813-007-0010	1-7-2010	Adopt	2-1-2010
812-007-0080	2-1-2010	Repeal	3-1-2010	813-007-0015	1-7-2010	Adopt	2-1-2010
812-007-0090	2-1-2010	Repeal	3-1-2010	813-007-0020	1-7-2010	Adopt	2-1-2010
812-007-0100	2-1-2010	Adopt	3-1-2010	813-007-0025	1-7-2010	Adopt	2-1-2010
812-007-0110	2-1-2010	Adopt	3-1-2010	813-007-0030	1-7-2010	Adopt	2-1-2010
812-007-0120	2-1-2010	Adopt	3-1-2010	813-007-0035	1-7-2010	Adopt	2-1-2010
812-007-0130	2-1-2010	Adopt	3-1-2010	813-007-0040	1-7-2010	Adopt	2-1-2010
812-007-0140	2-1-2010	Adopt	3-1-2010	813-007-0045	1-7-2010	Adopt	2-1-2010
812-007-0150	2-1-2010	Adopt	3-1-2010	813-007-0050	1-7-2010	Adopt	2-1-2010
812-007-0160	2-1-2010	Adopt	3-1-2010	813-007-0055	1-7-2010	Adopt	2-1-2010
812-007-0200	2-1-2010	Adopt	3-1-2010	813-007-0060	1-7-2010	Adopt	2-1-2010
812-007-0205	2-1-2010	Adopt	3-1-2010	813-007-0065	1-7-2010	Adopt	2-1-2010
812-007-0210	2-1-2010	Adopt	3-1-2010	813-007-0070	1-7-2010	Adopt	2-1-2010
812-007-0220	2-1-2010	Adopt	3-1-2010	813-027-0001	2-25-2010	Adopt(T)	4-1-2010
812-007-0230	2-1-2010	Adopt	3-1-2010	813-027-0010	2-25-2010	Adopt(T)	4-1-2010
812-007-0240	2-1-2010	Adopt	3-1-2010	813-027-0020	2-25-2010	Adopt(T)	4-1-2010
812-007-0250	2-1-2010	Adopt	3-1-2010	813-027-0030	2-25-2010	Adopt(T)	4-1-2010
812-007-0260	2-1-2010	Adopt	3-1-2010	813-027-0040	2-25-2010	Adopt(T)	4-1-2010
812-007-0300	2-1-2010	Adopt	3-1-2010	813-027-0050	2-25-2010	Adopt(T)	4-1-2010
812-007-0310	2-1-2010	Adopt	3-1-2010	813-027-0060	2-25-2010	Adopt(T)	4-1-2010
812-007-0310	4-28-2010	Amend	6-1-2010	813-027-0070	2-25-2010	Adopt(T)	4-1-2010
812-007-0320	2-1-2010	Adopt	3-1-2010	813-027-0080	2-25-2010	Adopt(T)	4-1-2010
812-007-0330	2-1-2010	Adopt	3-1-2010	813-027-0090	2-25-2010	Adopt(T)	4-1-2010
812-007-0330	4-28-2010	Amend	6-1-2010	813-028-0001	2-25-2010	Adopt(T)	4-1-2010
812-007-0340	4-28-2010	Adopt	6-1-2010	813-028-0010	2-25-2010	Adopt(T)	4-1-2010
812-007-0350	2-1-2010	Adopt	3-1-2010	813-028-0020	2-25-2010	Adopt(T)	4-1-2010
812-007-0350	4-28-2010	Amend	6-1-2010	813-028-0030	2-25-2010	Adopt(T)	4-1-2010
812-007-0360	2-1-2010	Adopt	3-1-2010	813-028-0040	2-25-2010	Adopt(T)	4-1-2010
812-007-0370	2-1-2010	Adopt	3-1-2010	813-028-0050	2-25-2010	Adopt(T)	4-1-2010
812-007-0372	2-1-2010	Adopt	3-1-2010	813-028-0060	2-25-2010	Adopt(T)	4-1-2010
812-007-0374	2-1-2010	Adopt	3-1-2010	813-028-0070	2-25-2010	Adopt(T)	4-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
813-028-0080	2-25-2010	Adopt(T)	4-1-2010	820-010-0305	5-12-2010	Amend	6-1-2010
813-028-0090	2-25-2010	Adopt(T)	4-1-2010	820-010-0440	5-12-2010	Amend	6-1-2010
813-041-0000	12-15-2009	Amend(T)	1-1-2010	820-010-0450	5-12-2010	Amend	6-1-2010
813-041-0000	6-10-2010	Amend	7-1-2010	820-010-0470	5-12-2010	Amend	6-1-2010
813-041-0000(T)	6-10-2010	Repeal	7-1-2010	820-010-0530	5-12-2010	Adopt	6-1-2010
813-041-0005	12-15-2009	Amend(T)	1-1-2010	820-010-0610	5-12-2010	Amend	6-1-2010
813-041-0005	6-10-2010	Repeal	7-1-2010	820-010-0625	5-12-2010	Amend	6-1-2010
813-041-0010	12-15-2009	Amend(T)	1-1-2010	820-010-0635	5-12-2010	Amend	6-1-2010
813-041-0010	6-10-2010	Amend	7-1-2010	830-011-0000	4-1-2010	Amend(T)	5-1-2010
813-041-0010(T)	6-10-2010	Repeal	7-1-2010	830-011-0050	4-1-2010	Amend(T)	5-1-2010
813-041-0015	12-15-2009	Amend(T)	1-1-2010	830-020-0000	4-1-2010	Amend(T)	5-1-2010
813-041-0015	6-10-2010	Amend	7-1-2010	830-020-0020	4-1-2010	Amend(T)	5-1-2010
813-041-0015(T)	6-10-2010	Repeal	7-1-2010	830-020-0040	4-1-2010	Amend(T)	5-1-2010
813-041-0020	12-15-2009	Amend(T)	1-1-2010	830-030-0090	4-1-2010	Amend(T)	5-1-2010
813-041-0020	6-10-2010	Amend	7-1-2010	830-040-0000	4-1-2010	Amend(T)	5-1-2010
813-041-0020(T)	6-10-2010	Repeal	7-1-2010	830-040-0050	4-1-2010	Amend(T)	5-1-2010
813-041-0025	12-15-2009	Amend(T)	1-1-2010	830-060-0010	4-1-2010	Adopt(T)	5-1-2010
813-041-0025	6-10-2010	Repeal	7-1-2010	830-060-0020	4-1-2010	Adopt(T)	5-1-2010
813-041-0027	12-15-2009	Adopt(T)	1-1-2010	833-001-0000	1-5-2010	Amend	2-1-2010
813-041-0027	6-10-2010	Adopt	7-1-2010	833-001-0005	1-5-2010	Amend	2-1-2010
813-041-0027(T)	6-10-2010	Repeal	7-1-2010	833-001-0010	1-5-2010	Amend	2-1-2010
813-041-0030	12-15-2009	Amend(T)	1-1-2010	833-001-0015	1-5-2010	Amend	2-1-2010
813-041-0030	6-10-2010	Amend	7-1-2010	833-001-0020	1-5-2010	Amend	2-1-2010
813-041-0030(T)	6-10-2010	Repeal	7-1-2010	833-010-0001	1-5-2010	Amend	2-1-2010
813-041-0035	12-15-2009	Adopt(T)	1-1-2010	833-010-0001	5-3-2010	Amend	6-1-2010
813-041-0035(T)	6-10-2010	Repeal	7-1-2010	833-020-0001	1-5-2010	Repeal	2-1-2010
813-044-0000	12-22-2009	Amend	2-1-2010	833-020-0010	1-5-2010	Repeal	2-1-2010
813-044-0010	12-22-2009	Amend	2-1-2010	833-020-0011	1-5-2010	Adopt	2-1-2010
813-044-0020	12-22-2009	Amend	2-1-2010	833-020-0015	1-5-2010	Repeal	2-1-2010
813-044-0030	12-22-2009	Amend	2-1-2010	833-020-0020	1-5-2010	Repeal	2-1-2010
813-044-0040	12-22-2009	Amend	2-1-2010	833-020-0021	1-5-2010	Adopt	2-1-2010
813-044-0050	12-22-2009	Amend	2-1-2010	833-020-0022	1-5-2010	Repeal	2-1-2010
813-044-0060	12-22-2009	Adopt	2-1-2010	833-020-0030	1-5-2010	Repeal	2-1-2010
813-055-0001	12-22-2009	Adopt	2-1-2010	833-020-0031	1-5-2010	Adopt	2-1-2010
813-055-0010	12-22-2009	Adopt	2-1-2010	833-020-0031	5-3-2010	Amend	6-1-2010
813-055-0020	12-22-2009	Adopt	2-1-2010	833-020-0040	1-5-2010	Repeal	2-1-2010
813-055-0030	12-22-2009	Adopt	2-1-2010	833-020-0041	1-5-2010	Adopt	2-1-2010
813-055-0040	12-22-2009	Adopt	2-1-2010	833-020-0041	5-3-2010	Amend	6-1-2010
813-055-0050	12-22-2009	Adopt	2-1-2010	833-020-0050	1-5-2010	Repeal	2-1-2010
813-055-0060	12-22-2009	Adopt	2-1-2010	833-020-0051	1-5-2010	Adopt	2-1-2010
813-055-0070	12-22-2009	Adopt	2-1-2010	833-020-0051	5-3-2010	Amend	6-1-2010
813-055-0080	12-22-2009	Adopt	2-1-2010	833-020-0060	1-5-2010	Repeal	2-1-2010
813-055-0090	12-22-2009	Adopt	2-1-2010	833-020-0061	1-5-2010	Adopt	2-1-2010
813-055-0100	12-22-2009	Adopt	2-1-2010	833-020-0061	5-3-2010	Amend	6-1-2010
813-055-0110	12-22-2009	Adopt	2-1-2010	833-020-0071	1-5-2010	Adopt	2-1-2010
813-140-0096	1-7-2010	Amend	2-1-2010	833-020-0080	1-5-2010	Repeal	2-1-2010
813-300-0010	1-7-2010	Amend	2-1-2010	833-020-0081	1-5-2010	Adopt	2-1-2010
813-300-0100	1-7-2010	Amend	2-1-2010	833-020-0090	1-5-2010	Repeal	2-1-2010
817-040-0003	12-26-2009	Amend(T)	2-1-2010	833-020-0091	1-5-2010	Adopt	2-1-2010
817-040-0003	4-1-2010	Amend	5-1-2010	833-020-0100	1-5-2010	Repeal	2-1-2010
817-040-0003(T)	4-1-2010	Repeal	5-1-2010	833-020-0101	1-5-2010	Adopt	2-1-2010
820-001-0000	5-12-2010	Amend	6-1-2010	833-020-0111	1-5-2010	Repeal	2-1-2010
820-010-0212	5-12-2010	Amend	6-1-2010	833-020-0112	1-5-2010	Adopt	2-1-2010
820-010-0213	5-12-2010	Amend	6-1-2010	833-020-0120	1-5-2010	Repeal	2-1-2010
820-010-0214	5-12-2010	Amend	6-1-2010	833-020-0140	1-5-2010	Repeal	2-1-2010
820-010-0215	5-12-2010	Amend	6-1-2010	833-020-0150	1-5-2010	Repeal	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
833-020-0155	1-5-2010	Repeal	2-1-2010	833-050-0111	1-5-2010	Adopt	2-1-2010
833-020-0160	1-5-2010	Repeal	2-1-2010	833-050-0121	1-5-2010	Adopt	2-1-2010
833-020-0164	1-5-2010	Repeal	2-1-2010	833-050-0131	1-5-2010	Adopt	2-1-2010
833-020-0165	1-5-2010	Repeal	2-1-2010	833-050-0141	1-5-2010	Adopt	2-1-2010
833-020-0201	1-11-2010	Adopt(T)	2-1-2010	833-050-0151	1-5-2010	Adopt	2-1-2010
833-020-0201	5-3-2010	Adopt	6-1-2010	833-050-0161	1-5-2010	Adopt	2-1-2010
833-020-0201(T)	5-3-2010	Repeal	6-1-2010	833-055-0001	7-1-2010	Suspend	7-1-2010
833-020-0301	5-3-2010	Adopt	6-1-2010	833-055-0010	7-1-2010	Suspend	7-1-2010
833-025-0001	1-5-2010	Repeal	2-1-2010	833-055-0020	7-1-2010	Suspend	7-1-2010
833-025-0005	1-5-2010	Repeal	2-1-2010	833-060-0011	1-5-2010	Repeal	2-1-2010
833-025-0006	1-5-2010	Repeal	2-1-2010	833-060-0012	1-5-2010	Adopt	2-1-2010
833-025-0050	1-5-2010	Repeal	2-1-2010	833-060-0012	5-3-2010	Amend	6-1-2010
833-025-0060	1-5-2010	Repeal	2-1-2010	833-060-0021	1-5-2010	Repeal	2-1-2010
833-030-0001	1-5-2010	Repeal	2-1-2010	833-060-0022	1-5-2010	Adopt	2-1-2010
833-030-0005	1-5-2010	Repeal	2-1-2010	833-060-0022	5-3-2010	Amend	6-1-2010
833-030-0010	1-5-2010	Repeal	2-1-2010	833-060-0031	1-5-2010	Repeal	2-1-2010
833-030-0011	1-5-2010	Adopt	2-1-2010	833-060-0032	1-5-2010	Adopt	2-1-2010
833-030-0015	1-5-2010	Repeal	2-1-2010	833-060-0032	5-3-2010	Amend	6-1-2010
833-030-0020	1-5-2010	Repeal	2-1-2010	833-060-0041	1-5-2010	Repeal	2-1-2010
833-030-0021	1-5-2010	Adopt	2-1-2010	833-060-0042	1-5-2010	Adopt	2-1-2010
833-030-0021	5-3-2010	Amend	6-1-2010	833-060-0051	1-5-2010	Repeal	2-1-2010
833-030-0031	1-5-2010	Adopt	2-1-2010	833-060-0052	1-5-2010	Adopt	2-1-2010
833-030-0031	5-3-2010	Amend	6-1-2010	833-060-0061	1-5-2010	Repeal	2-1-2010
833-030-0041	1-5-2010	Adopt	2-1-2010	833-060-0071	1-5-2010	Repeal	2-1-2010
833-030-0051	1-5-2010	Adopt	2-1-2010	833-070-0011	1-5-2010	Adopt	2-1-2010
833-040-0001	1-5-2010	Repeal	2-1-2010	833-070-0011	1-11-2010	Amend(T)	2-1-2010
833-040-0010	1-5-2010	Repeal	2-1-2010	833-070-0011	5-3-2010	Amend	6-1-2010
833-040-0011	1-5-2010	Adopt	2-1-2010	833-070-0011(T)	5-3-2010	Repeal	6-1-2010
833-040-0020	1-5-2010	Repeal	2-1-2010	833-070-0021	1-5-2010	Adopt	2-1-2010
833-040-0021	1-5-2010	Adopt	2-1-2010	833-070-0031	1-5-2010	Adopt	2-1-2010
833-040-0021	5-3-2010	Amend	6-1-2010	833-080-0011	1-5-2010	Adopt	2-1-2010
833-040-0031	1-5-2010	Adopt	2-1-2010	833-080-0021	1-5-2010	Adopt	2-1-2010
833-040-0031	5-3-2010	Amend	6-1-2010	833-080-0031	1-5-2010	Adopt	2-1-2010
833-040-0041	1-5-2010	Adopt	2-1-2010	833-080-0041	1-5-2010	Adopt	2-1-2010
833-040-0041	5-3-2010	Amend	6-1-2010	833-080-0051	1-5-2010	Adopt	2-1-2010
833-040-0051	1-5-2010	Adopt	2-1-2010	833-080-0061	1-5-2010	Adopt	2-1-2010
833-050-0001	1-5-2010	Repeal	2-1-2010	833-090-0010	1-5-2010	Adopt	2-1-2010
833-050-0010	1-5-2010	Repeal	2-1-2010	833-090-0020	1-5-2010	Adopt	2-1-2010
833-050-0011	1-5-2010	Adopt	2-1-2010	833-090-0030	1-5-2010	Adopt	2-1-2010
833-050-0011	5-3-2010	Amend	6-1-2010	833-090-0040	1-5-2010	Adopt	2-1-2010
833-050-0020	1-5-2010	Repeal	2-1-2010	833-100-0011	1-5-2010	Adopt	2-1-2010
833-050-0021	1-5-2010	Adopt	2-1-2010	833-100-0021	1-5-2010	Adopt	2-1-2010
833-050-0021	5-3-2010	Amend	6-1-2010	833-100-0031	1-5-2010	Adopt	2-1-2010
833-050-0025	1-5-2010	Repeal	2-1-2010	833-100-0041	1-5-2010	Adopt	2-1-2010
833-050-0030	1-5-2010	Repeal	2-1-2010	833-100-0051	1-5-2010	Adopt	2-1-2010
833-050-0031	1-5-2010	Adopt	2-1-2010	833-100-0061	1-5-2010	Adopt	2-1-2010
833-050-0040	1-5-2010	Repeal	2-1-2010	833-100-0071	1-5-2010	Adopt	2-1-2010
833-050-0041	1-5-2010	Adopt	2-1-2010	833-110-0011	1-5-2010	Adopt	2-1-2010
833-050-0051	1-5-2010	Adopt	2-1-2010	833-110-0011	5-3-2010	Amend	6-1-2010
833-050-0051	5-3-2010	Amend	6-1-2010	833-110-0021	1-5-2010	Adopt	2-1-2010
833-050-0061	1-5-2010	Adopt	2-1-2010	833-120-0011	1-5-2010	Adopt	2-1-2010
833-050-0071	1-5-2010	Adopt	2-1-2010	833-120-0021	1-5-2010	Adopt	2-1-2010
833-050-0081	1-5-2010	Adopt	2-1-2010	833-120-0031	1-5-2010	Adopt	2-1-2010
833-050-0081	5-3-2010	Amend	6-1-2010	833-120-0041	1-5-2010	Adopt	2-1-2010
833-050-0081	7-1-2010	Amend	7-1-2010	833-130-0010	7-1-2010	Adopt	7-1-2010
833-050-0091	1-5-2010	Adopt	2-1-2010	833-130-0020	7-1-2010	Adopt	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
833-130-0030	7-1-2010	Adopt	7-1-2010	836-053-0855	1-8-2010	Amend(T)	2-1-2010
833-130-0040	7-1-2010	Adopt	7-1-2010	836-053-0855	3-10-2010	Amend(T)	4-1-2010
833-130-0050	7-1-2010	Adopt	7-1-2010	836-053-0855	4-26-2010	Amend(T)	6-1-2010
833-130-0060	7-1-2010	Adopt	7-1-2010	836-053-0855	6-11-2010	Repeal	7-1-2010
833-130-0070	7-1-2010	Adopt	7-1-2010	836-053-0855(T)	1-8-2010	Suspend	2-1-2010
836-009-0007	2-1-2010	Amend	2-1-2010	836-053-0855(T)	3-10-2010	Suspend	4-1-2010
836-009-0020	3-25-2010	Adopt	5-1-2010	836-053-0855(T)	4-26-2010	Suspend	6-1-2010
836-009-0020(T)	3-25-2010	Repeal	5-1-2010	836-053-0856	6-11-2010	Adopt	7-1-2010
836-009-0025	3-25-2010	Adopt	5-1-2010	836-053-0860	12-23-2009	Amend(T)	2-1-2010
836-009-0025(T)	3-25-2010	Repeal	5-1-2010	836-053-0860	1-8-2010	Amend(T)	2-1-2010
836-009-0030	3-25-2010	Adopt	5-1-2010	836-053-0860	3-10-2010	Amend(T)	4-1-2010
836-009-0030(T)	3-25-2010	Repeal	5-1-2010	836-053-0860	4-26-2010	Amend(T)	6-1-2010
836-009-0035	3-25-2010	Adopt	5-1-2010	836-053-0860	6-11-2010	Repeal	7-1-2010
836-009-0035(T)	3-25-2010	Repeal	5-1-2010	836-053-0860(T)	1-8-2010	Suspend	2-1-2010
836-009-0040	3-25-2010	Adopt	5-1-2010	836-053-0860(T)	3-10-2010	Suspend	4-1-2010
836-009-0040(T)	3-25-2010	Repeal	5-1-2010	836-053-0860(T)	4-26-2010	Suspend	6-1-2010
836-010-0000	4-1-2010	Amend	5-1-2010	836-053-0861	6-11-2010	Adopt	7-1-2010
836-010-0011	4-1-2010	Amend	5-1-2010	836-053-0865	12-23-2009	Amend(T)	2-1-2010
836-010-0012	4-1-2010	Adopt	5-1-2010	836-053-0865	1-8-2010	Amend(T)	2-1-2010
836-011-0000	12-9-2009	Amend	1-1-2010	836-053-0865	3-10-2010	Amend(T)	4-1-2010
836-012-0300	2-5-2010	Amend	3-1-2010	836-053-0865	4-26-2010	Amend(T)	6-1-2010
836-012-0310	2-5-2010	Amend	3-1-2010	836-053-0865	6-11-2010	Repeal	7-1-2010
836-012-0332	2-5-2010	Adopt	3-1-2010	836-053-0865(T)	1-8-2010	Suspend	2-1-2010
836-014-0200	1-5-2010	Amend	2-1-2010	836-053-0865(T)	3-10-2010	Suspend	4-1-2010
836-014-0205	1-5-2010	Adopt	2-1-2010	836-053-0865(T)	4-26-2010	Suspend	6-1-2010
836-014-0210	1-5-2010	Amend	2-1-2010	836-053-0866	6-11-2010	Adopt	7-1-2010
836-014-0220	1-5-2010	Amend	2-1-2010	836-053-0910	2-16-2010	Amend	4-1-2010
836-014-0226	1-5-2010	Adopt	2-1-2010	836-054-0210	7-1-2010	Amend	6-1-2010
836-014-0240	1-5-2010	Amend	2-1-2010	836-071-0101	2-1-2010	Amend	2-1-2010
836-014-0250	1-5-2010	Amend	2-1-2010	836-071-0113	2-1-2010	Adopt	2-1-2010
836-014-0260	1-5-2010	Amend	2-1-2010	836-071-0127	2-1-2010	Amend	2-1-2010
836-014-0263	1-5-2010	Adopt	2-1-2010	836-071-0130	2-1-2010	Amend	2-1-2010
836-014-0265	1-5-2010	Amend	2-1-2010	836-071-0185	2-1-2010	Amend	2-1-2010
836-014-0270	1-5-2010	Amend	2-1-2010	836-080-0240	1-1-2010	Amend	2-1-2010
836-014-0280	1-5-2010	Amend	2-1-2010	837-040-0010	4-1-2010	Amend	1-1-2010
836-014-0285	1-5-2010	Adopt	2-1-2010	837-040-0010	7-1-2010	Amend(T)	3-1-2010
836-014-0290	1-5-2010	Amend	2-1-2010	837-040-0020	7-1-2010	Amend(T)	3-1-2010
836-014-0300	1-5-2010	Amend	2-1-2010	837-040-0140	4-1-2010	Amend	1-1-2010
836-014-0310	1-5-2010	Amend	2-1-2010	837-040-0140	7-1-2010	Amend(T)	3-1-2010
836-014-0320	1-5-2010	Amend	2-1-2010	837-040-02020	4-1-2010	Amend	1-1-2010
836-014-0325	1-5-2010	Adopt	2-1-2010	837-046-0000	11-21-2009	Adopt	1-1-2010
836-042-0080	7-1-2010	Amend	6-1-2010	837-046-0020	11-21-2009	Adopt	1-1-2010
836-042-0100	7-1-2010	Adopt	6-1-2010	837-046-0040	11-21-2009	Adopt	1-1-2010
836-042-0105	7-1-2010	Adopt	6-1-2010	837-046-0060	11-21-2009	Adopt	1-1-2010
836-042-0110	7-1-2010	Adopt	6-1-2010	837-046-0080	11-21-2009	Adopt	1-1-2010
836-042-0115	7-1-2010	Adopt	6-1-2010	837-046-0100	11-21-2009	Adopt	1-1-2010
836-052-1000	12-18-2009	Amend	2-1-2010	837-046-0120	11-21-2009	Adopt	1-1-2010
836-053-0000	2-16-2010	Adopt	4-1-2010	837-046-0140	11-21-2009	Adopt	1-1-2010
836-053-0081	4-22-2010	Amend(T)	6-1-2010	837-046-0160	11-21-2009	Adopt	1-1-2010
836-053-0465	2-16-2010	Amend	4-1-2010	837-046-0180	11-21-2009	Adopt	1-1-2010
836-053-0471	2-16-2010	Adopt	4-1-2010	837-047-0100	7-1-2010	Adopt(T)	5-1-2010
836-053-0475	2-16-2010	Adopt	4-1-2010	837-047-0110	7-1-2010	Adopt(T)	5-1-2010
836-053-0780	2-16-2010	Amend	4-1-2010	837-047-0120	7-1-2010	Adopt(T)	5-1-2010
836-053-0850	6-11-2010	Repeal	7-1-2010	837-047-0130	7-1-2010	Adopt(T)	5-1-2010
836-053-0851	6-11-2010	Adopt	7-1-2010	837-047-0140	7-1-2010	Adopt(T)	5-1-2010
836-053-0855	12-23-2009	Amend(T)	2-1-2010	837-047-0150	7-1-2010	Adopt(T)	5-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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	839-005-0060	7-1-2010	Adopt	7-1-2010
837-085-0100	2-1-2010	Amend	3-1-2010	839-005-0065	7-1-2010	Adopt	7-1-2010
837-085-0110	2-1-2010	Amend	3-1-2010	839-005-0070	7-1-2010	Adopt	7-1-2010
837-085-0120	2-1-2010	Amend	3-1-2010	839-005-0080	7-1-2010	Adopt	7-1-2010
837-085-0140	2-1-2010	Amend	3-1-2010	839-005-0085	7-1-2010	Adopt	7-1-2010
837-085-0150	2-1-2010	Amend	3-1-2010	839-005-0138	2-24-2010	Adopt	4-1-2010
837-085-0170	2-1-2010	Amend	3-1-2010	839-005-0140	2-24-2010	Adopt	4-1-2010
837-085-0180	2-1-2010	Amend	3-1-2010	839-005-0160	2-24-2010	Adopt	4-1-2010
837-085-0190	2-1-2010	Amend	3-1-2010	839-005-0170	2-24-2010	Adopt	4-1-2010
837-085-0200	2-1-2010	Amend	3-1-2010	839-005-0195	2-24-2010	Amend	4-1-2010
837-085-0210	2-1-2010	Amend	3-1-2010	839-005-0200	2-24-2010	Amend	4-1-2010
837-085-0220	2-1-2010	Amend	3-1-2010	839-005-0205	2-24-2010	Amend	4-1-2010
837-085-0230	2-1-2010	Amend	3-1-2010	839-005-0206	2-24-2010	Adopt	4-1-2010
837-085-0250	2-1-2010	Amend	3-1-2010	839-005-0215	2-24-2010	Amend	4-1-2010
837-085-0260	2-1-2010	Amend	3-1-2010	839-005-0220	2-24-2010	Amend	4-1-2010
837-085-0270	2-1-2010	Amend	3-1-2010	839-006-0200	2-24-2010	Amend	4-1-2010
837-085-0280	2-1-2010	Amend	3-1-2010	839-006-0202	2-24-2010	Adopt	4-1-2010
837-085-0290	2-1-2010	Amend	3-1-2010	839-006-0205	2-24-2010	Amend	4-1-2010
837-085-0300	2-1-2010	Amend	3-1-2010	839-006-0206	2-24-2010	Amend	4-1-2010
837-085-0305	2-1-2010	Amend	3-1-2010	839-006-0212	2-24-2010	Amend	4-1-2010
837-085-0310	2-1-2010	Amend	3-1-2010	839-006-0240	2-24-2010	Amend	4-1-2010
837-085-0340	2-1-2010	Amend	3-1-2010	839-006-0242	2-24-2010	Amend	4-1-2010
837-085-0350	2-1-2010	Amend	3-1-2010	839-006-0244	2-24-2010	Amend	4-1-2010
837-085-0380	2-1-2010	Amend	3-1-2010	839-006-0250	2-24-2010	Amend	4-1-2010
837-090-1145	11-18-2009	Amend	1-1-2010	839-006-0255	2-24-2010	Amend	4-1-2010
839-001-0495	1-1-2010	Amend	1-1-2010	839-006-0265	2-24-2010	Amend	4-1-2010
839-001-0496	1-1-2010	Amend	1-1-2010	839-006-0270	2-24-2010	Amend	4-1-2010
839-001-0515	1-1-2010	Amend	1-1-2010	839-006-0275	2-24-2010	Amend	4-1-2010
839-001-0520	1-1-2010	Amend	1-1-2010	839-006-0280	2-24-2010	Amend	4-1-2010
839-001-0700	1-1-2010	Amend	1-1-2010	839-006-0290	2-24-2010	Amend	4-1-2010
839-001-0750	1-1-2010	Repeal	1-1-2010	839-006-0295	2-24-2010	Amend	4-1-2010
839-002-0030	2-12-2010	Amend(T)	3-1-2010	839-006-0300	2-24-2010	Amend	4-1-2010
839-002-0030	5-5-2010	Amend	6-1-2010	839-006-0305	2-24-2010	Amend	4-1-2010
839-002-0030(T)	5-5-2010	Repeal	6-1-2010	839-006-0307	2-24-2010	Adopt	4-1-2010
839-002-0040	2-12-2010	Amend(T)	3-1-2010	839-006-0330	2-24-2010	Amend	4-1-2010
839-002-0040	5-5-2010	Amend	6-1-2010	839-006-0332	2-24-2010	Adopt	4-1-2010
839-002-0040(T)	5-5-2010	Repeal	6-1-2010	839-006-0335	2-24-2010	Amend	4-1-2010
839-002-0045	2-12-2010	Amend(T)	3-1-2010	839-006-0435	2-24-2010	Amend	4-1-2010
839-002-0045	5-5-2010	Amend	6-1-2010	839-006-0440	2-24-2010	Amend	4-1-2010
839-002-0045(T)	5-5-2010	Repeal	6-1-2010	839-006-0445	2-24-2010	Amend	4-1-2010
839-002-0050	2-12-2010	Amend(T)	3-1-2010	839-006-0450	2-24-2010	Amend	4-1-2010
839-002-0050	5-5-2010	Amend	6-1-2010	839-006-0455	2-24-2010	Amend	4-1-2010
839-002-0050(T)	5-5-2010	Repeal	6-1-2010	839-006-0460	2-24-2010	Amend	4-1-2010
839-003-0005	2-24-2010	Amend	4-1-2010	839-006-0465	2-24-2010	Amend	4-1-2010
839-003-0025	2-24-2010	Amend	4-1-2010	839-006-0470	2-24-2010	Amend	4-1-2010
839-003-0040	2-24-2010	Amend	4-1-2010	839-006-0480	2-24-2010	Adopt	4-1-2010
839-003-0200	2-24-2010	Amend	4-1-2010	839-009-0210	2-24-2010	Amend	4-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
839-009-0220	2-24-2010	Amend	4-1-2010	839-025-0700	11-23-2009	Amend	1-1-2010
839-009-0240	2-24-2010	Amend	4-1-2010	839-025-0700	1-1-2010	Amend	2-1-2010
839-009-0245	2-24-2010	Amend	4-1-2010	839-025-0700	1-12-2010	Amend	2-1-2010
839-009-0250	2-24-2010	Amend	4-1-2010	839-025-0700	1-13-2010	Amend	2-1-2010
839-009-0260	2-24-2010	Amend	4-1-2010	839-025-0700	1-19-2010	Amend	3-1-2010
839-009-0265	2-24-2010	Adopt	4-1-2010	839-025-0700	1-27-2010	Amend	3-1-2010
839-009-0270	2-24-2010	Amend	4-1-2010	839-025-0700	4-1-2010	Amend	5-1-2010
839-009-0280	2-24-2010	Amend	4-1-2010	839-050-0080	3-3-2010	Amend	4-1-2010
839-009-0290	2-24-2010	Amend	4-1-2010	839-050-0130	3-3-2010	Amend	4-1-2010
839-009-0300	2-24-2010	Amend	4-1-2010	839-050-0140	3-3-2010	Amend	4-1-2010
839-009-0325	2-24-2010	Amend	4-1-2010	839-050-0150	3-3-2010	Amend	4-1-2010
839-009-0335	2-24-2010	Amend	4-1-2010	839-050-0240	3-3-2010	Amend	4-1-2010
839-009-0340	2-24-2010	Amend	4-1-2010	839-050-0370	3-3-2010	Amend	4-1-2010
839-009-0345	2-24-2010	Amend	4-1-2010	839-051-0010	3-3-2010	Amend	4-1-2010
839-009-0350	2-24-2010	Amend	4-1-2010	845-005-0413	3-1-2010	Adopt	4-1-2010
839-009-0355	2-24-2010	Amend	4-1-2010	845-005-0414	3-1-2010	Adopt	4-1-2010
839-009-0360	2-24-2010	Amend	4-1-2010	845-006-0340	5-1-2010	Amend	6-1-2010
839-009-0362	2-24-2010	Amend	4-1-2010	845-007-0020	5-1-2010	Amend	6-1-2010
839-009-0363	2-24-2010	Amend	4-1-2010	845-015-0130	5-1-2010	Amend	6-1-2010
839-009-0365	2-24-2010	Amend	4-1-2010	845-020-0020	3-1-2010	Amend	4-1-2010
839-009-0370	2-24-2010	Adopt	4-1-2010	845-020-0025	3-1-2010	Amend	4-1-2010
839-009-0380	2-24-2010	Adopt	4-1-2010	845-020-0030	3-1-2010	Amend	4-1-2010
839-009-0390	2-24-2010	Adopt	4-1-2010	847-005-0005	1-26-2010	Amend	3-1-2010
839-009-0400	2-24-2010	Adopt	4-1-2010	847-005-0005(T)	1-26-2010	Repeal	3-1-2010
839-009-0410	2-24-2010	Adopt	4-1-2010	847-008-0023	1-26-2010	Amend	3-1-2010
839-009-0420	2-24-2010	Adopt	4-1-2010	847-010-0073	1-26-2010	Amend	3-1-2010
839-009-0430	2-24-2010	Adopt	4-1-2010	847-020-0100	4-26-2010	Amend	6-1-2010
839-009-0440	2-24-2010	Adopt	4-1-2010	847-020-0130	4-26-2010	Amend	6-1-2010
839-009-0450	2-24-2010	Adopt	4-1-2010	847-020-0150	4-26-2010	Amend	6-1-2010
839-009-0460	2-24-2010	Adopt	4-1-2010	847-020-0160	4-26-2010	Amend	6-1-2010
839-010-0100	2-24-2010	Amend	4-1-2010	847-020-0183	4-26-2010	Amend	6-1-2010
839-010-0140	2-24-2010	Amend	4-1-2010	847-023-0010	4-26-2010	Amend	6-1-2010
839-020-0004	6-1-2010	Amend	7-1-2010	847-023-0015	4-26-2010	Amend	6-1-2010
839-020-0050	6-1-2010	Amend	7-1-2010	847-026-0000	1-26-2010	Adopt	3-1-2010
839-020-0125	6-1-2010	Amend	7-1-2010	847-026-0000(T)	1-26-2010	Repeal	3-1-2010
839-021-0070	1-1-2010	Amend	1-1-2010	847-026-0005	1-26-2010	Adopt	3-1-2010
839-021-0280	1-1-2010	Amend	1-1-2010	847-026-0005(T)	1-26-2010	Repeal	3-1-2010
839-021-0290	1-1-2010	Amend	1-1-2010	847-026-0010	1-26-2010	Adopt	3-1-2010
839-025-0010	1-1-2010	Amend	1-1-2010	847-026-0010(T)	1-26-2010	Repeal	3-1-2010
839-025-0013	1-1-2010	Amend	1-1-2010	847-026-0015	1-26-2010	Adopt	3-1-2010
839-025-0013(T)	1-1-2010	Repeal	1-1-2010	847-026-0015(T)	1-26-2010	Repeal	3-1-2010
839-025-0015	1-1-2010	Amend	1-1-2010	847-026-0020	1-26-2010	Adopt	3-1-2010
839-025-0020	1-1-2010	Amend	1-1-2010	847-026-0020(T)	1-26-2010	Repeal	3-1-2010
839-025-0020(T)	1-1-2010	Repeal	1-1-2010	847-035-0030	1-26-2010	Amend	3-1-2010
839-025-0030	1-1-2010	Amend	1-1-2010	847-035-0030	4-26-2010	Amend(T)	6-1-2010
839-025-0030(T)	1-1-2010	Repeal	1-1-2010	847-035-0030(T)	1-26-2010	Repeal	3-1-2010
839-025-0035	1-1-2010	Amend	1-1-2010	847-050-0020	4-26-2010	Amend(T)	6-1-2010
839-025-0035(T)	1-1-2010	Repeal	1-1-2010	847-050-0046	4-26-2010	Adopt	6-1-2010
839-025-0085	1-1-2010	Amend	1-1-2010	848-001-0005	3-1-2010	Amend	4-1-2010
839-025-0085(T)	1-1-2010	Repeal	1-1-2010	848-001-0010	3-1-2010	Amend	4-1-2010
839-025-0200	1-1-2010	Amend	1-1-2010	848-005-0020	3-1-2010	Amend	4-1-2010
839-025-0200(T)	1-1-2010	Repeal	1-1-2010	848-005-0030	3-1-2010	Amend	4-1-2010
839-025-0210	1-1-2010	Amend	1-1-2010	848-010-0015	3-1-2010	Amend	4-1-2010
839-025-0210(T)	1-1-2010	Repeal	1-1-2010	848-010-0022	3-1-2010	Amend	4-1-2010
839-025-0530	1-1-2010	Amend	1-1-2010	848-010-0026	3-1-2010	Amend	4-1-2010
839-025-0530(T)	1-1-2010	Repeal	1-1-2010	848-035-0020	3-1-2010	Amend	4-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
851-056-0016	1-1-2010	Amend	2-1-2010	855-041-6410	4-30-2010	Adopt	6-1-2010
851-056-0020	1-1-2010	Amend	2-1-2010	855-041-6420	4-30-2010	Adopt	6-1-2010
851-056-0024	1-1-2010	Amend	2-1-2010	855-041-6500	4-30-2010	Adopt	6-1-2010
851-061-0090	12-17-2009	Amend	2-1-2010	855-041-6510	4-30-2010	Adopt	6-1-2010
851-063-0030	12-17-2009	Amend	2-1-2010	855-041-6520	4-30-2010	Adopt	6-1-2010
851-063-0035	12-17-2009	Amend	2-1-2010	855-041-6530	4-30-2010	Adopt	6-1-2010
851-063-0090	12-17-2009	Amend	2-1-2010	855-041-6540	4-30-2010	Adopt	6-1-2010
851-063-0090	4-19-2010	Amend(T)	6-1-2010	855-041-6550	4-30-2010	Adopt	6-1-2010
852-005-0015	12-11-2009	Adopt	1-1-2010	855-041-6560	4-30-2010	Adopt	6-1-2010
852-010-0080	12-11-2009	Amend	1-1-2010	855-041-6570	4-30-2010	Adopt	6-1-2010
852-020-0035	12-11-2009	Amend	1-1-2010	855-041-6600	4-30-2010	Adopt	6-1-2010
852-020-0060	12-11-2009	Amend	1-1-2010	855-041-6610	4-30-2010	Adopt	6-1-2010
852-050-0006	12-11-2009	Amend	1-1-2010	855-041-6620	4-30-2010	Adopt	6-1-2010
855-007-0010	12-24-2009	Amend	2-1-2010	855-043-0001	2-8-2010	Am. & Ren.	3-1-2010
855-007-0020	12-24-2009	Amend	2-1-2010	855-043-0003	2-8-2010	Adopt	3-1-2010
855-007-0030	12-24-2009	Amend	2-1-2010	855-043-0110	2-8-2010	Amend	3-1-2010
855-007-0040	12-24-2009	Amend	2-1-2010	855-043-0120	2-8-2010	Am. & Ren.	3-1-2010
855-007-0050	12-24-2009	Amend	2-1-2010	855-043-0130	2-8-2010	Amend	3-1-2010
855-007-0060	12-24-2009	Amend	2-1-2010	855-043-0130	5-4-2010	Amend(T)	6-1-2010
855-007-0080	12-24-2009	Amend	2-1-2010	855-043-0210	2-8-2010	Amend	3-1-2010
855-007-0090	12-24-2009	Amend	2-1-2010	855-043-0300	2-8-2010	Amend	3-1-2010
855-007-0100	12-24-2009	Amend	2-1-2010	855-043-0310	2-8-2010	Amend	3-1-2010
855-007-0110	12-24-2009	Amend	2-1-2010	855-062-0003	12-24-2009	Adopt	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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	860-033-0006	5-18-2010	Amend	7-1-2010
855-110-0005	12-24-2009	Amend	2-1-2010	860-033-0007	5-18-2010	Amend	7-1-2010
855-110-0005	5-4-2010	Amend(T)	6-1-2010	860-033-0008	5-18-2010	Amend	7-1-2010
855-110-0007	12-24-2009	Amend	2-1-2010	860-036-0010	11-24-2009	Amend	1-1-2010
855-110-0010	12-24-2009	Amend	2-1-2010	860-036-0030	11-24-2009	Amend	1-1-2010
855-110-0015	3-1-2010	Amend	3-1-2010	860-084-0000	6-1-2010	Adopt	7-1-2010
856-010-0015	4-27-2010	Amend	6-1-2010	860-084-0010	6-1-2010	Adopt	7-1-2010
856-010-0027	4-27-2010	Adopt	6-1-2010	860-084-0020	6-1-2010	Adopt	7-1-2010
858-010-0001	1-8-2010	Amend	2-1-2010	860-084-0030	6-1-2010	Adopt	7-1-2010
858-010-0005	1-8-2010	Amend	2-1-2010	860-084-0040	6-1-2010	Adopt	7-1-2010
858-010-0007	1-8-2010	Amend	2-1-2010	860-084-0050	6-1-2010	Adopt	7-1-2010
858-010-0010	1-8-2010	Amend	2-1-2010	860-084-0060	6-1-2010	Adopt	7-1-2010
858-010-0015	1-8-2010	Amend	2-1-2010	860-084-0070	6-1-2010	Adopt	7-1-2010
858-010-0016	1-8-2010	Adopt	2-1-2010	860-084-0080	6-1-2010	Adopt	7-1-2010
858-010-0017	1-8-2010	Adopt	2-1-2010	860-084-0100	6-1-2010	Adopt	7-1-2010
858-010-0018	1-8-2010	Adopt	2-1-2010	860-084-0120	6-1-2010	Adopt	7-1-2010
858-010-0020	1-8-2010	Amend	2-1-2010	860-084-0130	6-1-2010	Adopt	7-1-2010
858-010-0025	1-8-2010	Amend	2-1-2010	860-084-0140	6-1-2010	Adopt	7-1-2010
858-010-0030	1-8-2010	Amend	2-1-2010	860-084-0150	6-1-2010	Adopt	7-1-2010
858-010-0034	1-8-2010	Adopt	2-1-2010	860-084-0160	6-1-2010	Adopt	7-1-2010
858-010-0036	1-8-2010	Amend	2-1-2010	860-084-0170	6-1-2010	Adopt	7-1-2010
858-010-0037	1-8-2010	Adopt	2-1-2010	860-084-0180	6-1-2010	Adopt	7-1-2010
858-010-0038	1-8-2010	Adopt	2-1-2010	860-084-0190	6-1-2010	Adopt	7-1-2010
858-010-0039	1-8-2010	Adopt	2-1-2010	860-084-0195	6-1-2010	Adopt	7-1-2010
858-010-0041	1-8-2010	Amend	2-1-2010	860-084-0200	6-1-2010	Adopt	7-1-2010
858-010-0050	1-8-2010	Amend	2-1-2010	860-084-0210	6-1-2010	Adopt	7-1-2010
858-010-0055	1-8-2010	Amend	2-1-2010	860-084-0220	6-1-2010	Adopt	7-1-2010
858-010-0060	1-8-2010	Amend	2-1-2010	860-084-0230	6-1-2010	Adopt	7-1-2010
858-010-0065	1-8-2010	Amend	2-1-2010	860-084-0240	6-1-2010	Adopt	7-1-2010
858-020-0015	1-8-2010	Amend	2-1-2010	860-084-0250	6-1-2010	Adopt	7-1-2010
858-020-0025	1-8-2010	Amend	2-1-2010	860-084-0260	6-1-2010	Adopt	7-1-2010
858-020-0035	1-8-2010	Amend	2-1-2010	860-084-0270	6-1-2010	Adopt	7-1-2010
858-020-0045	1-8-2010	Amend	2-1-2010	860-084-0280	6-1-2010	Adopt	7-1-2010
858-020-0055	1-8-2010	Amend	2-1-2010	860-084-0300	6-1-2010	Adopt	7-1-2010
858-020-0065	1-8-2010	Amend	2-1-2010	860-084-0310	6-1-2010	Adopt	7-1-2010
858-020-0085	1-8-2010	Amend	2-1-2010	860-084-0320	6-1-2010	Adopt	7-1-2010
858-030-0005	1-8-2010	Amend	2-1-2010	860-084-0330	6-1-2010	Adopt	7-1-2010
858-040-0015	1-8-2010	Amend	2-1-2010	860-084-0340	6-1-2010	Adopt	7-1-2010
858-040-0020	1-8-2010	Adopt	2-1-2010	860-084-0350	6-1-2010	Adopt	7-1-2010
858-040-0025	1-8-2010	Amend	2-1-2010	860-084-0360	6-1-2010	Adopt	7-1-2010
858-040-0026	1-8-2010	Adopt	2-1-2010	860-084-0365	6-1-2010	Adopt	7-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
860-084-0370	6-1-2010	Adopt	7-1-2010	863-020-0065	7-1-2010	Adopt	7-1-2010
860-084-0380	6-1-2010	Adopt	7-1-2010	863-022-0000	7-1-2010	Adopt	7-1-2010
860-084-0390	6-1-2010	Adopt	7-1-2010	863-022-0005	7-1-2010	Adopt	7-1-2010
860-084-0400	6-1-2010	Adopt	7-1-2010	863-022-0010	7-1-2010	Adopt	7-1-2010
860-084-0420	6-1-2010	Adopt	7-1-2010	863-022-0015	7-1-2010	Adopt	7-1-2010
860-084-0430	6-1-2010	Adopt	7-1-2010	863-022-0020	7-1-2010	Adopt	7-1-2010
860-084-0440	6-1-2010	Adopt	7-1-2010	863-022-0025	7-1-2010	Adopt	7-1-2010
860-084-0450	6-1-2010	Adopt	7-1-2010	863-022-0030	7-1-2010	Adopt	7-1-2010
863-014-0000	1-1-2010	Amend	1-1-2010	863-022-0035	7-1-2010	Adopt	7-1-2010
863-014-0003	1-1-2010	Amend	1-1-2010	863-022-0040	7-1-2010	Adopt	7-1-2010
863-014-0005	1-1-2010	Amend	1-1-2010	863-022-0045	7-1-2010	Adopt	7-1-2010
863-014-0005	7-1-2010	Repeal	7-1-2010	863-022-0050	7-1-2010	Adopt	7-1-2010
863-014-0010	1-1-2010	Amend	1-1-2010	863-022-0055	7-1-2010	Adopt	7-1-2010
863-014-0015	1-1-2010	Amend	1-1-2010	863-024-0000	1-1-2010	Amend	1-1-2010
863-014-0020	7-1-2010	Amend	7-1-2010	863-024-0003	1-1-2010	Amend	1-1-2010
863-014-0030	1-1-2010	Amend	1-1-2010	863-024-0005	7-1-2010	Repeal	7-1-2010
863-014-0035	7-1-2010	Amend	7-1-2010	863-024-0015	1-1-2010	Amend	1-1-2010
863-014-0038	1-1-2010	Repeal	1-1-2010	863-024-0030	1-1-2010	Amend	1-1-2010
863-014-0040	7-1-2010	Amend	7-1-2010	863-024-0045	7-1-2010	Amend	7-1-2010
863-014-0042	1-1-2010	Amend	1-1-2010	863-024-0050	7-1-2010	Amend	7-1-2010
863-014-0050	7-1-2010	Amend	7-1-2010	863-024-0055	7-1-2010	Repeal	7-1-2010
863-014-0055	1-1-2010	Amend	1-1-2010	863-024-0065	7-1-2010	Amend	7-1-2010
863-014-0055	7-1-2010	Repeal	7-1-2010	863-024-0075	1-1-2010	Amend	1-1-2010
863-014-0063	1-1-2010	Amend	1-1-2010	863-024-0085	1-1-2010	Amend	1-1-2010
863-014-0065	1-1-2010	Amend	1-1-2010	863-024-0100	1-1-2010	Amend	1-1-2010
863-014-0065	7-1-2010	Amend	7-1-2010	863-049-0000	1-1-2010	Adopt	1-1-2010
863-014-0085	1-1-2010	Amend	1-1-2010	863-049-0005	1-1-2010	Adopt	1-1-2010
863-014-0090	1-1-2010	Adopt	1-1-2010	863-049-0010	1-1-2010	Adopt	1-1-2010
863-014-0095	1-1-2010	Amend	1-1-2010	863-049-0015	1-1-2010	Adopt	1-1-2010
863-014-0100	1-1-2010	Amend	1-1-2010	863-049-0020	1-1-2010	Adopt	1-1-2010
863-014-0160	1-1-2010	Amend	1-1-2010	863-049-0030	1-1-2010	Adopt	1-1-2010
863-015-0000	1-1-2010	Amend	1-1-2010	863-049-0035	1-1-2010	Adopt	1-1-2010
863-015-0003	1-1-2010	Amend	1-1-2010	863-049-0040	1-1-2010	Adopt	1-1-2010
863-015-0150	1-1-2010	Amend	1-1-2010	863-049-0045	1-1-2010	Adopt	1-1-2010
863-015-0186	1-1-2010	Amend	1-1-2010	863-049-0055	1-1-2010	Adopt	1-1-2010
863-015-0188	1-1-2010	Amend	1-1-2010	863-050-0035	1-1-2010	Am. & Ren.	1-1-2010
863-015-0210	1-1-2010	Amend	1-1-2010	863-050-0150	1-1-2010	Amend	1-1-2010
863-015-0250	1-1-2010	Amend	1-1-2010	863-050-0240	1-1-2010	Am. & Ren.	1-1-2010
863-015-0255	1-1-2010	Amend	1-1-2010	875-010-0045	5-6-2010	Amend	6-1-2010
863-015-0260	1-1-2010	Amend	1-1-2010	875-015-0030	5-6-2010	Amend	6-1-2010
863-015-0275	1-1-2010	Amend	1-1-2010	875-030-0010	5-6-2010	Amend	6-1-2010
863-020-0000	7-1-2010	Adopt	7-1-2010	877-010-0000	1-15-2010	Amend	2-1-2010
863-020-0005	7-1-2010	Adopt	7-1-2010	877-010-0045	1-15-2010	Amend	2-1-2010
863-020-0007	7-1-2010	Adopt	7-1-2010	877-020-0009	1-15-2010	Amend	2-1-2010
863-020-0008	7-1-2010	Adopt	7-1-2010	877-020-0030	1-15-2010	Amend	2-1-2010
863-020-0010	7-1-2010	Adopt	7-1-2010	877-020-0057	1-15-2010	Adopt	2-1-2010
863-020-0015	7-1-2010	Adopt	7-1-2010	877-025-0016	1-15-2010	Amend	2-1-2010
863-020-0020	7-1-2010	Adopt	7-1-2010	877-025-0021	1-15-2010	Amend	2-1-2010
863-020-0025	7-1-2010	Adopt	7-1-2010	877-030-0040	1-15-2010	Amend	2-1-2010
863-020-0030	7-1-2010	Adopt	7-1-2010	877-040-0003	1-15-2010	Amend	2-1-2010
863-020-0035	7-1-2010	Adopt	7-1-2010	877-040-0016	1-15-2010	Adopt	2-1-2010
863-020-0040	7-1-2010	Adopt	7-1-2010	918-001-0200	5-1-2010	Repeal	6-1-2010
863-020-0045	7-1-2010	Adopt	7-1-2010	918-001-0210	1-1-2010	Amend	2-1-2010
863-020-0050	7-1-2010	Adopt	7-1-2010	918-005-0010	1-1-2010	Amend	2-1-2010
863-020-0055	7-1-2010	Adopt	7-1-2010	918-020-0090	4-1-2010	Amend	4-1-2010
863-020-0060	7-1-2010	Adopt	7-1-2010	918-040-0000	1-1-2010	Amend	2-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-098-1000	7-1-2010	Amend	6-1-2010	918-440-0500	7-1-2010	Amend	6-1-2010
918-098-1010	7-1-2010	Amend	6-1-2010	918-440-0510	7-1-2010	Amend	6-1-2010
918-098-1012	4-1-2010	Amend	4-1-2010	918-460-0000	7-1-2010	Amend	6-1-2010
918-098-1015	4-1-2010	Amend	4-1-2010	918-460-0010	7-1-2010	Amend	6-1-2010
918-098-1015	7-1-2010	Amend	6-1-2010	918-460-0015	7-1-2010	Amend	6-1-2010
918-098-1020	7-1-2010	Amend	6-1-2010	918-460-0016	7-1-2010	Repeal	6-1-2010
918-098-1025	7-1-2010	Amend	6-1-2010	918-460-0050	7-1-2010	Amend	6-1-2010
918-098-1028	7-1-2010	Adopt	6-1-2010	918-460-0500	7-1-2010	Adopt	6-1-2010
918-098-1210	4-1-2010	Amend	4-1-2010	918-460-0510	7-1-2010	Adopt	6-1-2010
918-098-1210	7-1-2010	Amend	6-1-2010	918-480-0010	7-1-2010	Amend	6-1-2010
918-098-1215	4-1-2010	Amend	4-1-2010	918-500-0000	4-1-2010	Amend	4-1-2010
918-098-1215	7-1-2010	Amend	6-1-2010	918-500-0005	4-1-2010	Amend	4-1-2010
918-098-1300	4-1-2010	Amend	4-1-2010	918-500-0010	4-1-2010	Amend	4-1-2010
918-098-1300	7-1-2010	Amend	6-1-2010	918-500-0020	4-1-2010	Am. & Ren.	4-1-2010
918-098-1305	4-1-2010	Amend	4-1-2010	918-500-0021	4-1-2010	Am. & Ren.	4-1-2010
918-098-1305	7-1-2010	Amend	6-1-2010	918-500-0035	4-1-2010	Amend	4-1-2010
918-098-1310	7-1-2010	Amend	6-1-2010	918-500-0040	4-1-2010	Amend	4-1-2010
918-098-1315	4-1-2010	Amend	4-1-2010	918-500-0055	4-1-2010	Amend	4-1-2010
918-098-1315	7-1-2010	Amend	6-1-2010	918-500-0100	4-1-2010	Amend	4-1-2010
918-098-1320	4-1-2010	Amend	4-1-2010	918-500-0105	4-1-2010	Amend	4-1-2010
918-098-1320	7-1-2010	Amend	6-1-2010	918-500-0110	4-1-2010	Amend	4-1-2010
918-098-1325	4-1-2010	Amend	4-1-2010	918-500-0300	4-1-2010	Amend	4-1-2010
918-098-1325	7-1-2010	Amend	6-1-2010	918-500-0310	4-1-2010	Amend	4-1-2010
918-098-1330	4-1-2010	Amend	4-1-2010	918-500-0320	4-1-2010	Amend	4-1-2010
918-098-1330	7-1-2010	Amend	6-1-2010	918-500-0330	4-1-2010	Amend	4-1-2010
918-098-1450	7-1-2010	Amend	6-1-2010	918-500-0340	4-1-2010	Amend	4-1-2010
918-225-0240	1-1-2010	Amend	2-1-2010	918-500-0400	4-1-2010	Amend	4-1-2010
918-225-0600	1-1-2010	Amend	2-1-2010	918-500-0410	4-1-2010	Amend	4-1-2010
918-225-0605	1-1-2010	Repeal	2-1-2010	918-500-0420	4-1-2010	Amend	4-1-2010
918-225-0610	1-1-2010	Repeal	2-1-2010	918-500-0430	4-1-2010	Amend	4-1-2010
918-225-0620	1-1-2010	Amend	2-1-2010	918-500-0450	4-1-2010	Amend	4-1-2010
918-225-0630	1-1-2010	Amend	2-1-2010	918-500-0470	4-1-2010	Amend	4-1-2010
918-251-0090	7-1-2010	Amend	6-1-2010	918-500-0530	4-1-2010	Adopt	4-1-2010
918-282-0400	7-1-2010	Adopt	7-1-2010	918-500-0540	4-1-2010	Adopt	4-1-2010
918-305-0030	4-1-2010	Amend	4-1-2010	918-500-0550	4-1-2010	Adopt	4-1-2010
918-305-0030	7-1-2010	Amend	6-1-2010	918-500-0560	4-1-2010	Adopt	4-1-2010
918-311-0065	7-1-2010	Amend	7-1-2010	918-500-0570	4-1-2010	Adopt	4-1-2010
918-400-0270	1-1-2010	Amend	2-1-2010	918-500-0580	4-1-2010	Adopt	4-1-2010
918-400-0280	1-1-2010	Amend	2-1-2010	918-500-0590	4-1-2010	Adopt	4-1-2010
918-400-0340	1-1-2010	Amend	2-1-2010	918-515-0010	4-1-2010	Amend	4-1-2010
918-400-0380	1-1-2010	Amend	2-1-2010	918-515-0020	4-1-2010	Amend	4-1-2010
918-400-0390	1-1-2010	Amend	2-1-2010	918-515-0030	4-1-2010	Amend	4-1-2010
918-400-0395	1-1-2010	Amend	2-1-2010	918-515-0110	4-1-2010	Amend	4-1-2010
918-400-0445	1-1-2010	Amend	2-1-2010	918-515-0150	4-1-2010	Amend	4-1-2010
918-400-0525	1-1-2010	Amend	2-1-2010	918-515-0300	4-1-2010	Amend	4-1-2010
918-400-0630	1-1-2010	Amend	2-1-2010	918-515-0330	4-1-2010	Amend	4-1-2010
918-400-0660	1-1-2010	Amend	2-1-2010	918-515-0350	4-1-2010	Amend	4-1-2010
918-400-0662	1-1-2010	Adopt	2-1-2010	918-515-0360	4-1-2010	Amend	4-1-2010
918-400-0740	1-1-2010	Amend	2-1-2010	918-515-0370	4-1-2010	Amend	4-1-2010
918-400-0800	1-1-2010	Amend	2-1-2010	918-515-0480	4-1-2010	Amend	4-1-2010
918-440-0000	7-1-2010	Amend	6-1-2010	918-515-0485	4-1-2010	Amend	4-1-2010
918-440-0010	7-1-2010	Amend	6-1-2010	918-515-0490	4-1-2010	Amend	4-1-2010
918-440-0015	7-1-2010	Amend	6-1-2010	918-520-0010	4-1-2010	Repeal	4-1-2010
918-440-0030	7-1-2010	Amend	6-1-2010	918-520-0015	4-1-2010	Repeal	4-1-2010
918-440-0040	7-1-2010	Am. & Ren.	6-1-2010	918-520-0020	4-1-2010	Repeal	4-1-2010
918-440-0050	7-1-2010	Amend	6-1-2010	918-520-0030	4-1-2010	Repeal	4-1-2010

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-520-0040	4-1-2010	Repeal	4-1-2010				
918-520-0050	4-1-2010	Repeal	4-1-2010				
918-520-0060	4-1-2010	Repeal	4-1-2010				
918-520-0070	4-1-2010	Repeal	4-1-2010				
918-520-0080	4-1-2010	Repeal	4-1-2010				
918-520-0090	4-1-2010	Repeal	4-1-2010				
918-520-0100	4-1-2010	Repeal	4-1-2010				
918-520-0110	4-1-2010	Repeal	4-1-2010				
918-525-0042	4-1-2010	Amend	4-1-2010				
918-600-0010	4-1-2010	Amend	4-1-2010				
918-674-0033	7-1-2010	Amend	6-1-2010				
943-001-0000	1-1-2010	Adopt	2-1-2010				
943-001-0000(T)	1-1-2010	Repeal	2-1-2010				
943-001-0010	1-1-2010	Adopt	2-1-2010				
943-001-0010(T)	1-1-2010	Repeal	2-1-2010				
943-001-0015	1-1-2010	Adopt	2-1-2010				
943-001-0015(T)	1-1-2010	Repeal	2-1-2010				
951-003-0005	4-26-2010	Amend	6-1-2010				