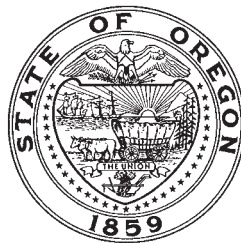


OREGON BULLETIN

Supplements the 2011 *Oregon Administrative Rules Compilation*

Volume 50, No. 3
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For January 18, 2011–February 15, 2011



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KATE BROWN
Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule’s “History”

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

Locating the Most Recent Version of an Administrative Rule

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

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

Locating Administrative Rules Unit Publications

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

2010–2011 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, 2010	January 1, 2011
January 14, 2011	February 1, 2011
February 15, 2011	March 1, 2011
March 15, 2011	April 1, 2011
April 15, 2011	May 1, 2011
May 13, 2011	June 1, 2011
June 15, 2011	July 1, 2011
July 15, 2011	August 1, 2011
August 15, 2011	September 1, 2011
September 15, 2011	October 1, 2011
October 14, 2011	November 1, 2011
November 15, 2011	December 1, 2011

Reminder for Agency Rules Coordinators

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

Publication Authority

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

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EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 11 - 01

DETERMINATION OF A STATE OF EMERGENCY IN CLACKAMAS, CLATSOP, COLUMBIA, CROOK, DOUGLAS, GRANT, HARNEY, LANE, LINCOLN, LINN, MALHEUR, MARION, MULTNOMAH, TILLAMOOK, UMATILLA, UNION, WASHINGTON, AND YAMHILL COUNTIES DUE TO EXTREME WEATHER CONDITIONS DAMAGING TRANSPORTATION INFRASTRUCTURE.

Pursuant to ORS 401.165, I find that severe winter weather, including flooding, landslides and wind created widespread property damage to the transportation infrastructure in Clackamas, Clatsop, Columbia, Crook, Douglas, Grant, Harney, Lane, Lincoln, Linn, Malheur, Marion, Multnomah, Tillamook, Umatilla, Union, Washington and Yamhill counties. Severe weather conditions that began on January 13 caused flooding, landslides, and erosion throughout these counties, and resulted in significant damage to the state highway system. According to the Oregon Department of Transportation, current estimates of the damage to the highway system in these counties totals over \$9 million dollars, including damage to federal aid highways.

NOW THEREFORE, IT IS HEREBY ORDERED AND DIRECTED:

1. The Oregon Department of Transportation shall provide appropriate assistance in response to requests for assistance from counties with transportation infrastructure affected by this severe weather event;
2. The Oregon Department of Transportation shall seek appropriate federal resources to repair and reconstruct the federal aid highway system in Clackamas, Clatsop, Columbia, Crook, Douglas, Grant, Harney, Lane, Lincoln, Linn, Malheur, Marion, Multnomah, Tillamook, Umatilla, Union, Washington and Yamhill Counties.

Done at Salem, Oregon, this 3rd day of February, 2011.

/s/ John A. Kitzhaber
John A. Kitzhaber, M.D.
GOVERNOR

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

AMENDED EXECUTIVE ORDER NO. 11 - 02

OREGON EDUCATION INVESTMENT TEAM

This Order creates the Oregon Education Investment Team and charges it with creating a plan of policy and budget recommendations to comprehensively transform Oregon's approach to education.

Public education accounts for fifty one percent of Oregon's general fund budget. These investments are pivotally important for the long-term economic, civic and cultural health and safety of the state.

Oregon has established the goals for our public education system that one hundred percent of Oregonians earn a high school diploma, that forty percent of Oregonians obtain a college degree, and that another forty percent earn a post-secondary credential.

Oregon education leaders have strived over the past several years to meet these goals. Oregon has increased its investments in pre-kindergarten education. Clear learning standards and an assessment system

to measure progress have been codified. Schools have adopted innovative practices for teaching and learning to help students meet those standards. Pathways between high schools, community colleges and universities have been strengthened to enable credit to transfer from one level to another more easily. Also, Oregon adopted the Shared Responsibility Model to help make college more affordable for low income Oregonians. These and many other innovations have helped strengthen student learning.

Yet for all this hard work, Oregon's progress towards achievement of its goals is not moving fast enough. One critical barrier to our progress is Oregon's "system" of education budgeting and governance, which is a product of incremental decisions made over many decades. No one deliberately designed it, and today the structure of the system stands as an inadvertent barrier to the achievement of our educational goals. Several systemic challenges exist: budget decisions throughout public education are opaque and disconnected; incentives created through the way Oregon distributes dollars to schools discourages practices educators want to support; data collection is fragmented and non-uniform; governance of our educational institutions is built around silos making consistency almost impossible.

The Education Investment Team will engage the public, legislators and stakeholders in the creation of a new investment and budget process for education in Oregon.

By 2020, the end of this decade — by the time the children entering kindergarten this year graduate from high school — Oregon must be a state where our children

are ready to learn before they get to school; where they have the resources and attention to learn and our teachers have the time and support to teach; where drop-out rates are steadily falling and graduation rates are steadily rising; where all Oregon high school graduates are prepared to pursue a post-secondary education without remediation; and where eighty percent of them achieve at least two years of post-secondary education or training. Meeting these goals is the best way to ensure that we live in a state that creates family wage jobs and career pathways that lead to those jobs. The Education Investment Team will begin to chart the framework for how we get there.

NOW THEREFORE, IT IS HERE BY DIRECTED AND ORDERED:

1. The Education Investment Team (Team) is hereby established.
2. The Team shall consist of no more than thirteen (13) members, who shall be appointed by the Governor and shall serve at the pleasure of the Governor.
3. The Governor will Chair the Team and will have responsibility to develop a work plan, set the agenda and provide leadership, directions and specific timelines for the Team.
4. A quorum for Team meetings shall consist of a majority of the appointed members. The Team shall approve measures on an affirmative vote of a majority of voting members appointed to the Team.
5. The Team shall lead and coordinate a process to collect, review and evaluate the efforts of groups that have studied ways Oregon can most effectively reach its desired public education outcomes. In doing so, the Team shall engage public, stakeholder and legislator involvement in the evaluation and development of new policy and budget concepts called for in this order.
6. The Team will establish, prioritize and charge Design Workgroups (Workgroups) as deemed necessary by the Chair. Workgroups may include members of the public, public officials, stakeholders and/or

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legislators who are not members of the Team. Any Workgroup created will be given a specific charge and timelines by the Chair. These charges will include, but not be limited to:

- a. Designing a new model for early childhood and family investment for implementation in the second year of this biennium;
- b. Seeking cost-savings and efficiencies within the K–12 system to increase the resources available for classroom teaching in the second year of the biennium; and
- c. Designing a unified, performance based 0-20 budget model for consideration by the 2012 legislative session.

The Team will consider proposals and opinions developed by Workgroups it establishes, and may consider proposals and opinions from any other sources, but it is the Team that shall be ultimately responsible for making final recommendations consistent with the charge of this Order.

7. The charge of the Team is to develop specific concepts to achieve a comprehensive redesign of Oregon's public education budgeting and governance system. The concepts developed by the Team must be strategically calculated to transform Oregon's approach to education from silos into an integrated and meaningful pathway to success for Oregonians of all ages. The recommendations must include systemic policy and budget recommendations that will most effectively and efficiently achieve the goals that one hundred percent of Oregonians earn a high school diploma, that forty percent of Oregonians obtain a college degree, and that another forty percent earn a post-secondary credential. The recommendations must also include measures that will ensure that every child enters school ready and able to learn, enters first grade ready to read and leaves first grade reading.

At a minimum, the Team will develop a framework to achieve these goals by developing recommendations which will:

- a. Create an Oregon Education Investment Board (OEIB) to oversee a unified 0-20 Oregon Education Investment Fund (OEIF);
- b. Create an integrated early childhood and family investment strategy;

c. Create a unified, performance based 0-20 education budget model;

d. Develop a strategy to ensure effective assessment and accountability throughout the public education system; and

e. Consolidate state level responsibilities for public education.

8. The Team shall produce a written report no later than May 31, 2011, that identifies the progress made under this order and outlines the budget and policy framework called for in this Order. The report shall include conceptual proposals for the consideration of the public and policy-makers.

9. The Team shall be staffed by the Governor's Education Policy Advisor and shall receive assistance of any State agency upon request.

10. The members of the Team shall not receive per diem for their activities as members of the Team, but may be reimbursed for expenses incurred in attending Team business pursuant to ORS 292.495(2), subject to availability of funds.

11. This Order expires upon the enactment of the Education Investment Fund Board's enabling legislation and confirmation of the members of the Education Investment Fund Board.

12. This Amended Order hereby supersedes and replaces in total the Executive Order issued by me on February 11, 2011.

Done at Salem, Oregon, this 22nd day of February, 2011.

/s/ John A. Kitzhaber
John A. Kitzhaber, M.D.
GOVERNOR

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED APPROVAL OF CLEANUP FOR A PORTLAND MUNICIPAL WATER WELL

COMMENTS DUE: March 31, 2011

PROJECT LOCATION: Portland Water Bureau municipal water well PW-14 is located in the City of Fairview at the west end of Blue Lake Regional Park, near the intersection of NE Marine Drive and NE Interlachen Lane.

PROPOSAL: The Oregon Department of Environmental Quality proposes a conditional approval of cleanup actions the Portland Water Bureau performed at municipal well PW-14 to remove a small amount of mercury (less than a gram) released to the well from a failed submersible pump. This proposed approval is also known as a conditional no further action determination.

HIGHLIGHTS: DEQ reviewed the results of the cleanup work and agrees with the Portland Water Bureau's conclusion that this well is safe for resumed use in the Portland municipal water system.

Laboratory data reviewed by DEQ indicates that water pumped from well PW-14, which is representative of the public water supply, contains no detectable mercury.

DEQ has determined that no further action is required because the site no longer poses a risk that exceeds the acceptable risk level defined in Oregon law.

DEQ is making this approval conditional because following cleanup actions, the final deep well water sampled (at 350 feet) contained detectable mercury. The detected concentration of mercury slightly exceeded the Environmental Protection Agency Maximum Contaminant Level established for mercury in drinking water.

DEQ is confident in its proposed conditional cleanup approval determination for the following reasons:

- Water pumped from PW-14 has been repeatedly sampled at the wellhead and consistently found to contain no detectable mercury.
- DEQ does not expect that water from the 350 foot depth in this well circulates to the well pump at the 235 foot depth.
- Following cleanup actions, and collection of the final deep well water sample, millions of gallons of water were pumped from the well prior to resumed use as a public supply well. This action further removed any residual mercury from the well.
- Water from PW-14 is combined with water from up to 26 other wells and surface water sources, prior to treatment and distribution to municipal water customers.

HOW TO COMMENT: Send comments by 4:30 p.m., Thursday, March 31, to DEQ Project Manager Ken Thiessen, DEQ Northwest Region Office, 2020 SW 4th Ave., Suite 400, Portland, Oregon 97201, or thiessen.kenneth@deq.state.or.us

Review the file by appointment at DEQ Northwest Region Office, 2020 SW 4th Ave., Ste 400, Portland, Oregon. Call File Review Specialist, Dawn Weinberger at 503-229-6729 to schedule an appointment.

To access site information and the *Staff Report Recommending Conditional No Further Action Determination Municipal Well PW-14 Mercury Spill Cleanup*, go to <http://www.deq.state.or.us/lq/ECSI/ecsidetail.asp?seqnbr=5323>

THE NEXT STEP: After the public comment period closes, DEQ will consider all comments before making a decision. DEQ will hold a meeting to receive comments about this site if requested by ten or more people or by a group with a membership of 10 or more. DEQ will publish a public notice announcing the final decision 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) 229-5263 or toll free in Oregon at (800) 452-4011; fax to 503-229-6899; or e-mail to deqinfo@deq.state.or.us.

People with hearing impairments may call DEQ's TTY number 711.

REQUEST FOR COMMENTS PROPOSED SETTLEMENT FOR FORMER FRONTIER LEATHER AND KEN FOSTER FARM SITES

COMMENTS DUE: 5 p.m., April 1, 2011

PROJECT LOCATION: The former Frontier Leather site is located at 15104 SW Oregon Street (formerly 1210 NE Oregon Street), in Sherwood, Oregon. The Ken Foster Farm property is a 40-acre tract of former pasture land located at 23000 to 23500 SE Murdock Road in the southeast corner of Sherwood.

PROPOSAL: DEQ proposes to enter into a settlement with two potentially liable parties for cleanup of these sites. The parties are Linke Enterprises, the owner and operator of the Frontier Leather site, and Don Nelson who worked for Frontier Leather Company as plant manager from 1966 to 1972 and as general manager from 1972 until 1988. The settlement would be in the form of a consent judgment. The settlement would require the parties to pay DEQ specified amounts to be used by DEQ for future cleanup and wetlands restoration of these sites. In return, the settling parties would receive a covenant not to sue from the State and contribution protection as to third parties regarding the matters addressed by the settlement.

HIGHLIGHTS: The Frontier Leather Company began operating a tannery at the site in 1947. The company constructed two three-acre sedimentation lagoons between late 1964 to early 1965. The company discharged wastewater to these sedimentation lagoons intermittently between 1965 and 1982. The company stockpiled chromium-treated hide splits on Tax Lot 600 and buried them at the facility between 1971 and 1974. The company created a landfill at its facility to dispose of an estimated 21,000 cubic yards of chromium-containing wastes including chromium-treated hide splits and chromium-containing vacuum filter sludge. Some of the hide splits were later covered with approximately two feet of soil. However, a large percentage of the landfill was not adequately consolidated and capped to control possible direct contact or surface water runoff. The company stopped putting hide splits in the landfill in 1973.

In January 2002, Pacific III, LLC, entered into a prospective purchaser agreement with DEQ prior to acquiring Tax Lots 400 and 500 from Transpacific, a company that acquired the tannery in the late 1980s and ran it until final closure in 1999. The former tannery building, wastewater treatment facility, and former battery manufacturing building were located on these land parcels. The agreement defined the cleanup to be performed by Pacific III LLC in exchange for DEQ limiting the company's future liability for cleanup costs at the site. DEQ approved the required work the company did on each parcel.

The rest of the Frontier Leather facility property that was not included in the prospective purchaser agreement was designated as a DEQ orphan site in 2002. An orphan site is one where the party or parties responsible for the contamination are unknown, unable or unwilling to pay for needed remedial actions.

DEQ completed an investigation and feasibility study during 2003 and 2004 but did not finalize a cleanup plan because of lack of funds to complete the work.

DEQ uncovered records from the former tannery indicating that tannery wastes were land-applied to a 40-acre tract of former pasture land at Ken Foster Farms during the 1960s. Ken Foster was an employee of the Frontier Leather Company. The farmland was later subdivided into eleven smaller tracts and redeveloped as very-low-density residential properties.

DEQ initiated evaluation of the farm land and referred the site to the US Environmental Protection Agency for further evaluation following DEQ's preliminary assessment in 2005. Investigations of the farm confirmed presence of high concentrations of chromium in surface soils consistent with land application of the tannery wastes. The original 40-acre farm was subdivided into approximately 10 separate lots for residential use.

In 2007, EPA, published findings of their assessment of the former Ken Foster Farm site. The EPA work confirmed that several heavy metals, primarily chromium, lead, and mercury were present at elevated concentrations in site soils in many areas on the former farm site. EPA also found contamination in a wetland pond at this site.

OTHER NOTICES

Sampling performed to date indicates the metals lead and chromium in site soils are from land application of tannery wastes at the site.

HOW TO COMMENT: Send written comments on the proposed remedial action by 5 p.m. April 1, 2011, to DEQ Project Manager Mark Pugh, DEQ Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, Oregon 97201, or e-mail to pugh.mark@deq.state.or.us

View the proposed settlement at <http://www.deq.state.or.us/lq/ECSI/ecsidetail.asp?seqnbr=2638>

Please call, File Review Specialist Dawn Weinberger at 503-229-6729 to schedule an appointment to review the project files. If you have any questions, please contact the project manager at 503-229-5587.

THE NEXT STEP: DEQ will review and consider all comments received during the comment period. If DEQ then determines to enter into the settlement with Linke Enterprises and Don Nelson, a consent judgment will be filed with the Washington County Circuit Court. The court must approve the consent judgment for it to take effect.

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

People with hearing impairments may call 711.

PUBLIC NOTICE INTERIM REMEDIAL ACTION AT WESTERN STAR (FORMER FREIGHTLINER) TRUCK PLANT, ECSI #2366

NOTICE PERIOD: March 1–31, 2011

PROJECT LOCATION: 6936 N. Fathom Street, Portland, OR 97217

DESCRIPTION: The Department of Environmental Quality is approving the use of Soil Vapor Extraction (SVE) as an Interim Remedial Action to remove vadose zone contamination beneath the

facility. The system will also help to prevent contaminant vapors from entering the building at levels above risk-based standards and will be a vital remedial action that will contribute toward the final closure of the site.

HIGHLIGHTS: Site investigations at the Western Star Truck Plant have identified levels of contaminants beneath the Facility in the area of a former wheel painting booth that exceed DEQ's risk-based standards for vapor intrusion to indoor air. Under DEQ's oversight, the Facility conducted a soil vapor investigation following DEQ's *Guidance for Assessing and Remediating Vapor Intrusion in Buildings*. Based on the results of that investigation, the Facility conducted a Focused Feasibility Study and proposed that SVE be used to remove contamination beneath the foundation of the building and control the influx of vapors into the affected area of the building. DEQ reviewed the studies and agreed that SVE was the most appropriate method to mitigate vapors and protect site workers. The facility conducted a pilot test of the system and evaluated system emissions via an EPA risk-based air emissions model. The system and the emissions will not emit contaminants at concentrations that pose a risk. DEQ and the Facility are currently working together to finalize the system details prior to an anticipated start date of April 2011.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Northwest Region Office at 2020 SW 4th Ave, Suite 400, Portland, Oregon 97214. Comments must be received by 5:00 PM on March 31, 2011 and sent to Michael Romero, Project Manager, at the address listed above.

THE NEXT STEP: The SVE system is projected to start up in April 2011. Decisions regarding long term operation of the SVE system will occur after system performance monitoring and the Remedial Investigation and site-wide risk assessment is complete.

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.

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.*

.....
Board of Chiropractic Examiners
Chapter 811

Rule Caption: Establishes minimum educational and other requirements for chiropractic dry needling.

Date:	Time:	Location:
5-19-11	2 p.m.	OBCE Offices 3218 Pringle Rd. SE, #150 Salem, OR

Hearing Officer: Dave McTeague

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.155(b)

Proposed Adoptions: 811-015-0036

Proposed Amendments: 811-020-0006

Last Date for Comment: 5-19-11, Close of Hearing

Summary: Establishes minimum educational and other requirements for chiropractic dry needling.

Rules Coordinator: Donna Dougan

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

Telephone: (503) 373-1579

.....
Department of Agriculture,
Oregon Dairy Products Commission
Chapter 617

Rule Caption: Amend Administrative Rule OAR 617-030-0010 for Commissioner term limits.

Stat. Auth.: ORS 576.304

Other Auth.: Motion made by Oregon Dairy Products Commission board at 12-17-10 board meeting, Tillamook, OR

Stats. Implemented: ORS 576.206(5) & 576.304(14)

Proposed Amendments: 617-030-0010

Last Date for Comment: 3-31-11, Close of Business

Summary: Amends Administrative Rule for Commissioner term limits to four (4) consecutive three-year terms. A person who serves four (4) consecutive terms is not eligible for appointment to another term on the board until at least one year after the expiration of the fourth consecutive term.

Rules Coordinator: Pete Kent

Address: 10505 SW Barbur Blvd., Portland, OR 97219

Telephone: (503) 229-5033

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Rule Caption: Amends Administrative Rule OAR 617-030-0020 to include Lake County in Eastern Oregon Commissioner district.

Stat. Auth.: ORS 576.304

Other Auth.: Motion made by Oregon Dairy Products Commission board at 12-17-10 board meeting, Tillamook, OR

Stats. Implemented: ORS 576.206 & 576.304

Proposed Amendments: 617-030-0020

Last Date for Comment: 3-31-11, Close of Business

Summary: Amends Administrative Rule for Commissioner districts to include Lake County in Eastern Oregon district.

Rules Coordinator: Pete Kent

Address: 10505 SW Barbur Blvd., Portland, OR 97219

Telephone: (503) 229-5033

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Department of Community Colleges
and Workforce Development
Chapter 589

Rule Caption: Distribution of Community College Support Fund.

Date:	Time:	Location:
3-24-11	11 a.m.–2 p.m.	255 Capitol St. NE 3rd Floor, Rm. 300A Salem, OR 97310

Hearing Officer: Linda Hutchins

Stat. Auth.: ORS 326.051, 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665

Stats. Implemented:

Proposed Amendments: 589-002-0100

Last Date for Comment: 3-24-11, 5 p.m.

Summary: This rule adds a Biennial Growth Management Component to the Community College State Fund (CCSF) distribution formula rules. The calculation ties growth of the actual number of Full Time Equivalent students (FTE) allowed to be used in the formula, to the CCSF's Current Service Level budget and to projected Total Public Resources.

Beginning with the 2011–13 biennium, a Biennial Growth management Component which is applied annually, will be added to the calculation of the three-year Total Weighted Reimbursable Full-Time-Equivalent students (FTE). The purpose of the Biennial Growth Management Component is to manage the level of Total Public resource available per FTE within the Total Public Resources available. The Biennial Growth Management component is comprised of two subcomponents, the Base Growth Management Component and the State Board of Education Quality Growth Factor which are described below:

(1) The Base Biennial Growth Management Component is the percentage of actual FTE enrollments that would maintain Total Public resources per FTE to the same level as the previous biennium plus inflation allowed in the CCSF Current service Level budget.

(2) The State Board of Education (SBE) has the authority to, on a biennial basis, set the "quality growth factor" that may increase or decrease the number of FTE that will be counted for funding purposes above or below the Base Biennial Growth Management Component.

The net of the two numbers above determines the Biennial Growth Management Component. This component is applied annually; therefore it is divided in half and then applied to each individual college's actual FTE. The result determines the funded FTE that will be used to calculate the three-year Total Weighted reimbursable FTE. If a community college's enrollment declines in any given year, the Annual Growth Management Component may be applied to the previous years FTE if it is higher.

To begin the calculations, Total Public Resources per FTE is based on Fiscal Year 2009–10. The start-up Funded Annual Base FTE used for weighting is based on Fiscal Year 2010–11 FTE to which a start-

NOTICES OF PROPOSED RULEMAKING

up growth management component has been applied. The State Board of Education will decide what the Quality Growth Factor will be for calculating Fiscal year 2010–11 start-up growth management component as well as a Quality Growth Factor for the 2011–13 biennium.

Rules Coordinator: Linda Hutchins

Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-2456

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

Rule Caption: Establishes specialized inspector training and certifications as required by House Bill 3462 (2009).

Date:	Time:	Location:
3-15-11	9 a.m.	1535 Edgewater St. NW Salem, OR 97304

Hearing Officer: Trevor Johnson

Stat. Auth.: ORS 455.720, 455.730 & 455.735

Other Auth.: 2009 OL Ch. 593

Stats. Implemented: ORS 455.720, 455.730 & 455.735

Proposed Adoptions: 918-098-1510, 918-098-1520, 918-098-1530

Last Date for Comment: 3-18-11, 5 p.m.

Summary: HB 3462 (2009) authorized the Building Codes Division to create a program for training, qualifying and certifying individuals as specialized building inspectors authorized to perform inspections and enforce portions of Oregon's specialty codes. These new inspector certifications will cover limited commercial and other multidisciplinary inspections that presently are not independently authorized by the Division's existing inspector certifications.

Rules Coordinator: Stephanie Snyder

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

Telephone: (503) 373-7438

.....
Rule Caption: Revises hours requirement for indirect supervision apprentice license.

Stat. Auth.: ORS 479.730

Other Auth.: ORS 660.126 & 2010 OL Ch. 15

Stats. Implemented: ORS 479.730

Proposed Amendments: 918-282-0270

Last Date for Comment: 3-22-11, 5 p.m.

Summary: Chapter 15, Section 1, 2010 Oregon Laws amended ORS 660.126 to allow electrical apprentices enrolled in a 6,000 hour program and who had completed 5,000 hours, to work under indirect supervision. OAR 918-282-0270 is being amended to be consistent with this statutory change.

Rules Coordinator: Stephanie Snyder

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

Telephone: (503) 373-7438

.....
**Department of Energy
Chapter 330**

Rule Caption: Modifies Program requirements to align with industry standards and provide flexibility.

Date:	Time:	Location:
3-22-11	9:30 a.m.	625 Marion St. NE Salem, OR 97301

Hearing Officer: Jo Morgan

Stat. Auth.: ORS 276.900–276.915

Stats. Implemented: ORS 276.900–276.915

Proposed Adoptions: 330-130-0025

Proposed Amendments: 330-130-0010, 330-130-0020, 330-130-0030, 330-130-0040, 330-130-0050, 330-130-0055, 330-130-0060, 330-130-0070, 330-130-0080, 330-130-0090, 330-130-0100

Last Date for Comment: 3-23-11, 5 p.m.

Summary: The rule amendments provide additional clarity and flexibility in the State Energy Efficient Design (SEED) program. They include new definitions for "Highly efficient facility" and Leadership in Energy Efficient Design (LEED) certification. The process for SEED rules is streamlined to allow LEED Silver or higher, Oregon Reach Code or other substantially equivalent efficiency standards have been achieved.

Rules Coordinator: Kathy Stuttaford

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

Telephone: (503) 373-2127

.....
**Department of Environmental Quality
Chapter 340**

Rule Caption: This rulemaking increases water quality permit fees by 2% to address increasing permit program costs, and creates a construction stormwater permit fee for sites less than one acre.

Date:	Time:	Location:
3-24-11	6 p.m.	DEQ Bend 475 NE Bellevue, Suite 110, Conference Rm. Bend, OR
3-28-11	6 p.m.	DEQ Medford 221 Stewart Ave., Suite 201, Large Conference Rm. Medford, OR
3-29-11	6 p.m.	DEQ Portland 811 SW Sixth Ave., 10th Floor, Rm. EQC A Portland, OR

Hearing Officer: DEQ Staff

Stat. Auth.: ORS 468.020 & 468.065

Stats. Implemented: ORS 454.625, 454.745, 468.065, 468B.035, 468B.050 & 468B.051

Proposed Amendments: 340-045-0075, 340-071-0140

Last Date for Comment: 4-1-11, 5 p.m.

Summary: This proposal to amend the Oregon Administrative Rules would increase water quality permit fees. DEQ proposes to increase fees for all National Pollution Discharge Elimination System (NPDES) and Water Pollution Control Facility (WPCF) permits by 2 percent to address increased water quality permit program costs. WPCF-Onsite septic system permits are included in the proposed fee increase. Suction dredge permits covered by General Permit 700-PM are not included in the proposed fee increase.

DEQ also proposes a \$230 fee for construction stormwater permits covering sites less than one acre, but part of a common plan of development that disturbs one or more acres. Federal regulations and DEQ's construction stormwater permit (general NPDES 1200-C) include a requirement that these sites obtain permit coverage. In the past DEQ has not issued permits for individual lots that are part of a common plan of development because of concerns about the fees associated with issuing permits to individual lot owners. DEQ explored numerous options for addressing this legal obligation and now intends to implement this requirement by issuing separate permits for these lots. These individual lots are shorter-term projects representing less environmental impact when compared to larger-scale development projects. DEQ believes that the existing application fee (\$767) and annual fee (\$788) are too high for individual lots, and is instead proposing a one-time fee of \$230 for these permits.

To submit comments or request additional information, please contact Chris Clipper at the Department of Environmental Quality (DEQ) by mail at 811 SW Sixth Ave., Portland, OR 97204, by email at waterpermitfee@deq.state.or.us, by phone at (503) 229-5656; toll free in Oregon at 800-452-4011 ext. 5656; by fax at (503) 229-6037, or visit DEQ's website at <http://www.deq.state.or.us/regulations/proposedrules.htm>

Rules Coordinator: Maggie Vandehey

NOTICES OF PROPOSED RULEMAKING

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

Date:	Time:	Location:
4-22-11	8 a.m.	Dept. of Fish & Wildlife 3406 Cherry Ave. Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 506.036, 506.119, 506.129 & 506.750 et Seq.

Other Auth.: Magnusson-Stevens Sustainable Fisheries Act
Stats. Implemented: ORS 496.162, 506.036, 506.109, 506.129 & 506.750 et Seq.

Proposed Adoptions: Rules in 635-003, 635-013
Proposed Amendments: Rules in 635-003, 635-013
Proposed Repeals: Rules in 635-003, 635-013
Last Date for Comment: 4-22-11

Summary: Amend rules related to commercial and sport salmon fishing in the Pacific ocean. 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,
Seniors and People with Disabilities Division
Chapter 411

Rule Caption: Continuing Care Retirement Communities.

Date:	Time:	Location:
3-15-11	11 a.m.	Human Services Bldg. 500 Summer St. NE, Rooms 137BC Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 101.150 & 410.090
Other Auth.: HB 2138 (2009) & 2009 OL Ch. 201
Stats. Implemented: ORS 101.010–101.160

Proposed Adoptions: 411-067-0065, 411-067-0086
Proposed Amendments: 411-067-0000, 411-067-0010, 411-067-0020, 411-067-0050, 411-067-0055, 411-067-0060, 411-067-0070, 411-067-0080, 411-067-0083, 411-067-0090, 411-067-0100
Proposed Repeals: 411-067-0030, 411-067-0087
Last Date for Comment: 3-21-11, 5 p.m.

Summary: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to permanently update the continuing care retirement community rules (CCRC) in OAR chapter 411, division 067 to:

- Prescribe new requirements for registration of CCRCs;
- Specify information that must be included in a CCRC's annual disclosure statement;
- Provide for increased disclosure of operating expenses, fees, financial status, and Medicare and Medicaid provider status;
- Clarify issues of financial reserves, escrow, and withdrawal of reserves and specify how a provider should calculate the CCRC's liquid reserve requirements;
- Provide for the rights of CCRC residents including the right to:
 - Establish a residents' council;
 - Have a representative serving on the CCRC's governing board;
 - Refuse medications, treatment, or care; and
 - Submit grievances without fear of restraint, interference, coercion, discrimination, or reprisal; and
- Outline a provider's obligation to:

- Not discriminate against a resident, a prospective resident, or a resident's visitor;
- Make reasonable accommodations for residents with disabilities; and
- Treat each resident with respect and dignity at all times.

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

.....
Department of Justice
Chapter 137

Rule Caption: To modify the Child Abuse Multidisciplinary Team and regional Service Provider OARs to align with ORS changes from 09–11 biennium and alignment of language to current terminology.

Date:	Time:	Location:
3-21-11	2–3 p.m.	4035 12th St. SE Salem, OR

Hearing Officer: Karen Heywood
Stat. Auth.: ORS 418.746–418.794
Stats. Implemented: ORS 418.746–418.794
Proposed Amendments: 137-082-0210, 137-082-0220, 137-082-0230, 137-082-0240, 137-082-0250, 137-082-0260, 137-082-0270, 137-082-0280, 137-083-0000, 137-083-0010, 137-083-0020, 137-083-0040, 137-083-0050

Last Date for Comment: 3-21-11, 5 p.m.
Summary: • Align with ORS changes from the 09–11 biennium;

- Change Child Abuse Centers to Child Abuse “Intervention” centers;
- Change Regional training and Consultation Center to Regional “Service Providers”;
- Include moving application and reporting to web-based CVSD E-grant system; and
- Modifying reporting requirements to minimize and consolidate reporting.

Rules Coordinator: Carol Riches
Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301
Telephone: (503) 947-4700

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

Rule Caption: Correlate 2010 Oregon Fire Code to 2010 Oregon Structural Specialty Code for the installation of Carbon Monoxide alarms.

Stat. Auth.: ORS 476.030
Stats. Implemented: ORS 476.030
Proposed Amendments: 837-040-0020
Last Date for Comment: 3-22-11, 5 p.m.

Summary: The rule change is necessary to correlate the 2010 Oregon Fire Code (OFC) to the 2010 Oregon Structural Specialty Code (OSSC) for the installation of Carbon Monoxide alarms per 2009 Legislative House Bill 3450, Lofgren and Zander Memorial Act, for new construction.

Rules Coordinator: Pat Carroll
Address: Department of Oregon State Police, Office of State Fire Marshal, 4760 Portland Rd. NE, Salem, OR 97305
Telephone: (503) 934-8276

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

Rule Caption: Update rule to remain consistent and current with 2008 Edition of NFPA 1006 standards.

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Proposed Amendments: 259-009-0005, 259-009-0062

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 3-21-11, Close of Business
Summary: Adopts 2008 Edition of NFPA standards, including technical changes to titles, definitions, and standards of Technical Rescuer that are not currently in rule.
Rules Coordinator: Linsay Bassler
Address: 4190 Aumsville Hwy SE, Salem, OR 97317
Telephone: (503) 378-2431

.....

Rule Caption: Update course hours/titles for DOC Basic Corrections Course curriculum; Implement plain language standards.

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Proposed Amendments: 259-008-0025

Last Date for Comment: 3-21-11, Close of Business
Summary: The Department of Public Safety Standards and Training updated its Basic Corrections curriculum and subject/hour breakdown in May 2010. This proposed rule adjusts the minimum course hours for the Department of Corrections Basic Corrections Course to reflect those updates. Plain language standards and housekeeping changes were also made for clarity and consistency.

Rules Coordinator: Linsay Bassler
Address: 4190 Aumsville Hwy SE, Salem, OR 97317
Telephone: (503) 378-2431

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

Rule Caption: Clarifies Requirements for Surety Bond Upon Initial Application or Renewal of Vehicle Dealer Certificate.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 822.020, 822.025, 822.027 & 822.040
Stats. Implemented: ORS 802.012, 822.020, 822.025, 822.027, 822.030 & 822.040

Proposed Amendments: 735-150-0015
Last Date for Comment: 3-21-11

Summary: Pursuant to ORS 822.030, a surety bond is required for a person to qualify for a vehicle dealer certificate (ORS 822.020), or for the renewal of a certificate (ORS 822.040).

Currently, OAR 735-150-0015 states that an applicant for a vehicle dealer certificate must submit a DMV Surety Bond form to DMV upon initial application and again at renewal. However, for the purpose of renewing a certificate, an applicant should not be required to submit a DMV Surety Bond form if prior bond coverage is still valid. The proposed amendment revises rule language to specify that an applicant for renewal is required to submit a DMV Surety Bond form if the applicant is submitting a new surety bond with the renewal application. If the applicant is not submitting a new bond, the applicant is only required to provide proof acceptable to DMV that the required bond is in effect at the time of renewal.

To improve readability, the requirements for initial applications and renewal applications are now in separate sections (1) and (2), respectively.

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, 3930 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 986-3171

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Department of Transportation, Highway Division Chapter 734

Rule Caption: Procedures for Trial Alternative Method of Establishment of Speed Zones on Certain Public Roads.

Stat. Auth.: ORS 184.616, 184.619, 810.010 & 810.180

Stats. Implemented: ORS 810.180

Proposed Amendments: 734-020-0010, 734-020-0014, 734-020-0015, 734-020-0016, 734-020-0017

Last Date for Comment: 3-21-11

Summary: ORS 810.180 authorizes the Department of Transportation to conduct speed zone investigations and set speeds on most public roads, including interstate highways. As amended, 734-020-0010 clarifies the required length of an annual review submittal, which is required after the establishment of any speed limit on interstate highways. As amended, 734-020-0014 provides additional definitions pertaining to speed zoning. As amended, 734-020-0015 gives additional authority to the State Traffic Engineer when extending or shortening existing speed zones on most public roads. It also gives authority to the State Traffic Engineer to approve an experimental alternative speed zone investigation method for the City of Portland. As amended, 734-020-0015, 734-020-0016 and 734-020-0017 gives authority to the State Traffic Engineer to approve rescissions of speed zone orders to allow statutory speeds to supersede.

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, 3930 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 986-3171

.....

Rule Caption: Environmental performance standards and improvements to the environmental permitting process

Stat. Auth.: ORS 184.616, 184.619 & 2009 OL Ch. 865, Sec. 18

Stats. Implemented: 2009 OL Ch. 865, Sec. 18

Proposed Adoptions: 734-024-0005, 734-024-0015, 734-024-0020, 734-024-0030, 734-024-0040

Last Date for Comment: 3-21-11

Summary: Section 18 of the Jobs and Transportation Act (HB 2001) passed in 2009 outlined a requirement to consider environmental performance standards for all ODOT-funded projects. These performance standards will define how ODOT incorporates environmental regulations into design and construction of transportation projects. These rules outline the process for developing the environmental performance standards.

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, 3930 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 986-3171

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Department of Veterans' Affairs Chapter 274

Rule Caption: Veterans Service Officer Certification Program.

Date:	Time:	Location:
3-16-11	10-11 a.m.	700 Summer St. NE Salem, OR 97301

Hearing Officer: Brice Craig

Stat. Auth.: ORS 406.005, 406.030 & 406.452

Other Auth.: 38 CFR Part 14, Sec. 14.628 & 14.629

Stats. Implemented: ORS 406.452 & 408.095

Proposed Adoptions: 274-031-0001, 274-031-0002, 274-031-0003, 274-031-0004, 274-031-0005, 274-031-0006, 274-031-0007, 274-031-0008, 274-031-0009

Last Date for Comment: 3-21-11

Summary: OAR 274, division 31 is established to administer and enforce ORS 406.052 and 408.095, which authorizes the department of Veterans' Affairs ("ODVA") to establish an administer a Veteran Service Officer ("VSO") Certification Program the "Program". The essential objectives of the Program include assuring that each certified VSO receives appropriate initial and ongoing training, education, and experience sufficient to achieve and maintain competency in

NOTICES OF PROPOSED RULEMAKING

applying for applicable federal and state benefits on behalf of Oregon veterans.

Rules Coordinator: Bruce Craig
Address: Department of Veterans' Affairs, 700 Summer St. NE, Salem, OR 97301-1285
Telephone: (503) 373-2327

.....
**Employment Department,
Child Care Division
Chapter 414**

Rule Caption: Update cardio-pulmonary resuscitation (CPR) training requirements.

Stat. Auth.: ORS 657.610

Stats. Implemented:

Proposed Amendments: 414-300-0110, 414-350-0110

Last Date for Comment: 3-22-11, 5 p.m.

Summary: Updates training requirements for teacher aides and assistants to be consistent with those for principle child care providers.

Amends training requirements for cardio-pulmonary resuscitation (CPR).

Rules Coordinator: Courtney Brooks
Address: Employment Department, Child Care Division, 875 Union St. NE, Salem, OR 97311
Telephone: (503) 947-1724

.....
**Landscape Contractors Board
Chapter 808**

Rule Caption: Amend charges for exam resources based on the cost of the item; removes charge for vehicle stickers no longer provided.

Stat. Auth.: ORS 671.670 & 670.301

Stats. Implemented: ORS 183, 293 & 671

Proposed Amendments: 808-001-0020

Last Date for Comment: 3-21-11

Summary: Amends charges for examination resources (Plant CD and Owner/Managing Employee Study Guide) to be based on the current cost of the item and a fee for the cost of shipping and processing the order. This amendment also removes the charge for vehicle stickers that are no longer being provided by the board.

Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 378-5909, ext. 223

.....
**Oregon Board of Naturopathic Medicine
Chapter 850**

Rule Caption: Rule on reapplication of license when license has been disciplined.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.110

Proposed Adoptions: 850-050-0200

Last Date for Comment: 3-28-11

Summary: Rule to clarify reapplication guidelines.

Rules Coordinator: Anne Walsh
Address: Oregon Board of Naturopathic Medicine, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0193

.....
Rule Caption: Rule removes the reference to the AHFS 2009 which is no longer relevant.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.145

Proposed Amendments: 850-060-0225, 850-060-0226

Last Date for Comment: 3-28-11

Summary: Rule removes reference to AFHS, which was used as a guideline to establish formulary classifications.

Rules Coordinator: Anne Walsh
Address: Oregon Board of Naturopathic Medicine, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0193

.....
**Oregon Department of Education
Chapter 581**

Rule Caption: Reduces day of instruction required to be provided to YCEP and JDEP students.

Date:	Time:	Location:
3-23-11	1 p.m.	255 Capitol St. NE, Rm. 251A Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.695–326.712

Proposed Amendments: 581-015-2590

Last Date for Comment: 3-23-11, 5 p.m.

Summary: The Oregon Department of Education contracts with school districts and education service districts to provide educational services to juveniles in youth corrections and juvenile corrections facilities. The rule amendment would reduce the minimum number of instructional days required to be provided to these students from 220 days to 176 days. This aligns with minimum instructional hours required for other Oregon students.

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

.....
**Oregon Health Authority,
Division of Medical Assistance Programs
Chapter 410**

Rule Caption: CAREAssist rules and provider payments.

Date:	Time:	Location:
3-16-11	10 a.m.	800 NE Oregon St., Rm. 1C Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 431.830

Stats. Implemented: ORS 431.830

Proposed Repeals: 333-012-0250(T)

Proposed Ren. & Amends: 333-012-0250 to 410-121-3000

Last Date for Comment: 3-18-11, 5 p.m.

Summary: The Oregon Health Authority is proposing to permanently amend OAR 333-012-0250 and renumber it to OAR 410-121-3000 pertaining to the AIDS Drugs Assistance Program (ADAP) or CAREAssist. The rules is being amended to include a section regarding provider and pharmacy payments. The rule is being renumbered from chapter 333 (Public Health Division) to chapter 410 (Division of Medical Assistance Programs) so that all pharmacy rules (Medicaid and Non-Medicaid) for the Oregon Health Authority are found in the same location.

Rules Coordinator: Brittany Sande
Address: 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (971) 673-1291

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Rule Caption: Establishing and maintaining a prescription drug monitoring program.

Date:	Time:	Location:
3-23-11	1 p.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 918 Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 431.962 & 431.964

Stats. Implemented: ORS 431.962–431.978 & 431.992

Proposed Adoptions: 410-121-4000, 410-121-4005, 410-121-4010, 410-121-4015, 410-121-4020

Last Date for Comment: 3-25-11, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: The Oregon Health Authority, Division of Medical Assistance Programs is proposing to permanently adopt administrative rules in chapter 410, division 121 to clarify the purpose of a prescription drug monitoring program; to establish definition terms; to clarify program reporting requirements; and to clarify access to information in the electronic system.

Rules Coordinator: Brittany Sande

Address: 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

.....

Rule Caption: April 2011 Technical Changes to the January 1, 2011–December 31, 2012 Health Services Commission's Prioritized List of Health Services.

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

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-141-0520

Last Date for Comment: 3-11-11

Summary: The Oregon Health Plan (Managed Care) Program administrative rules govern Division of Medical Assistance Programs' (Division) payments for services provided to clients. The Division will amend 410-141-0520 to reference the January 1, 2011–December 31, 2012 health Services Commission's Prioritized List with interim modifications and technical changes effective April 1, 2011, this included application of 2009 national code to the HSC lines and HSC guideline refinements.

Rules Coordinator: Darlene Nelson

Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301

Telephone: (503) 945-6927

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Oregon Health Authority, Public Health Division Chapter 333

Rule Caption: Revision of rules related to lead-based paint activities and renovation, repair and painting.

Date:	Time:	Location:
3-22-11	1 p.m.	800 NE Oregon St., Rm. 1B Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 431.920, 431.922, 431.992 & 701.992

Other Auth.: 40 CFR Part 745.80 Subpart E, 40 CFR Part 745.225, 40 CFR Part 745.226

Stats. Implemented: ORS 431.918, 431.920, 431.922, 431.992 & 701.992

Proposed Amendments: 333-068-0005, 333-068-0015, 333-068-0020, 333-068-0025, 333-068-0030, 333-068-0035, 333-068-0040, 333-068-0045, 333-068-0050, 333-068-0055, 333-068-0060, 333-068-0065, 333-069-0005, 333-069-0015, 333-069-0020, 333-069-0030, 333-069-0040, 333-069-0050, 333-069-0060, 333-069-0070, 333-069-0080, 333-069-0085, 333-069-0090, 333-070-0075, 333-070-0085, 333-070-0090, 333-070-0095, 333-070-0100, 333-070-0105, 333-070-0110, 333-070-0115, 333-070-0120, 333-070-0125, 333-070-0130, 333-070-0135, 333-070-0140, 333-070-0145, 333-070-0160

Proposed Repeals: 333-069-0005(T), 333-069-0015(T), 333-069-0020(T), 333-069-0040(T), 333-069-0050(T), 333-069-0060(T), 333-069-0075, 333-069-0085(T), 333-069-0090(T), 333-070-0075(T), 333-070-0155

Last Date for Comment: 3-24-11, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently amend Oregon Administrative Rules in chapter 333, divisions 68, 69 and 70 relating to regulating lead-based paint activities, accreditation of training providers and renovation, repair and painting activities involving lead-based paint. The proposed amendments make the following general changes to the rules: (1) Housekeeping changes, including removal of unnecessary definitions, rewording of other definitions, and standardization of terms;

(2) Creation of a mechanism for training programs, individuals and firms to become accredited/certified in Oregon if they are currently accredited/certified by EPA or another authorized state; (3) Removes annual certification/accreditation requirements from OAR 333-068 and OAR 333-069; (4) Raises the maximum heat gun temperature in the Work Practice Standards sections of OAR 333-069 and OAR 333-070 to 1100°F; (5) Eliminate all references to the "opt out" provision; and (6) Eliminate all "paint permit" requirements and fees from OAR 333-069.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: Amendment of rules that govern accreditation of environmental testing laboratories.

Stat. Auth.: ORS 438.605, 438.610, 438.615, 438.620, 448.131, 448.150 & 448.280 (1)(b) & (2)

Stats. Implemented: ORS 438.605, 438.610, 438.615, 438.620, 448.150, 448.131 & 448.280 (1)(b) & (2)

Proposed Amendments: 333-064-0025, 333-064-0030, 333-064-0040, 333-064-0050, 333-064-0055, 333-064-0060

Proposed Repeals: 333-064-0070

Last Date for Comment: 3-22-11, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division, Oregon State Public Health Laboratory (OSPHL) is proposing to permanently amend Oregon Administrative Rules in chapter 333, division 64 will. The proposed amendments will (1) Change from charging assessment fees based on programs to matrices, which matches how laboratories are actually accredited to national standards; (2) Add language concerning the accreditation mobile laboratories as required by the National Environmental Laboratory Accreditation Program (NELAP); (3) Change how labs report results to the Oregon Drinking Water Program to conform to OAR 333-061-0030; (4) Increase fees to out-of-state laboratories requesting accreditation by Oregon in order to help cover the costs of the program; and (5) Add clarifying language to help avoid misinterpretation.

In addition, the OSPHL is proposing to repeal OAR 333-064-0070 which was added to correct a problem with the rulemaking process in 2002 and is no longer applicable.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Oregon Health Licensing Agency, Board of Cosmetology Chapter 817

Rule Caption: Align rules with current statutory authority, industry, agency and rulemaking standards.

Date:	Time:	Location:
3-28-11	9 a.m.	700 Summer St. NE, Suite 320 Rhoades Conference Rm. Salem, OR

Hearing Officer: Bert Krages

Stat. Auth.: ORS 676.615 & 690.165

Other Auth.: ORS 345, 341, 346 & OAR 437-002-0360(31)

Stats. Implemented: ORS 676.606, 676.615, 676.617, 676.992, 690.005, 690.035, 690.046, 690.047, 690.055, 690.057, 690.085, 690.095, 690.123 & 690.205

Proposed Adoptions: 817-030-0071, 817-060-0050

Proposed Amendments: 817-005-0005, 817-010-0065, 817-020-0006, 817-030-0005, 817-030-0030, 817-030-0065, 817-035-0010, 817-035-0050, 817-035-0070, 817-035-0110, 817-040-0003, 817-090-0025, 817-090-0035, 817-090-0045, 817-090-0050, 817-090-0055, 817-090-0065, 817-090-0070, 817-090-0075, 817-090-0080, 817-090-0085, 817-090-0090, 817-090-0095, 817-090-0100, 817-090-0105, 817-090-0110, 817-090-0115

NOTICES OF PROPOSED RULEMAKING

Proposed Repeals: 817-010-0090, 817-030-0015, 817-030-0018, 817-030-0020, 817-030-0040, 817-030-0045, 817-030-0055, 817-035-0030, 817-060-0050(T), 817-035-0050(T)

Last Date for Comment: 3-28-11

Summary: Rule changes are necessary to allow for general amendments to administrative rules in order to align with current industry, agency and statewide rulemaking standards and principles.

Amend to streamline definitions in order to meet rulemaking protocols and define relevant terms where utilized within the rule for efficiency.

Amend all requirements for facilities, independent contractors and freelance authorization holders to have a current business registration as required by Secretary of State Corporations Division pursuant to ORS 648.007.

Amend to clarify and streamline application requirements and processes including authorization to accept official transcripts from all school types. The agency as a whole is moving to an improved model for certification that requires all application requirements be met before receiving a certificate, which includes the following:

- Graduate from an Oregon school: receipt of official transcript, proof of having passed a board approved written and practical examination within two years before the date of application. or
- Individual coming through reciprocity: affidavit of licensure, proof of having passed a board approved written examination within two years before the date of application.

Currently, the Board of Cosmetology (board) does not have the authority to waive educational requirements; however the board can request that the Department of Education waive the educational requirements and refer the individual to a school for assessment under ORS 345. The agency is proposing to remove current Pathway Two to align with statutory authority of the board.

Amendments also denote that individuals seeking certification in an additional field of practice must obtain 150 hours of safety and sanitation and 100 hours in career development if they have been certified for more than two years.

Amend examination requirements to include all information related to examinations be streamlined into one administrative rule.

Adopt retake examination requirements to rule that had previously been set by board policy. This includes waiting seven days after the first failed examination attempt, waiting seven days after the second failed examination attempt, and waiting 30 days and receiving additional training after the third failed examination attempt. This process repeats itself for the fourth, fifth and sixth failed attempt.

Adopt practical examination evaluation requirements to ensure that the practical examination sanctioned and approved by the board pursuant to ORS 690.046 meets the standards set by the Department of Education under ORS 345. This includes correction protocols and options for students to take another practical examination administered at another school.

Amendments made to align renewals with agency standards and protocols, including current renewal, late renewal up to three years, and after three years reapplication under one of three pathways. Added requirements for renewal include a current registration as required by Secretary of State Corporations Division pursuant to ORS 648.007.

Amendments to freelance authorization in order to align with statutory requirements regarding where services can be provided including but not limited to churches, offices, and home of clients. The current rule prohibits a freelance authorization from performing services unless it is in a client's home or place of business, hindering a freelance authorization holder from performing services in other locations.

Amend posting requirements for authorizations and inspection certificates to align with other program standards.

Reduce fees for initial certification.

- Practitioner certificate application from \$25 to \$20.
- Oregon laws and rules exam from \$50 to \$35.
- Field of practice (FOP) exam from \$50 to \$35 for each FOP.

- Initial practitioner certificate from \$40 to \$25 for each FOP.
- Delinquency fee for up to three years to align with statutory authority.

- Adopt fee for safety and infection control training at \$25 and reactivation of an authorization at \$50.

Adopt Use of Formaldehyde Products rule permanently. This rule became effective temporarily on November 15, 2010.

Align civil penalty schedule with agency protocols and standards.

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 Health Licensing Agency, Environmental Health Registration Board Chapter 338

Rule Caption: Change to one year renewal cycle, standardization with other professions regulated by OHLA.

Date:	Time:	Location:
3-28-11	11 a.m.	700 Summer St. NE, Suite 320 Rhoades Conference Rm. Salem, OR

Hearing Officer: Bert Krages

Stat. Auth.: ORS 676.605, 676.606, 676.615, 700.53 & 700.080

Stats. Implemented: ORS 676.605, 676.606, 676.615 & 700.080

Proposed Adoptions: 338-010-0065

Proposed Amendments: 338-005-0020, 338-005-0030, 338-010-0015, 338-010-0030, 338-010-0033, 338-010-0035, 338-010-0038, 338-010-0050, 338-020-0030, 338-020-0050, 338-030-0020

Proposed Repeals: 338-010-0017, 338-010-0025, 338-020-0000, 338-020-0060

Last Date for Comment: 3-28-11

Summary: The Oregon Health Licensing Agency and Environmental Health Registration Board (EHRB) are proposing to amend the EHRB administrative rules Chapter 338 Divisions 005-030. Rule changes are necessary to allow for general amendments to align with current industry, agency and statewide rulemaking standards and principles.

Amend to streamline definitions in order to meet rulemaking protocols and define relevant terms where utilized within the rule for efficiency.

Amen in order to change from a two-year registration cycle to a one-year registration cycle in an effort to reduce the financial burden to registrants.

Amend to align with statutory provisions pursuant to ORS 687.435, by establishing a reactivation fee and number of years a registrant can renew late up to three years to align with renewal requirements and agency protocol.

Amendments made to align renewals with agency standards and protocols, including current renewal, late renewal up to three years, and after three years reapplication through one of two pathways.

- Conventional Qualification: receipt of official transcript, proof of any work experience, proof of any work experience as a trainee, and proof of having passed a board approved written examination within three years before the date of application. or
- Reciprocity: receipt of affidavit of licensure and proof of any work experience.

Amend examination requirements to include all information related to examinations be streamlined into one administrative rule.

Amend to trainee registration requirements in order to add clarity and provide the trainee with processes on number of hours required and how to apply for an extension as well as the limitations to the trainee registration.

Adopt OAR 338-010-0065 "Supervisor Qualifications" in order to outline minimum qualifications a supervisor must meet in order to qualify to train environmental health specialist trainees.

NOTICES OF PROPOSED RULEMAKING

Repeal OAR 338-020-0000 "Continued Competency" and OAR 335-020-0060 "Continuing Education Credit Criteria" due to redundancy.

Amend continuing education auditing requirements in order to streamline with agency protocols and documentation requirements. Also includes disciplinary authority for failing to meet continuing education requirements.

Rules Coordinator: Samantha Patnode

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

Telephone: (503) 373-1917

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Oregon Medical Board
Chapter 847

Rule Caption: Adopts model rules for contested cases, authority of Executive Director, and confidentiality requirements in investigations.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275 & 677.425

Proposed Adoptions: 847-001-0022

Proposed Amendments: 847-001-0005, 847-001-0015

Last Date for Comment: 3-22-11

Summary: The proposed rule changes adopt the Attorney General's 2008 rules for contested cases, delegate to the Executive Director the authority to take dispositions and respond to requests to depose witnesses, and require licensees or applicants to protect the confidentiality of information obtained by the Board in the course of an investigation.

Rules Coordinator: Malar Ratnathicam

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

Telephone: (971) 673-2713

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Rule Caption: Implements new fees beginning in the 2011–2013 biennium.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-005-0005

Last Date for Comment: 3-22-11

Summary: The proposed rule implements increased fees effective July 1, 2011, for license renewals and passes the expenses of the healthcare workforce data base fee on to licensees and the criminal background search fee on to applicants for licensure and reactivation of licensure. The amendment also includes reorganization of the fees, and specific license types were added as descriptors of the general headings.

Rules Coordinator: Malar Ratnathicam

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

Telephone: (971) 673-2713

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Rule Caption: Clarifies ongoing educational requirements for all licensees and method of audit and discipline for noncompliance.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-008-0070

Last Date for Comment: 3-22-11

Summary: The amendment clarifies the ongoing educational requirements for all licensees, the method of audit, and the discipline to which a licensee will be subject if he or she fails to complete the required number of educational hours in a registration renewal period.

Rules Coordinator: Malar Ratnathicam

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

Telephone: (971) 673-2713

Rule Caption: Implements Health Professionals' Services Program for licensees with substance abuse use or mental disorders.

Stat. Auth.: ORS 676.200 & 677.265

Stats. Implemented: ORS 676.185–676.200

Proposed Adoptions: 847-065-0070

Proposed Amendments: 847-065-0010, 847-065-0015, 847-065-0020, 847-065-0025, 847-065-0030, 847-065-0035, 847-035-0040, 847-065-0045, 847-065-0050, 847-065-0055, 847-065-0060, 847-065-0065

Last Date for Comment: 3-22-11

Summary: The proposed rule implements the Health Professionals' Services Program (HPSP), pursuant to ORS 676.185–676.200, for licensees with substance abuse use or mental disorders and contains clarifying language for positive toxicology test results, safe practice investigation, disclosure of written evaluation and agreement, approval of independent third-party evaluator, and substantial non-compliance report. The rule amendment adds a requirement to enroll in HPSP for licensees with primary residence or work site outside of Oregon. The rule amendment also makes grammatical corrections.

Rules Coordinator: Malar Ratnathicam

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

Telephone: (971) 673-2713

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Rule Caption: Repeal rules that are redundant restatements of established requirements on individual license types.

Stat. Auth.: ORS 676.265

Stats. Implemented: ORS 676.265

Proposed Repeals: 847-050-0031, 847-050-0032, 847-070-0018, 847-070-0042, 847-080-0019, 847-080-0020, 847-080-0025

Last Date for Comment: 3-22-11

Summary: The proposed repeal would eliminate rules for individual license types (PA, LAc, DPM) that are covered by the same to similar language in rules that apply to all licensees under division 008.

Rules Coordinator: Malar Ratnathicam

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

Telephone: (971) 673-2713

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Oregon 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:
4-26-11	2 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: 5-4-11

Summary: Currently the OAR covering the administration fee for estimates requests exceeding PERS current limitations allows any member within two years of eligibility for service retirement to request two estimate in a calendar year at no cost. The proposed changes allow only one fee estimate per year and only within one year of retirement eligibility. The proposed changes are needed to reduce workload increases for staff in order to complete all member requests in a timely manner.

This rule is also being amended due to Senate Bill 897, which allows members to required a verification of retirement data at no cost. The proposed rule changes establish procedures for identifying and recovering administrative costs for providing additional verifications of retirement data after the member has received one free verification request.

NOTICES OF PROPOSED RULEMAKING

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: Updates limitations on contributions to a member OPSRP IAP account.

Date:	Time:	Location:
4-26-11	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy., Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: 2003 OL Ch. 733
Stats. Implemented: 2003 OL Ch. 733
Proposed Amendments: 459-080-0500
Last Date for Comment: 5-4-11

Summary: The proposed modifications index (for inflation) the annual addition to a member account for any calendar year.

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 State Marine Board Chapter 250

Rule Caption: Establishes an in-construction zone on Willamette River.

Date:	Time:	Location:
3-30-11	7-9 p.m.	The Portland Bldg. Auditorium 1120 SW Fifth Ave. Portland, OR

Hearing Officer: Randy Henry
Stat. Auth.: ORS 830.110, 830.175, & 830.195
Stats. Implemented: ORS 830.110 & 830.195
Proposed Amendments: 250-020-0280
Last Date for Comment: 3-31-11, 5 p.m.

Summary: In conjunction with the Portland-Milwaukie Light Rail Project construction on a new bridge over the Willamette River (river mile 13.7), Kiewit (design/build contractor) is requesting a bank-to-bank, slow-no-wake zone for 500 feet on either side of the bridge project effective June 2011 through December 2012 and an exclusion zone under the work trestles and within a safety zone under the swing of the cranes for as long as work is being done.

Rules Coordinator: June LeTarte
Address: 435 Commercial St. NE, #400, PO Box 14145, Salem OR 97309-5065
Telephone: (503) 378-2617

Oregon State Treasury Chapter 170

Rule Caption: Requirement for financial advisors to be registered with the Securities and Exchange Commission (SEC) and MSRB.

Stat. Auth.: ORS 287A.365
Stats. Implemented: ORS 287A.360-287A.380
Proposed Amendments: 170-062-0000
Last Date for Comment: 3-25-11, 5 p.m.

Summary: New federal regulations require municipal financial advisors to register with the SEC (17 CFR § 240.15Ba2-6T) and prohibit

a municipal financial advisor from serving as an underwriter in the same negotiated bond sale (Municipal Securities Rulemaking Board (MSRB) Rule G-23).

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

Oregon University System Chapter 580

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

Date:	Time:	Location:
5-12-11	10-11 a.m.	Kerr Admin. Bldg., Rm. B214 Oregon State University Corvallis, OR
5-13-11	10-11 a.m.	Susan Campbell Hall, Rm. 358 University of Oregon Eugene, OR

Hearing Officer: Lynette Hawthorne, Marcia Stuart
Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070
Proposed Amendments: 580-040-0040
Last Date for Comment: 5-17-11, 5 p.m.

Summary: To establish Tuition and Fees for the Academic Year 2011-12, including Room and Board rates. Supersedes all prior Academic Year fee book rules.

Rules Coordinator: Lynette Hawthorne
Address: P.O. Box 488, Corvallis, OR 97339-0488
Telephone: (541) 737-0920

Oregon University System, University of Oregon Chapter 571

Rule Caption: Amend special fees, fines, penalties and services charges — including Family Housing Rental Rates.

Date:	Time:	Location:
4-5-11	2:30 p.m.	Board Room, EMU University of Oregon Eugene, OR

Hearing Officer: Deb Donning
Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070

Proposed Amendments: 571-060-0005
Last Date for Comment: 4-6-11, 12 p.m.

Summary: The University administration has determined that the adoption of the amendments to the fee list will be necessary in order to provide the basis for funding to cover the expenses of the services rendered and to maintain a current schedule of fees, fines, and penalties.

Copies of proposed amendments to Family Housing Rental Rates may be obtained from Deb Donning, Rules Coordinator, at djm@uoregon.edu or 541-346-3013.

Other proposed amendments can be found at the following website: <http://brp.uoregon.edu/fees>.

Rules Coordinator: Deb Donning
Address: Oregon University System, University of Oregon, 1226 University of Oregon, Eugene, OR 97403
Telephone: (541) 346-3082

Secretary of State, Elections Division Chapter 165

Rule Caption: Adopting and Amending Rules Involving Contested Case Hearings.

Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 260.232 & 260.995
Proposed Adoptions: 165-001-0009, 165-001-0016, 165-001-0034, 165-001-0036

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 165-001-0015, 165-001-0040

Last Date for Comment: 3-24-11

Summary: OAR 165-001-0009 is proposed for adoption to incorporate into rule definitions of “Charging Document” and “Agency” when used in Division 1.

OAR 165-001-0015 is proposed for amendment to clarify and make uniform the rule language.

OAR 165-001-0016 is proposed for adoption to require an individual requesting a contested case hearing in person or by telephone to submit to the Secretary of State Elections Division a written response to the allegations in the charging document.

OAR 165-001-0034 is proposed for adoption to require an individual submitting notarized testimony in lieu of a contested case hearing to submit to the Secretary of State Elections Division a written response to the allegations in the charging document.

OAR 165-001-0036 is proposed for adoption to allow an Elections Division employee to represent the agency in certain contested case hearings.

OAR 165-001-0040 is proposed for amendment to prohibit any evidence from being presented at a contested case hearing that was not raised in the charging document or in the written response to the charging document.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Amendment of the 2010 Campaign Finance Manual.

Stat. Auth.: ORS 246.120, 246.150, 246.160 & 260.200

Stats. Implemented: ORS 260.005, 260.007, 260.035, 260.037, 260.038, 260.039, 260.041, 260.042, 260.043, 260.044, 260.045, 260.046, 260.049, 260.054, 260.055, 260.056, 260.057, 260.076, 260.078, 260.083, 260.085, 260.102, 260.112, 260.118, 260.156, & 260.232

Proposed Amendments: 165-012-0005

Last Date for Comment: 3-24-11

Summary: This proposed amendment revises the *2010 Campaign Finance Manual* by updating the hearing procedures used for a late or insufficient filing to require an individual requesting a contested case hearing in person or by telephone to submit to the Secretary of State Elections Division a written response to the allegations in the charging document. Additionally the hearing procedures are proposed for amendment to require an individual submitting notarized testimony in lieu of a contested case hearing to submit to the Secretary of State Elections Division a written response to the allegations in the charging document.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Amendment to Penalty Matrix for Other Campaign Finance Violations.

Stat. Auth.: ORS 246.150 & 260.200

Stats. Implemented: ORS 260.200, 260.215, 260.232 & 260.995

Proposed Amendments: 165-013-0010

Last Date for Comment: 3-24-11

Summary: This rule is proposed for amendment to update the Penalty Matrix for Campaign Finance Civil Penalty Election Law Violations to reflect that the maximum penalties allowed under ORS 260.995 will be assessed for violations contained in the penalty matrix. The proposed amendment also provides for a 50% reduction in penalty assessed if omitted or insufficient information for a violation of ORS 260.039(4), ORS 260.042(4) or ORS 260.118(3) is submitted.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

ADMINISTRATIVE RULES

Board of Examiners for Speech-Language Pathology and Audiology Chapter 335

Rule Caption: Clarifies equivalent licensing requirements, delinquency fees, SLPA supervisor qualifications; changes renewal deadline; addresses written exceptions.

Adm. Order No.: SPA 1-2011

Filed with Sec. of State: 1-28-2011

Certified to be Effective: 2-1-11

Notice Publication Date: 1-1-2011

Rules Amended: 335-001-0009, 335-060-0005, 335-060-0010, 335-060-0030, 335-070-0020, 335-070-0055, 335-070-0085, 335-095-0030, 335-095-0040

Rules Repealed: 335-095-0055

Subject: Defines equivalent credentials for licensure.

Clarifies under what circumstances delinquent fees will or may be charged for rule infractions.

Makes permanent previous temporary rules regarding elimination of "Permit to Supervise SLPs" and its associated fee. Makes permanent previous temporary rules regarding qualifications and conditions for SLPA supervision.

Moves license renewal deadline to December 31st of odd-numbered years to create one-month period between renewal deadline and expiration date of previous license.

Changes professional development hours required for reactivation of recently expired licenses to conform to those of renewed licenses.

Conforms rule regarding filing written exceptions and argument to the Administrative Procedures Act.

Changes miscellaneous text for clarity.

Rules Coordinator: Sandy Leybold—(971) 673-0220

335-001-0009

Filing Exceptions and Argument to the Board

A party adversely affected by a proposed order may file written exceptions and argument with the Board. To be considered by the Board, any exceptions and argument submitted by a party must be received by the Board within 21 days of the mailing date of the proposed order.

Stat. Auth.: ORS 681.420(5)

Stats. Implemented: ORS 183.341

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11

335-060-0005

Definitions

(1) An Inactive License or Certificate may be obtained by those otherwise qualified individuals who are not employed in the field of speech-language pathology or audiology, not residing in Oregon, or are retired from the profession.

(2) A Conditional License is a license certificate issued by the Board to applicants meeting the requirements as stated in ORS 681.260(2). The license provides for the licensee to work under supervision while completing the required nine months of supervised post-educational professional experience and/or until the licensee successfully passes the required examination.

(3) Equivalent credentials for licensure are defined as follows:

(a) For regular licenses in speech-language pathology, if completing a doctoral program in which a master's degree has not been conferred, an applicant must submit a transcript showing completion of course work equivalent to, or exceeding, a master's degree that meets the requirement of ORS 681.260. In addition to the transcript, the Board may require a letter from the academic department chair or program director documenting that the applicant has completed coursework equivalent to or exceeding a master's degree.

(b) For applicants for conditional licenses in speech-language pathology or initial licenses in audiology, when the applicant has completed all degree requirements, but the university is not scheduled to confer the degree for up to 90 days from the date of application, the Board will accept a letter from the university registrar, documenting that the applicant has completed all degree requirements, and has been approved to receive the degree. An official transcript showing the conferral of the degree must be submitted within 60 days of license issuance.

(c) For applicants who completed their professional training in speech pathology or audiology outside of the United States, the Board requires a

determination letter from a credential evaluation service approved by the American Speech-Language Hearing Association to determine equivalency to a master's degree or doctoral degree issued by an accredited program.

Stat. Auth.: ORS 681.340, 681.360, 681.420 & 681.460

Stats. Implemented: ORS 681.460

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2002(Temp), f. 11-8-02, cert. ef. 12-1-02 thru 5-1-03; SPA 1-2003, f. & cert. ef. 5-7-03; SPA 4-2006, f. & cert. ef. 11-3-06; SPA 1-2007, f. & cert. ef. 2-1-07; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11

335-060-0010

Fees

In accordance with the provisions of ORS 681.340 and 681.360, the following fees, where applicable, are payable to the Board by check, money order, or electronic payment if available:

(1) All Applicants:

(a) Application fee shall be \$200, non-refundable.

(b) Delinquent fee shall be \$200.

(c) A delinquent fee will be charged for each or all of the following, as applicable:

(i) Renewal applications postmarked or submitted electronically after December 31st of odd-numbered years;

(ii) Renewal applications postmarked by December 31st of odd-numbered years which are incomplete or otherwise unable to be processed;

(iii) Conditional license renewals or conditional license upgrade applications postmarked less than 30 days prior to the expiration date of the conditional license;

(iv) Requests for special approval of professional development received 30 days or more after the activity is completed;

(d) A delinquent fee may be charged for each or all of the following, as applicable:

(i) Failure to respond to audit by the prescribed deadline;

(ii) Audit responses postmarked by the deadline which are incomplete or otherwise unable to be processed.

(iii) Failure to complete all required hours of professional development prior to January 1st of even-numbered years;

(e) The Board may provide for waiver of the license or certificate fee where the license or certificate is issued less than 45 days before the date on which it will expire.

(2) Speech-Language Pathologists and Audiologists:

(a) Biennial license fee and renewal thereof shall be \$275.

(b) Biennial inactive license fee and renewal thereof shall be \$50.

(c) Conditional license fee and renewal thereof shall be \$125.

(3) Speech-Language Pathology Assistants:

(a) Biennial certificate fee and renewal thereof shall be \$150.

(b) Biennial inactive certificate fee and renewal thereof shall be \$20.

Stat. Auth.: ORS 681.340, 681.360, 681.420 & 681.460

Stats. Implemented: ORS 681.340(1), 681.360(2)(b) & 681.360(3)(b)

Hist.: SPA 2-1993(Temp), f. 12-8-93, cert. ef. 12-10-93; SPA 1-1994, f. & cert. ef. 6-10-94; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2002(Temp), f. 11-8-02, cert. ef. 12-1-02 thru 5-1-03; SPA 1-2003, f. & cert. ef. 5-7-03; SPA 1-2005, f. & cert. ef. 9-13-05; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 1-2010(Temp), f. & cert. ef. 8-11-10 thru 2-4-11; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11

335-060-0030

Biennial Licensure and Renewal

(1) All regular and inactive status speech-language pathologists, audiologists and speech-language pathology assistants shall renew their licenses on a biennial basis, by December 31st of each odd-numbered year.

(2) The Board shall provide the licensee a license renewal notice sent to the address on file with the Board, which will include the following:

(a) The expiration date of the license;

(b) The amount of the renewal fee due; and

(c) The number of professional development hours required for renewal.

(d) For Speech-Language Pathology Assistants, the license renewal notice will include the requirement for the Assistant to report their current supervising Speech-Language Pathologist.

(3) All applications for license renewal must be postmarked or submitted electronically by December 31st of each odd-numbered year, and each licensee must submit:

(a) The renewal application completed in full; and

(b) Payment of the non-refundable fee for license renewal.

(4) Licensees whose renewal forms are postmarked or submitted electronically after December 31st of each odd-numbered year will be charged a delinquency fee. The board may renew each expired regular or inactive status license upon payment of the biennial renewal fee and the delinquency fee.

ADMINISTRATIVE RULES

(5) A license is not considered renewed until the licensee has complied in full with items 3 and 4 above and a new license certificate with a current expiration date has been issued by the Board.

Stat. Auth.: ORS 681.340, 681.420 & 681.460
Stats. Implemented: ORS 681.320(1)
Hist.: SPA 2-1993(Temp), f. 12-8-93, cert. ef. 12-10-93; SPA 1-1994, f. & cert. ef. 6-10-94; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2002(Temp), f. 11-8-02, cert. ef. 12-1-02 thru 5-1-03; SPA 1-2003, f. & cert. ef. 5-7-03; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11

335-070-0020

Professional Development Hours Defined

(1) Professional development is defined as participation in courses, classes, workshops and other activities for the purpose of developing and updating professional skills directly related to the performance and practice of speech-language pathology and audiology:

(a) Activities accepted for professional development include but are not limited to:

(A) Activities on the clinical practice of speech-language pathology and audiology;

(B) Teacher-oriented content that is not related to the profession but enhances ability to serve students;

(C) Business and management activities to enhance practice management;

(D) Courses involving professional ethics, diversity issues, reimbursement issues;

(E) Foreign language study when the language is needed for direct clinical practice;

(F) Supervising clinical fellows, practicum students, publishing articles, making presentations and teaching classes when they are not part of the licensee's regular job responsibilities.

(b) Activities not accepted include but are not limited to:

(A) Attending meetings, including association, business, committee, board meetings;

(B) Serving on committees and volunteer activities;

(C) Work experiences when they are part of the licensee's regular job description including supervising clinical fellows, publishing articles, making presentations and teaching classes.

(2) Credit for professional development shall be calculated on an hourly basis. One professional development hour (PDH) is defined as sixty (60) minutes or one (1) clock hour of attendance/participation in an approved professional development activity unless otherwise stated. For example, one hour may be considered equivalent to .1 CEU; therefore 1.0 ASHA CEU = 10 PDHs.

(3) Licensees shall complete the required professional development hours within the period since the preceding license renewal. For licenses expiring on January 30, 2012, hours must be completed between January 31, 2010 and December 31, 2011. For licenses expiring after January 30, 2012, hours must be completed during the twenty-four months prior to December 31st of each odd-numbered year. Approved professional development hours completed in excess of the requirement shall not be carried over to the subsequent renewal period.

(4) At least fifty percent (50%) of the required professional development hours must be directly related to the clinical practice of speech pathology and audiology.

(5) Not more than fifty percent (50%) of the required professional development hours may be accrued in a single course or activity.

Stat. Auth.: ORS 681.420(5) & 681.460
Stats. Implemented: ORS 681.320(1)(a)
Hist.: SPA 2-1996, f. & cert. ef. 7-22-96; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2003, f. & cert. ef. 5-7-03; SPA 4-2006, f. & cert. ef. 11-3-06; SPA 1-2007, f. & cert. ef. 2-1-07; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11

335-070-0055

Active Licensees

Required professional development for renewal of an active license is:

(1) Speech-Language Pathology and Audiology: Thirty (30) clock hours of documented and approved professional development;

(2) Dual licenses: Thirty (30) clock hours of documented and approved professional development in audiology and thirty (30) clock hours of documented and approved professional development in speech-language pathology. A maximum of fifteen (15) hours may be applied to both licenses if the topic is applicable to both types of licenses. A CPR or universal health precaution class may be only counted once;

(3) Speech-Language Pathology Assistants: Fifteen (15) clock hours of documented and approved professional development;

(4) Licensees shall complete the required professional development hours within the period since the preceding license renewal. For licenses expiring on January 30, 2012, hours must be completed between January

31, 2010 and December 31, 2011. For licenses expiring after January 30, 2012, hours must be completed during the twenty-four months prior to December 31st of each odd-numbered year.

Stat. Auth.: ORS 681
Stats. Implemented:
Hist.: SPA 4-2006, f. & cert. ef. 11-3-06; SPA 1-2007, f. & cert. ef. 2-1-07; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11

335-070-0085

Expired Status

Professional development requirements do not affect those licenses with expired status. However, if the individual whose license is in the expired status wishes to re-activate their license, the following professional development requirements must be met:

(1) If the license has been expired for more than 24 months, the individual must:

(a) Submit proof of completion of 100% of the professional development hours currently required for an active license of their type within the twenty-four (24) month period immediately preceding the date on which the application is submitted; or

(b) Agree to submit proof of completion of one-third of the professional development hours required for an active license of their type within 12 months of the date they are issued the active license. These hours may be counted towards the professional development hours required at next license renewal.

(2) If the license has been expired for less than 24 months, the individual must submit proof of completion of 100% of the professional development hours currently required for an active license of their type within the twenty-four (24) month period immediately preceding the date on which the application is submitted. Any hours completed after December 31st of an odd-numbered year may not be counted towards the professional development requirement for the next renewal cycle.

Stat. Auth.: ORS 681.420(5) & 681.460
Stats. Implemented: ORS 681.320(1)(a)
Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2005, f. & cert. ef. 9-13-05; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11

335-095-0030

Certification of Speech-Language Pathology Assistants

Applicants must submit all of the following to be eligible for certification.

(1) Official transcripts showing 45 quarter hours or 30 semester hours of speech-language pathology technical course work; and

(2) Official transcripts showing 45 quarter hours or 30 semester hours of general education credit, and

(3) Written evidence of 100 clock contact hours of clinical interaction.

(a) Clinical interaction must be face to face interaction with clients and supervised 100% of the time. Activities may include speech and hearing screenings and individual or small group and classroom sessions over a recommended 8-12-week period.

(b) Tasks such as clerical tasks, passive observations, materials preparation and meetings with the supervisor may not be included in the 100 hours.

(c) Clinical interaction documentation must show the date, clinical activity, amount of time and the supervisor's initials and signature. While the practicum student is in training, the supervisor for the clinical interaction must be licensed by Board, or hold the ASHA Certificate of Clinical Competency.

(d) The supervising speech-language pathologist and the applicant will complete the Board's Competency Checklist upon completion of 100 hours. If there is more than one clinical interaction supervisor, each supervisor must complete and sign a Board Competency Checklist.

(e) Applicants presenting transcripts showing practicum course(s) with the required number of clock contact hours of clinical interaction are not required to submit the completed Board Competency Checklist.

Stat. Auth.: ORS 681.360, 681.375, 681.420 & 681.460
Stat. Implemented: ORS 681.360 & 681.375
Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 1-2004, f. & cert. ef. 2-6-04; SPA 2-2004, f. & cert. ef. 5-26-04; SPA 3-2006, f. & cert. ef. 5-8-06; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 1-2010(Temp), f. & cert. ef. 8-11-10 thru 2-4-11; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11

335-095-0040

Qualifications for Supervising Speech-Language Pathology Assistants

(1) All supervision of services provided by a speech-language pathology assistant must be performed by a speech-language pathologist licensed by Board under ORS Chapter 681, or exempt from licensure under ORS 681.230(2).

ADMINISTRATIVE RULES

(2) The supervising speech-language pathologist must have at least two years of professional speech-language pathology experience. The clinical post-graduate fellowship year may be counted as one year of professional experience.

(3) The supervising speech-language pathologist must agree to supervise according to Board requirements, as outlined in OAR 335-095-0050.
Stat. Auth.: ORS 681.360, 681.375, 681.420 & 681.460
Stat. Implemented: ORS 681.360 & 681.375
Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2010(Temp), f. & cert. ef. 8-11-10 thru 2-4-11; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11

Board of Pharmacy
Chapter 855

Rule Caption: Adopt rules for fingerprint-based nationwide criminal background checks on employees, potential employees and volunteers.

Adm. Order No.: BP 1-2011(Temp)

Filed with Sec. of State: 2-8-2011

Certified to be Effective: 2-8-11 thru 6-30-11

Notice Publication Date:

Rules Adopted: 855-010-0050, 855-010-0055, 855-010-0057, 855-010-0060, 855-010-0065, 855-010-0067, 855-010-0070, 855-010-0075, 855-010-0080, 855-010-0085, 855-010-0087

Subject: These rules provide the authority and process for the Board to conduct fingerprint-based nationwide criminal background checks, through the Oregon State Police and FBI, on employees, potential employees and applicants for volunteer positions with the Board. This includes a process for final determination of fitness and an appeals procedure.

A copy of the text can be obtained from the Board's web site, www.pharmacy.state.or.us, or by calling the Board office (971) 673-0001.

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

855-010-0050

Purpose

The purpose of these rules is to provide for the reasonable screening of subject individuals to determine if they have a history of criminal behavior such that they are not fit to work or volunteer for the Board. The fact that the Board determines that a subject individual is fit does not guarantee the individual a position as a Board employee, volunteer, or that the individual will be hired by the Board.

Stat. Auth.: ORS 181.534, 676.303, 689.205
Stats. Implemented: ORS 181.534
Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

855-010-0055

Definitions

As used in OAR 855-010-0050 through 855-010-0086, unless the context of the rule requires otherwise, the following definitions apply:

(1) **Conviction:** A final judgment on a verdict or finding of guilty, a plea of guilty, or 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.

(2) **Fitness determination:** A determination made by the Board, pursuant to the process established under OAR 855-010-0060, that a subject individual is fit or not fit to be a Board employee or volunteer.

(3) **Criminal offender information:** Records and related data concerning physical description and vital statistics, fingerprints received and compiled by the Oregon State Police (OSP) to identify criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release records.

(4) **Criminal records check:** One or more of the following three processes undertaken by the Board to check the criminal history of a subject individual:

(a) A name-based check of criminal offender information conducted through the Law enforcement Data System (LEDS) maintained by the OSP, in accordance with the rules adopted and procedures established by the OSP;

(b) A check of Oregon criminal offender information, through fingerprint identification and other means, conducted by the OSP at the Board's request (Oregon Criminal Records Check); or

(c) A nationwide check of federal criminal offender information, through fingerprint identification and other means, conducted by the OSP through the Federal Bureau of Investigation (FBI) or otherwise at the Board's request (Nationwide Criminal Records Check).

(5) **Criminal Records Request form:** A Board-approved form, completed by a subject individual, requesting the Board to conduct a criminal records check.

(6) **False statement:** In association with an activity governed by these rules, a subject individual either:

(a) Provided the Board with false information about the subject individual's criminal history, including but not limited to false information about the individual's identity or conviction record; or

(b) Failed to provide the Board information material to determining the individual's criminal history.

(7) **Subject Individual:** An individual identified in OAR 855-010-0057 as someone from whom the Board may require a criminal records check.

Stat. Auth.: ORS 181.534, 676.303, 689.205
Stats. Implemented: ORS 181.534
Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

855-010-0057

Subject Individual

The Board may require a subject individual to complete a criminal records check pursuant to these rules because the person is:

(1) A Board employee;

(2) A Board volunteer; or

(3) An applicant for employment with the Board.

Stat. Auth.: ORS 181.534, 676.303, 689.205
Stats. Implemented: ORS 181.534
Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

855-010-0060

Criminal Records Check Process

(1) Disclosure of Information by Subject Individual.

(a) Preliminary to a criminal records check, a subject individual must complete and sign the Board Criminal Records Request form and a fingerprint card. Both forms ask for identifying information (e.g., name, birth date, social security number, physical characteristics, driver's license or identification card number and current address of the subject individual). The Board Criminal Records Request form also requires information about the subject individual's prior residences in other states and any other identifying information deemed necessary by the Board.

(b) A subject individual must complete and submit to the Board the Criminal Records Request form and, if requested, a fingerprint card within five business days of receiving the forms. The Board may extend the deadline for good cause.

(c) The Board may require additional information from the subject individual as necessary to complete the criminal records check and fitness determination, such as, but not limited to, proof of identity, or additional criminal, judicial, or other background information.

(d) The Board shall not request a fingerprint card from a subject individual under the age of 18 years unless the subject individual is emancipated pursuant to ORS 419B.550 et seq, or unless the Board also requests the written consent of a parent or guardian. In such case, such parent or guardian and youth must be informed that they are not required to consent. Notwithstanding, failure to consent may be construed as a refusal to consent under OAR 855-010-0065(3).

(2) When a Criminal Records Check is required. The Board may conduct, or request the OSP to conduct, a criminal record check when:

(a) An individual meets the definition of a subject individual; or

(b) Required by federal law or regulation, by state statute or administrative rule, or by contract or written agreement with the Board.

(3) Which Criminal Records Check is conducted. When the Board determines under section (2) of this rule that a criminal records check is needed, the Board may request or conduct a LEDS Criminal Records Check, an Oregon Criminal Records Check, a Nationwide Criminal Records Check, or any combination thereof.

Stat. Auth.: ORS 181.534, 676.303, 689.205
Stats. Implemented: ORS 181.534
Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

855-010-0065

Final Fitness Determination

(1) If the Board elects to conduct a criminal records check, the Board shall make a fitness determination about a subject individual based on information provided by the subject individual under OAR 855-010-0060(1), any criminal records check conducted, and any false statement made by the subject individual.

ADMINISTRATIVE RULES

(2) In making a fitness determination about a subject individual, the Board will also consider the factors in subsections (a) through (f) below in relation to information provided by the subject individual under OAR 855-010-0060(1), any LEDS report or criminal offender information obtained through a criminal records check, and other information known by the Board. To assist in considering these factors, the Board may obtain any 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 criminal offender information from the subject individual, the Board may request to meet with the subject individual, and may request to receive written materials or authorization to obtain other relevant information, from the subject individual. The subject individual shall meet with the Board if requested and provide additional information or authorization within a reasonable period of time, as established by the Board. The Board will use all collected information in considering:

(a) Whether the subject individual has been convicted, found guilty except for insanity (or a comparable disposition), or has a pending indictment for a crime listed in OAR 855-010-0067;

(b) The nature of any crime identified under section (2)(a) of this rule;

(c) The facts that support the conviction, finding of guilty except for insanity, or pending indictment;

(d) Any facts that indicate the subject individual made a false statement;

(e) The relevance, if any, of a crime identified under section (2)(a) of this rule or of a false statement made by the subject individual to the specific requirements of the subject individual's present or proposed position, services or employment; and

(f) The following intervening circumstances, to the extent that they are relevant to the responsibilities and circumstances of the services or employment for which the fitness determination is being made:

(A) The passage of time since the commission or alleged commission of a crime identified under section (2)(a) of this rule;

(B) The age of the subject individual at the time of the commission or alleged commission of a crime identified under section (2)(a) of this rule;

(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 855-010-0067;

(E) Whether a conviction identified under section (2)(a) of this rule has been set aside, and the legal effect of setting aside the conviction;

(F) A recommendation of an employer;

(G) The disposition of a pending indictment identified under section (2)(a) of this rule;

(H) Whether the subject individual has been arrested for or charged with a crime listed under OAR 855-010-0067;

(I) Whether the subject individual is being investigated, or has an outstanding warrant, for a crime listed under OAR 855-010-0067;

(J) Whether the subject individual is currently on probation, parole or another form of post-prison supervision for a crime listed under 855-010-0067;

(K) Whether the subject individual has a deferred sentence or conditional discharge in connection with a crime listed under OAR 855-010-0067;

(L) 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 855-010-0067 if committed by an adult;

(M) Periods of incarceration of the subject individual;

(N) The education and work history (paid or volunteer) of the subject individual since the commission or alleged commission of a crime.

(3) Refusal to Consent. If a subject individual refuses to submit or consent to a criminal records check including fingerprint identification, the Board will deny the employment of the subject individual 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 determined to be not fit, the subject individual may not be employed by or provide services as a volunteer to the Board.

(5) Final Order. A completed final fitness determination is a final order of the Board unless the affected subject individual appeals the determination by requesting a contested case hearing as provided by OAR 855-010-0080(2) or an alternative appeals process as provided by OAR 855-010-0080(6).

Stat. Auth.: ORS 181.534, 676.303, 689.205

Stats. Implemented: ORS 181.534

Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

855-010-0067

Potentially Disqualifying Crimes

(1) Crimes Relevant to a Fitness Determination:

(a) All felonies;

(b) All misdemeanors;

(c) Any United States Military crime or international crime;

(2) Evaluation of Crimes. The Board shall evaluate a crime on the basis of the law of the jurisdiction in which the crime or offense occurred, as those laws are in effect at the time of the fitness determination.

(3) Expunged Juvenile Record. Under no circumstances shall a subject individual be determined to be not fit under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and ORS 419A.262.

Stat. Auth.: ORS 181.534, 676.303, 689.205

Stats. Implemented: ORS 181.534

Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

855-010-0070

Incomplete Fitness Determination

(1) The Board 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 855-010-0057;

(b) The subject individual does not submit materials or information within the time required under OAR 855-010-0060;

(c) The Board cannot locate or contact the subject individual;

(d) The subject individual fails or refuses to cooperate with the Board's attempts to acquire other criminal records information under OAR 855-010-0065; or

(e) The Board determines that the subject individual is not eligible or not qualified for the position of employee or volunteer, for a reason unrelated to the fitness determination process.

(f) The position is no longer open.

(2) A subject individual does not have a right to a contested case hearing under OAR 855-010-0080(2) or a right to an alternative appeals process under OAR 855-010-0080(6) to challenge the closing of a fitness determination as incomplete.

Stat. Auth.: ORS 181.534, 676.303, 689.205

Stats. Implemented: ORS 181.534

Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

855-010-0075

Notice to Subject Individual of Fitness Determination

The Board shall inform the subject individual who has been determined not to be fit on the basis of a criminal records check, via personal service, or registered or certified mail to the most current address provided by the subject individual, of such disqualification.

Stat. Auth.: ORS 181.534, 676.303, 689.205

Stats. Implemented: ORS 181.534

Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

855-010-0080

Appealing a Fitness Determination

(1) Purpose: Sections (2) to (5) of this rule set forth the contested case hearing process a subject individual must use to appeal a completed final fitness determination made under OAR 855-010-0065 that the individual is not fit to hold a position with, or provide services to the Board as an employee or volunteer. Section (6) of this rule identifies an alternative appeal process available only to current Board employees.

(2) Appeal process.

(a) To request a contested case hearing, the subject individual or the subject individual's legal representative must submit a written request for a contested case hearing to the address specified in the notice provided under OAR 855-010-0075. To be timely, the request must be received by the Board at the specified address within 14 calendar days of the date stated on the notice. The Board shall address a request received after expiration of the deadline as provided under OAR 137-003-0528.

(b) When a timely request is received by the Board under subsection (a), a contested case hearing shall be conducted by an administrative law judge assigned by the Office of Administrative Hearings, pursuant to the Attorney General's Uniform and Model Rules, "Procedural Rules, Office of Administrative Hearings" OAR 137-003-0501 to 137-003-0700, as supplemented by the provisions of this rule.

(3) Discovery. The Board or the administrative law judge may protect information made confidential by ORS 181.534(15) or other applicable law as provided under OAR 137-003-0570(7) or (8).

(4) No Public Attendance. Contested case hearings on fitness determinations are closed to non-participants.

ADMINISTRATIVE RULES

(5) Proposed and Final Order:

(a) Proposed Order. After a hearing, the administrative law judge will issue a proposed order.

(b) Exceptions. Exceptions, if any, shall be filed within 14 calendar days after service of the proposed order. The proposed order shall provide an address to which exceptions must be sent.

(c) Default. A completed final fitness determination made under OAR 855-010-0065 becomes final:

(A) Unless the subject individual makes a timely request for a hearing; or

(B) When a party withdraws a hearing request, notifies the Board or the ALJ that the party will not appear, or fails to appear at the hearing.

(6) Alternative Process. A subject individual currently employed by the Board may choose to appeal a fitness determination either under the process made available by this rule or through a 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.

(7) Remedy. The only remedy that may be awarded is a determination that the subject individual is fit or not fit. Under no circumstances shall the Board be required to place a subject individual in any position, nor shall the Board be required to accept services or enter into a contractual agreement with a subject individual.

(8) 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 OSP, the FBI, or agencies reporting information to the OSP or the FBI.

(a) To challenge information identified in this section of the rule, a subject individual may use any process made available by the agency that provided the information.

(b) If the subject individual successfully challenges the accuracy or completeness of information provided by the OSP, the FBI, or an agency reporting information to the OSP or the FBI, the subject individual may request that the Board conduct a new criminal records check and re-evaluate the original fitness determination made under OAR 855-010-0065 by submitting a new Board Criminal Records Request form. This provision only applies if the position for which the original criminal history check was conducted is vacant and available.

(9) Appealing a fitness determination under section (2) or section (6) of this rule, challenging criminal offender information with the agency that provided the information, or requesting a new criminal records check and re-evaluation of the original fitness determination under section (8)(b) of this rule, will not delay or postpone the Board's hiring process or employment decisions.

Stat. Auth.: ORS 181.534, 676.303, 689.205
Stats. Implemented: ORS 181.534
Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

855-010-0085

Recordkeeping and Confidentiality

Any information obtained in the criminal records check is confidential. The Board must restrict the dissemination of information obtained in the criminal records check. Only those persons, as identified by the Board, with a demonstrated and legitimate need to know the information, may have access to criminal records check records.

Stat. Auth.: ORS 181.534, 676.303, 689.205
Stats. Implemented: ORS 181.534
Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

855-010-0087

Fees

(1) The Board may charge a fee for acquiring criminal offender information for use in making a fitness determination that will not exceed the fee charged the Board by the OSP and the FBI to obtain such information.

(2) The Board may charge the fee to the subject individual on whom criminal offender information is sought.

Stat. Auth.: ORS 181.534, 676.303, 689.205
Stats. Implemented: ORS 181.534
Hist.: BP 1-2011(Temp), f. & cert. ef. 2-8-11 thru 6-30-11

Board of Psychologist Examiners Chapter 858

Rule Caption: Rule corrections and updates; equivalency of foreign degrees.

Adm. Order No.: BPE 1-2011

Filed with Sec. of State: 1-25-2011

Certified to be Effective: 1-25-11

Notice Publication Date: 1-1-2011

Rules Amended: 858-010-0007, 858-010-0010, 858-010-0015, 858-010-0036, 858-010-0039, 858-040-0015

Subject: Adds foreign degree determination by Board-approved credentialing body as a qualification for psychologist licensure; other minor housekeeping items.

Rules Coordinator: Debra Orman McHugh—(503) 373-1155

858-010-0007

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of a permanent rule, the Board of Psychologist Examiners shall 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 twenty-one (21) days prior to the effective date;

(2) By mailing or emailing a copy of the notice to individuals on the Board's mailing list established pursuant to ORS 183.335(8);

(3) By mailing or emailing a copy of the notice to the following individuals, organizations, or publications:

- (a) All licensees of the Board;
- (b) Oregon Psychological Association; and
- (c) All applicants for licensure.

(4) Prior to the adoption, amendment, or repeal of any rule of the Board relating to continuing education, the Board shall additionally mail a copy of the notice to the State Board of Higher Education.

Stat. Auth.: ORS 675.010 - 675.150
Stats. Implemented: ORS 675.110

Hist.: PE 13, f. & ef. 9-15-76; PE 1-1990, f. & cert. ef. 2-16-90; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11

858-010-0010

Education Requirements — Psychologist

(1) To meet the education requirement of ORS 675.030(1), an applicant must possess either:

(a) A doctoral degree in psychology from a program accredited by the American Psychological Association as of the date the degree was awarded; or

(b) A doctoral degree in psychology from a program at a college or university that is regionally accredited at the doctoral level by any one of the following regional accrediting associations: Northwest, North Central, Western, New England, Middle States or Southern; or

(c) A foreign degree from a program evaluated to be equivalent to American Psychological Association accreditation as of the date the degree was awarded. Evaluation must be completed by a credentialing body recognized by the Board. Submission of proof of foreign degree equivalency and cost of the foreign degree equivalency determination are the responsibility of the applicant; and

(d) A minimum of three academic years of full-time graduate study including at least one year which is in residence at the institution from which the degree is granted, or its equivalent. Residence requires interaction with psychology faculty and other matriculated psychology students; one year's residence or its equivalent is defined as follows:

(i) Thirty semester hours or 45 quarter hours or the equivalent; or

(ii) A minimum of 500 hours of student-faculty contact involving face-to-face individual or group educational meetings. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90 percent of the time, be documented by the applicant and the institution, and relate substantially to the program components specified.

(2) The program under sections (1)(a) or (b) must be defined as follows:

(a) Organizational Structure. The organizational structure of the graduate program must be defined as follows:

(A) The program must be identified and labeled as a program in psychology;

(B) The program must stand as a recognized entity within the institution;

(C) There must be an authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines;

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(D) There must be a sequence of study planned by those responsible for the program to provide an appropriate, integrated experience covering the field;

(E) There must be a faculty and a person administratively responsible for the program;

(F) There must be a body of students selected on the basis of high ability and appropriate educational preparation.

(b) Curriculum. The curriculum of the program must require applicant's successful completion of the following:

(A) 40 semester hours (60 quarter hours) of graduate courses identified by title and course content as psychology, that may include clinical, counseling, industrial/ organizational and school psychology, excluding thesis and practica;

(B) An original dissertation or equivalent that was psychological in nature that meets the requirement for an approved doctoral program;

(C) Three or more graduate semester hours (five or more graduate quarter hours) each in biological basis of behavior (including, but not limited to physiological psychology, comparative psychology, neuropsychology, psychopharmacology, sensation and perception, biological basis of development); cognitive-affective basis of behavior (including, but not limited to learning, thinking, motivation, emotion, cognitive development); social basis of behavior (including, but not limited to social psychology, organization theory, community psychology, social development); individual differences (including, but not limited to human development, personality theory, psychopathology); and

(D) At least one graduate course each in research design and methodology; statistics and psychometrics; and scientific and professional ethics.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030(1)(b)(c)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11

858-010-0015

Education Requirements – Psychologist Associate

(1) To meet the education requirement of ORS 675.030(1), an applicant must possess a masters degree in psychology from a program at a college or university that was regionally accredited at the graduate level as of the date the degree was awarded by any one of the following regional accrediting associations: Northwest, North Central, Western, New England, Middle States or Southern.

(2) The masters program shall include at least 45 quarter hours or 30 semester hours of graduate credit, 30 quarter hours or 20 semester hours of which must be in graded (not "pass-no pass") courses. Hours shall be from at least five of the basic areas of psychology including:

(a) Experimental psychology; Learning theory; Physiological psychology; Motivation; Perception; Comparative psychology; Statistical methods; Design of research; Developmental psychology; Individual differences; Social psychology; Organizational psychology; Personality theory; Abnormal psychology; and

(b) A minimum of one graduate level course in ethics; and

(c) A minimum of one graduate level course psychological tests and measurements.

Stat. Auth.: ORS 675.065

Stats. Implemented: ORS 675.065(1)(4)(c)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & cert. ef. 9-5-79; PE 1-1989(Temp), f. & cert. ef. 2-24-89; PE 2-1989, f. & cert. ef. 5-24-89; PE 3-1989(Temp), f. & cert. ef. 9-7-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1993(Temp), f. & cert. ef. 2-12-93; PE 3-1993, f. & cert. ef. 4-13-93; PE 5-1993, f. & cert. ef. 10-6-93; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 1-2002(Temp), f. 1-28-02, cert. ef. 1-31-02 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11

858-010-0036

Guidelines for Supervised Work Experience Psychologists

(1) Policy. Two years of supervised work experience is required for licensure. A minimum of one year of the required work experience must take place after the doctorate degree is conferred.

(a) One year of supervised work experience is defined as 1,500 hours of psychological work performed over a period not less than twelve months.

(b) The Board may approve one year of pre-doctoral supervised work experience if the experience was a formal requirement of the applicant's doctoral program.

(c) Psychological work is defined as psychotherapy and treatment for an individual or group; diagnosis and assessment; completing documentation related to diagnosis or treatment provided; treatment planning; termi-

nation reports; chart reviews; client care meetings and consultation; psychological testing; research related to client care; report writing; and receiving formal training including workshops and conferences.

(d) At least 50% of psychological work must be face-to-face client contact.

(e) For the purposes of licensure, psychological work does not include business development; credentialing activities; marketing; purchasing; creating forms; administrative billing or other business management activities.

(2) The following guidelines shall be used by the Board to define supervised employment. While obtaining postdoctoral supervised work experience, the applicant must be in a Board approved Resident Supervision Contract:

(a) Working under the supervision of an Oregon licensed psychologist licensed in Oregon for at least two years; or

(b) Working under the supervision of an Oregon licensed psychologist licensed for at least two years in a state with licensing standards comparable to Oregon.

(c) Supervised employment in other jurisdictions must be in a formal supervised work experience arrangement under the supervision of a psychologist who has been licensed for at least two years in a state with licensing standards comparable to Oregon or

(d) For the period April 8, 2008 through December 31, 2009, an employee of an institution or agency exempt from licensure under ORS 675.090 (1)(e), who provides documentation of supervision by a psychologist licensed for at least two years may, at the discretion of the Board, receive supervised employment credit.

(3) Applicants whose educational credentials and professional references have been approved by the Board shall be eligible to enter into a Resident Supervision Contract as described in subsection (2)(a) of this rule.

(a) Resident status shall begin the date the Board approves the Resident Supervision Contract.

(b) Termination of a Resident Supervision Contract will be granted by the Board at the written request of the supervisor or the resident. The termination shall be effective at the time the Board approves the request in writing, or on the date indicated by the supervisor in the final residency evaluation, whichever is later.

(c) If the supervisor is to be paid for supervision payment must be in the form of a per-hour fee.

(d) Supervision of more than two residents concurrently shall require prior approval by the Board.

(4) Resident's Responsibilities. The resident's conduct must conform to the following standards:

(a) Title. The resident must be designated at all times by the title "psychologist resident." All signed materials, letterheads, business cards, telephone directory listings, Internet postings; brochures, insurance billings and any other public or private representation must include the individual's title as "psychologist resident" and the supervisor's name and designation "supervisor."

(b) Scope of Practice. The resident will only offer services in those areas that the supervisor is competent.

(c) Nature of Supervision. The resident must obtain frequent and regular supervision meetings throughout the duration of the Resident Supervision Contract. The resident must provide the supervisor with a periodic evaluation of all cases and psychological activities in which the resident is engaged. The resident's practice must comply with Oregon laws and administrative rules.

(d) The supervisor is not required to be working on-site with the resident.

(e) Non-routine individual supervision may occur by electronic means when geographical distance, weather or emergency prohibit a face-to-face meeting.

(f) Frequency. If a resident works 1-20 hours in a week the resident must at least one hour of individual supervision every week. If a resident works more than 21 hours in a week the resident must receive at least two hours of supervision every week. One hour must be individual and one hour may be group supervision. On a non-routine basis individual supervision may be delayed up to 14 days to accommodate vacations, illness, travel or inclement weather.

(A) Group supervision must be:

(i) A formal and on-going group of at least three mental health professionals;

(ii) Facilitated by a licensed mental health professional;

(iii) Approved by the resident's supervisor; and

(iv) All legal and ethical issues must be referred back to the supervisor if the group facilitator is not a licensed psychologist.

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(g) Duration. The resident status is a transitional step toward licensure and is not intended as a means to avoid licensure. A Psychologist Resident Contract shall be effective for a period, not to exceed two years from the date of Board approval. The Board may extend the contract beyond two years upon a written request from the resident and the supervisor prior to the expiration of the contract. Failure to receive a courtesy reminder notice from the Board shall not relieve the resident of the responsibility to request an extension.

(h) Confidentiality. The resident must advise all clients orally and in their informed consent policy that the supervisor may have access to all information and material relevant to the client's case.

(i) Promptly communicate to the Board any significant interruption or expected termination of the Resident Supervision Contract;

(j) The resident must provide the Board with a Supervisor Evaluation Report at the conclusion, or termination of the Resident Supervision Contract.

(5) Responsibilities of the Supervisor. The supervisor's conduct must conform to the following standards:

(a) Closely review, supervise and evaluate representative and problem cases with attention to diagnostic evaluation, treatment planning, ongoing case management, emergency intervention, recordkeeping and termination;

(b) Countersign all psychological reports and professional correspondence produced by the resident; and ensure that letterhead, business cards, telephone directory listings, brochures, insurance billing and any other public or private representation includes the appropriate title of "Psychologist Resident" or "Psychologist Associate Resident" the supervisor's name and designation as "supervisor" Client progress notes do not need to be co-signed by the supervisor.

(c) Review with the resident, Oregon laws and administrative rules related to the practice of psychology, including the 2002 APA "Ethical Principles of Psychologists and Code of Conduct," professional relationships and referrals, protection of records, billing practices, recordkeeping and report writing;

(d) Assist the psychologist resident in developing a plan to prepare for the national written exam and the Oregon jurisprudence examination;

(e) Promptly communicate to the Board any professional or ethical concerns regarding the resident's conduct or performance;

(f) Promptly communicate to the Board any significant interruption or expected termination of the Resident Supervision Contract;

(g) Ensure that the resident has access to supervision by telephone to discuss urgent matters, if the supervisor is unavailable for any reason, during a period not to exceed fourteen days;

(h) In the absence of the primary supervisor, not to exceed fourteen days, one-on-one supervision hours may be conducted retro-actively.

(i) Keep notes of each supervisory session, and provide them to the Board upon request;

(j) Maintain a record of hours of supervision and provide it to the Board upon request and

(k) Provide the Board with a Resident Evaluation Report at the conclusion, or termination, of the Resident Supervision Contract.

(6) Associate Supervisor. Any supervision of the resident by a person other than the primary supervisor must be identified in the Resident Contract and approved by the Board.

(a) The associate supervisor is responsible for providing supervision as described in section (5) of this rule in the event that the primary supervisor is unavailable for any reason; and

(b) The associate supervisor is responsible for reporting any professional or ethical concerns regarding the resident's conduct or performance to the primary supervisor and the Board.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110
Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050, 675.065, 675.110
Hist.: PE 1-1988, f. & cert. ef. 7-25-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11

858-010-0039

Application for Independent Status – Psychologist Associate

A licensed psychologist associate may apply to the Board for approval to function as an independent psychologist associate. Independent status will be granted only after at least three years of work as a licensed psychologist associate or a psychologist at a demonstrated high level of professional proficiency.

Stat. Auth.: ORS 675.065 & 675.110
Stats. Implemented: ORS 675.065 & 675.110
Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 1-2011, f. & cert. ef. 1-25-11

858-040-0015

Basic Requirements

(1) Licensees must earn at least 50 continuing education credits during the period between license renewals. Continuing education credit must be reported as follows:

(a) Licensees must submit a Renewal Notice and Reporting Affidavit to the Board office with the fee on or before the due date printed on the notice.

(b) An unsigned or incomplete Renewal Notice and Reporting Affidavit shall be returned to the licensee.

(2) New Licensees. There is no continuing education reporting required for individuals licensed twelve months or less on their first renewal date.

(3) All active and semi-active licensees must complete four hours of professional ethics in each reporting period.

(4) All active and semi-active licensees must complete a minimum of seven hours of continuing education dedicated to the topic of pain management. This is a one time requirement.

(a) One hour must be a course provided by the Oregon Pain Management Commission.

(b) The pain management requirement must be reported within twenty-four months of the first Renewal Notice and Affidavit.

(5) No continuing education reporting is required for licensees requesting a change from active or semi-active to inactive status.

(6) No continuing education reporting is required for inactive licensees.

(7) The Board may grant exemptions in whole or in part from continuing education requirements, including extension of deadlines, in documented hardship cases.

Stat. Auth.: ORS 675.110
Stats. Implemented: ORS 675.110(14)
Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11

Board of Tax Practitioners Chapter 800

Rule Caption: 2010 Overhaul of OAR's based on recommendations made by the Rules Advisory Committee and voted on by the Board.

Adm. Order No.: BTP 1-2011

Filed with Sec. of State: 1-24-2011

Certified to be Effective: 2-1-11

Notice Publication Date: 12-1-2010

Rules Adopted: 800-030-0030

Rules Amended: 800-010-0015, 800-010-0030, 800-010-0040, 800-010-0041, 800-010-0050, 800-015-0010, 800-015-0015, 800-015-0030, 800-020-0015, 800-020-0025, 800-020-0026, 800-025-0020, 800-025-0023, 800-025-0025, 800-025-0027, 800-025-0030, 800-025-0050, 800-025-0060, 800-030-0025, 800-030-0050

Subject: The amendments to the Oregon Administrative Rules result from the Board's Rules Advisory Committee, Assistant Attorney General and Board staff recommendations and are for general "housekeeping" & "maintenance" as well as to change language to better reflect the "norm" in industry standards and the practices of other state agencies. In addition, the proposed amendments will provide better clarification to constituents as well as continue to conform to the current standards the Board is operating under.

Other than "housekeeping" language changes and/or additions more substantial changes include the following:

1. Amendment to OAR 800-010-0040 clarifies existing rule that state personal income tax returns shall include the signature and Board issued license number of the licensee who has substantially prepared the return.

2. Amendment to OAR 800-010-0050 defines advertising as any forms of printed, broadcast or electronic material.

3. Amendment to 800-015-0010 allows for correspondence and online study courses approved by specific sponsors be automatically accepted for continuing education requirements if subject matter complies with rules defining acceptable/unacceptable areas of study for licensees. Correspondence and self-study courses not approved by outlined sponsors will still require Board approval. Changes will

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not affect current rules related to live seminars, live group webinars or live phone forums, these courses are accepted/not accepted based on compliance with rules pertaining to acceptable/unacceptable areas of study.

4. Amendment to 800-025-0050 to include the specific number of hours that licensed tax preparers must have in conjunction with the required 1 year tax preparation experience, within the previous 3 years, that would qualify them to not have to be under the immediate, onsite supervision of more experienced personnel when preparing, advising, or assisting in the preparation of tax returns.

5. Amendment to 800-025-0060 to require that all tax preparation businesses must notify the Board within 15 business days of any change of resident consultant.

6. Amendment to 800-030-0025 additions to the civil penalty matrix.

7. Creates new rule 800-030-0030 that gives authority to Board representatives to inspect, investigate or evaluate a business or branch office.

Rules Coordinator: Jane Billings—(503) 373-1691

800-010-0015

Definitions

As used in these rules, unless the context requires otherwise:

- (1) "Board" means the State Board of Tax Practitioners.
- (2) "Branch Office" means an office or other place of business where clients would normally or usually contact a licensee.
- (3) "Client" means a person for whom a licensee performs or agrees to perform professional services for a fee and the services are related directly or indirectly to the client's personal income taxes.
- (4) "Confidential Information" means information furnished to a licensee for, or in connection with, the preparation of a client's income tax return.
- (5) "Designated Consultant" means a Licensed Tax Consultant who is the responsible individual for the preparation of all personal income tax returns prepared for the public for each registered tax preparation business.
- (6) "Licensee" means a Licensed Tax Consultant, Licensed Tax Preparer, or any person, corporation, firm or partnership falling within the purview of ORS 673.605 to 673.735.
- (7) "Resident Consultant" means the Licensed Tax Consultant who is physically present to conduct and carryout his/her duties in the principal or branch office.
- (8) "Tax Consultant or Tax Preparer Practice" and a licensee's "professional practice" means any service performed or supervised by the licensee for a client, including any advice or recommendation made by the licensee to the client, when it is related directly or indirectly to the client's personal income tax return, if the licensee also prepares the client's personal income tax returns.
- (9) "Tax Preparation Business" means a sole proprietorship, partnership, corporation or other entity that offers personal income tax preparation services to the public, for a fee, whether operated under an individual's own name or under an assumed business or corporate name, and including tax preparation businesses operated on a full- or part-time basis.
- (10) "Valuable Consideration", as used in ORS 673.615 and OAR Chapter 800, means a benefit that accrues to a person as a result of preparing, advising or assisting in the preparation of personal tax returns for others, or offering to perform such services. Valuable consideration need not be translatable into dollars and cents.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 6-1986, f. & ef. 12-31-86; TSE 3-1987, f. & ef. 10-2-87; TSE 1-1990, f. & cert. ef. 1-25-90; TSE 4-1991, f. & cert. ef. 10-28-91; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-010-0030

Accountability

(1) A Licensed Tax Consultant or registered tax preparation business shall only allow persons to practice in the consultant's or tax preparation business name who are licensed as tax consultants, tax preparers, or as described in ORS 673.610.

(2) A Licensed Tax Consultant shall not permit the use of the consultant's license to enable others to establish and carry on a business for the preparation of personal income tax returns wherein the consultant's only interest is the receipt of a fee for use of the consultant's license and the

Licensed Tax Consultant does not provide supervision of the tax preparation activities as defined in OAR 800-025-0050.

(3) A Licensed Tax Consultant or a Licensed Tax Preparer shall not state or imply that a Licensed Tax Preparer preparing tax returns to which the consultant's license number or tax preparation business information is affixed is not:

- (a) Fully subject to the supervision of the Licensed Tax Consultant or registered tax preparation business; as defined in OAR 800-025-0050; or
- (b) Acting as agent of the Licensed Tax Consultant or registered tax preparation business.

(4) A Licensed Tax Preparer shall not engage in the preparation of tax returns, assist in such preparation, gather tax information, or provide tax advice unless the Licensed Tax Preparer is under the supervision of a Licensed Tax Consultant as defined in OAR 800-025-0050.

(5) A licensee shall not maintain a financial interest in or hold an employment position with any business entity that offers personal income tax preparation services, if any other person maintains a financial interest in the entity, or holds a management position involving authority over the business operations of the entity, and:

- (a) That person's tax consultants or tax preparers license has been permanently revoked; or
- (b) The Board has refused to issue or renew a license to that person; or

(c) Another state regulatory agency or the Internal Revenue Service has revoked or refused to issue or renew an occupational license, registration or permit held or requested by that person, for conduct involving tax preparation or dishonesty.

(6) If required to do so under section (5) of this rule, a licensee shall be allowed a reasonable time, not to exceed 180 calendar days, to sever an existing relationship with a person whose license is revoked or refused.

(7) Section (5) of this rule does not apply to a licensee or a person described in subsections (5)(a) through (c) of this rule, whose only financial interest in a tax preparation business is the ownership of ten percent or less of the stock in a publicly-held corporation.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 1-1985, f. & ef. 1-15-85; TSE 8-1987, f. & ef. 12-21-87; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-010-0040

Identification

(1) A licensee shall include the name of the tax preparation business, permanent address, and signature on the original and all copies of federal and state personal income tax returns or electronic filing documents prepared by the licensee, together with all other data required by the Internal Revenue Service, Department of Revenue, and State Board of Tax Practitioners. Office copies are exempt from this requirement.

(2) The state personal income tax return shall include the signature and the board issued license number of the licensee who substantially prepared the return.

(3) In addition to the original copies of returns provided to or filed on behalf of a client, at least one (1) duplicate copy of the complete set of the returns, including all accompanying forms and schedules, shall be supplied to the client. A licensee is not required to provide duplicate records to a client more than once. However, in the case of a joint return, each spouse is entitled, upon request, to a copy of the return.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 12, f. & ef. 9-20-77; TSE 1-1978, f. & ef. 2-3-78; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1995, f. & cert. ef. 5-5-95; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-010-0041

Address and Telephone

Licensees shall file with the Board their current mailing address, residence address, e-mail address and telephone number(s). Licensees shall also file with the Board their current tax preparation business address, telephone number and a year-round address and telephone number where clients and the Board may contact the licensee. Whenever any of the information required in this section changes, the licensee shall notify the Board within 15 business days.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 1-1985, f. & ef. 1-15-85; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

ADMINISTRATIVE RULES

800-010-0050

Advertising and Solicitation

(1) As used in this rule, "advertise" and "advertising" means any form of printed, broadcast or electronic material that makes known professional income tax services. This includes, but is not limited to, business cards and stationery, and all web and e-commerce advertising of an individual or tax preparation business.

(2) No licensee or tax preparation business shall advertise or solicit clients in a false, fraudulent, deceptive or misleading manner.

(3) All advertising must include the name of a firm that has complied with ORS 673.643 or state the name of the firms Designated Licensed Tax Consultant.

(a) Only a person holding a valid Tax Consultant's License may use the designation "L.T.C.", "LTC" or the titles "Licensed Tax Consultant" or "Tax Consultant."

(b) Only a person holding a valid Tax Preparer's License may use the designation "L.T.P.", "LTP" or the title "Licensed Tax Preparer".

(4) All advertising shall be reviewed and approved in advance by the designated Licensed Tax Consultant. The designated Licensed Tax Consultant and the designating tax preparation business shall each be responsible for the business's compliance with the provisions of this rule.

(5) No licensee shall advertise to give a discount unless:

(a) The discount is based upon a basic fee schedule posted in public view in the licensee's place of business; and

(b) The fees on the posted basic fee schedule are the usual and customary charges of the tax preparation business; and

(c) The basic fee schedule must include the minimum fees charged for at least the following forms and schedules: 1040, 1040A, 1040EZ, Sch. A, Sch. B, Sch. EIC, Form 2441, Form 8812, Oregon 40 & 40S.

Stat. Auth.: ORS 673.663

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 2-1981(Temp), f. 2-18-81, ef. 2-19-81; TSE 3-1981, f. 7-22-81, ef. 7-23-81; TSE 4-1981, f. & ef. 8-13-81; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1986, f. & ef. 7-14-86; TSE 2-1990, f. & cert. ef. 1-25-90; TSE 2-1992, f. & cert. ef. 5-15-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-015-0010

Continuing Education

(1) Except for renewal of an initial license, a Licensed Tax Consultant or Licensed Tax Preparer renewing a license shall submit evidence of attending or by self-attestation on the renewal must complete at least 30 hours of acceptable continuing education since the last renewal date.

(2) If by self-attestation, each licensee shall report compliance with the continuing education requirements on the license renewal document. Licensees shall be subject to the provisions of OAR 800-015-0015 pertaining to the periodic audit of continuing education.

(3) If by self-attestation, proof of participation in required continuing education is the responsibility of the licensee. To ensure that proof of attainment of required continuing education is available for audit or investigation by the Board, licensees shall maintain a record of attendance for at least two (2) years following each continuing education cycle and renewal of the tax practitioner license.

(4) Continuing education credit will be accepted only for courses and seminars that comply with all Board rules regarding continuing education.

(5) The Board may verify continuing education information submitted by licensees.

(6) Education hours earned in excess of 30 hours annually cannot be carried over from one renewal period to the next, except extra hours earned during the month of renewal not claimed on that renewal may be submitted with the following year's renewal.

(7) Continuing education credit shall be granted only once during a license year for attendance at or instruction of duplicate seminars offered by the same sponsor or instructor.

(8) Continuing education credit for courses at accredited universities and colleges will be 15 hours for each semester hour credit and ten (10) hours for each quarter hour credit. For all other courses and seminars, one (1) hour of continuing education credit will be allowed for each hour of classroom attendance.

(9) Continuing education credit may be accepted for instructors of basic or advanced courses or seminars. The credit allowed will be two (2) hours for each hour of teaching, which includes preparation time. No more than ½ of total required continuing education credit can be in teaching.

(10) Correspondence and online study courses may be accepted if the program and sponsor comply with all Board rules regarding continuing education and:

(a) The sponsor requires evidence of satisfactory completion of workbooks or examinations before certificates are issued.

(b) The hours credited do not exceed the credit that would be allowed in a resident course covering the same material; and

(c) A course outline with accompanying workbooks or exams is submitted to the Board, prior to offering the material, for approval of course content and hours of credit claimed, if not already approved by California Tax Education Council (CTEC), Internal Revenue Service (IRS), National Association of State Boards of Accountancy (NASBA), National Association of Tax Professionals (NATP), Quality Assurance Services (QAS) or courses by such other sponsors as may be approved by the Board.

(11) "In-Company" instruction may be accepted if the course or seminar is presented to ten (10) or more people and all other requirements for continuing education sponsors are met. Portions of such educational sessions devoted to administrative and firm matters shall not be accepted.

(12) If a licensee claims credit for a course or seminar in the reasonable belief the instruction qualifies as acceptable continuing education, but the Board finds all or part of the hours claimed to be unacceptable, the licensee may be granted an additional period of time, not to exceed 60 calendar days, to make up the rejected hours.

(13) Licensed Tax Consultants and Licensed Tax Preparers who have extenuating circumstances and are unable to obtain all their continuing education by their license due dates may make application, by completing a form prescribed by the Board, for a waiver of continuing education hours.

Stat. Auth.: ORS 673.645 - 673.667

Stats. Implemented: ORS 673.645 - 673.667

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 3-1980, f. & ef. 8-22-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 9-1987, f. & ef. 12-21-87; TSE 1-1997, f. & cert. ef. 7-2-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-015-0015

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Board will audit a select percentage of licensee records determined by the Board to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education attestation shall submit to the Board, within 30 calendar days from the date of issuance of the notification, satisfactory evidence of participation in required continuing education in accordance with OAR 800-015-0010.

(3) Documentation of a certificate of completion of attendance at a program, seminar or course provided by a sponsor must include:

(a) Name of student;

(b) Name, address and telephone number of sponsoring institution/association or organization;

(c) Location of program;

(d) Title of program and description of content;

(e) Name of instructor or presenter;

(f) Date(s) of attendance;

(g) Number of instruction hours;

(4) For documentation of completion of a college/university course, a Licensee must submit a copy of an official transcript, diploma, certificate, statement or affidavit.

(5) If documentation of continuing education is invalid or incomplete, the licensee must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.

(6) Misrepresentation of continuing education, or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include but is not limited to assessment of a civil penalty and suspension or revocation of the license.

Stat. Auth.: ORS 673.605 - 673.740

Stats. Implemented: ORS 673.605 - 673.740

Hist.: BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-015-0030

Continuing Education and Basic Sponsor Requirements

(1) Sponsors shall:

(a) Maintain for at least two (2) years an outline of each program presented;

(b) Maintain for at least two (2) years a record of attendance for each program presented;

ADMINISTRATIVE RULES

(c) Maintain for at least two (2) years a record of instructor names, addresses and qualification; and

(d) Provide the student a certificate or other verification of completion at the conclusion of the program. If the sponsor is an accredited college or university, a student transcript or grade report showing the credit earned will be acceptable verification. For all other sponsors, the certification shall include:

(A) Name of student;

(B) Name, address and telephone number of sponsoring institution/association or organization;

(C) Location of program;

(D) Title of program and description of content;

(E) Name of instructor or presenter;

(F) Date(s) of attendance;

(G) Number of instruction hours.

(2) Sponsors must conduct their programs in an honest and ethical manner.

Stat. Auth.: ORS 673.655

Stats. Implemented:

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 4-1995, f. & cert. ef. 5-5-95; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-020-0015

Application for Examination

(1) Application to take the examination for a tax preparer or tax consultant must be filed with the Board on forms prescribed and furnished by the Board. The application must include the examination fee and the proctor site fee, if applicable. The application must be signed.

(2) The application and examination fee shall be filed with the Board no later than one (1) month prior to the examination date, except when the Board sets tighter deadlines due to extenuating circumstances.

(3) Completed basic course certification forms as required under OAR 800-015-0005(6) shall be submitted to the Board by the student with the initial application for a Tax Preparer License. The preparer applicant may file an application to take the examination before completing the basic tax course. Applicants shall furnish the Board a brief outline of courses completed, together with a transcript from the educational institution if the course(s) they completed has/have not received prior approval from the Board. If the Board determines the course(s) completed is/are comparable to those described in OAR 800-015-0005, the applicant shall be eligible to take the examination.

(4) A tax consultant applicant who is a Licensed Tax Preparer shall submit verification by the applicant's employer or employers, on forms prescribed and furnished by the Board, that the applicant has worked in the capacity as a Licensed Tax Preparer for not less than a cumulative total of 780 hours during at least two (2) of the last five (5) years.

(5) A tax consultant applicant who is claiming equivalent tax preparer experience shall submit on forms prescribed and furnished by the Board:

(a) Verification by the applicant's employer or employers that the applicant has worked in the capacity as a Licensed Tax Preparer for not less than a cumulative total of 780 hours during at least two (2) of the last five (5) years.

(i) The Board will accept employment as an income tax auditor or taxpayer service representative with the Internal Revenue Service or State Department of Revenue as being equivalent experience.

(ii) For the purpose of meeting the work experience requirement for tax consultants, one hour of experience gained through volunteer tax preparation programs such as VITA and AARP-TCE will be accepted for each five hours spent preparing, advising or assisting in the preparation of tax returns through the volunteer program, up to a maximum of 150 hours credited. To qualify for the one (1) to five (5) hour experience credit, total hours worked in the volunteer program must be verified in writing by a supervisor knowledgeable in tax preparation.

(b) To claim experience under this section, the applicant must submit a petition signed under penalty of perjury that the work experience claimed is true, correct and complete.

(6) Applicants for the tax consultant examination must have completed, within a year prior to submitting application, a minimum of 15 hours of acceptable continuing education in personal income taxation to meet the requirements of OAR 800-015-0010 to 800-015-0030. This requirement is in addition to the required 780 hours of work experience earned during at least two (2) of the last five (5) years.

(7) A tax practitioner applicant claiming tax consulting experience in another state shall:

(a) Submit, on a form prescribed and furnished by the Board, a petition signed under penalty of perjury, claiming self-employment as a tax practitioner for no less than two (2) of the last five (5) years; and

(b) Furnish documented proof of self-employment as a tax practitioner.

(8) A tax preparer or tax consultant applicant who has worked in the capacity as a tax practitioner in another state or in an exempt status may request Board approval to substitute work experience for up to two-thirds of the classroom hours of basic income tax education otherwise required to qualify as a tax preparer or tax consultant. Approval may be granted to substitute experience for education only if:

(a) The applicant was actively engaged in a tax preparation business within two (2) years prior to the date of application;

(b) The applicant has at least three (3) years experience in a tax preparation business;

(c) The applicant has gained a competency level through work experience that is equal to those applicants who have successfully completed the basic income tax course; and

(d) The applicant submits verification by the applicant's employer(s) or evidence of self-employment regarding the work experience.

(9) The Board may accept education credit for courses completed by a tax consultant applicant to substitute for up to 260 hours of work experience at the rate of one (1) classroom hour of education for five (5) hours of experience if:

(a) The subject matter of the course was related to taxation;

(b) The applicant completed the course within one (1) year of applying to become a Licensed Tax Consultant; and

(c) Credit for the course is not claimed to fulfill continuing education requirements.

(10) Information required of the applicant and on the application forms shall be completed before an applicant may be admitted to an examination.

Stat. Auth.: ORS 673.625

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 2-1980, f. & ef. 5-30-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 4-1988, f. & cert. ef. 11-2-88; TSE 5-1990, f. & cert. ef. 5-3-90; TSE 9-1992, f. & cert. ef. 12-22-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2005, f. & cert. ef. 1-5-05; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-020-0025

Fees

The fees for licenses and registrations issued, renewed, reactivated or otherwise, shall be prescribed by the State Board of Tax Practitioners by rule but shall not exceed the following:

(1) The fee for application for examination for a tax preparer's license is \$50.

(2) The fee for application for examination for a tax consultant's license is \$85.

(3) The fee for issuance of a tax preparer's initial license is \$80

(4) The fee for renewal for a tax preparer's active license is \$80.

(5) The fee for issuance or renewal of a tax consultant's active license is \$95.

(6) The fee for an initial consultant license, if an applicant holds an active preparer's license is \$65.

(7) The fee for an initial combination consultant license/tax preparation business registration, if an applicant holds an active preparer's license is \$125.

(8) The fee to place a tax preparer's license in inactive status is \$35.

(9) The fee to place a tax consultant's license in inactive status is \$50.

(10) The fee for reactivation of a tax preparer license in inactive status is \$80.

(11) The fee for reactivation of a tax consultant license in inactive status is \$95.

(12) The fee to reactivate a tax preparer or tax consultant license in lapsed status is \$35, plus payment of all unpaid renewal fees.

(13) The fee for a duplicate practitioner's license is \$10.

(14) The fee for a duplicate business registration is \$10.

(15) The fee for a replacement tax consultant's certificate is \$15.

(16) The fee for issuance or renewal of a tax preparation business registration is \$110.

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(17) As provided by subsection (a) and (b) of this section, the fee for issuance or renewal of a combination tax consultant's or tax preparer's license and tax preparation business registration is \$155:

(a) For Consultants — If postmarked on or before June 15th.

(b) For Preparers — If postmarked on or before October 15th.

(18) The fee for issuance or renewal of a branch office registration is \$20.

(19) The nonrefundable processing fee retained for all refunds issued is \$10.

(20) Dishonored Check or Electronic Payment. Pursuant to ORS 30.701, whenever a bank check, credit or debit transaction in payment of an obligation due for fees, penalties, copies of records or materials, or other services to the agency, is dishonored by the bank upon which the check is drawn, the applicant or authorization holder will be assessed and must pay an administrative processing fee in the amount of \$25. The Board may take any other disciplinary action against an authorization holder or payer and may seek other legal remedies in pursuing to effect collection of the returned items. If a check is returned for Non-Sufficient Fund (NSF) or uncollected funds the Board will attempt to collect payment by other means.

Stat. Auth.: ORS 673.730

Stats. Implemented: ORS 673.685

Hist.: TSE 4(Temp), f. & ef. 11-20-75 through 3-19-76; TSE 8, f. & ef. 5-19-76; TSE 14, f. 10-25-77, ef. 11-1-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1987(Temp), f. 6-30-87, ef. 7-1-87; TSE 5-1987, f. & ef. 10-2-87; TSE 7-1987(Temp), f. & ef. 11-17-87; TSE 1-1988, f. & cert. ef. 2-19-88; TSE 4-1990, f. & cert. ef. 5-3-90; TSE 3-1991(Temp), f. 8-14-91, cert. ef. 9-29-91; TSE 5-1991, f. & cert. ef. 10-28-91; TSE 12-1991(Temp), f. & cert. ef. 11-25-91; TSE 3-1992, f. 5-15-92, cert. ef. 6-1-92; TSE 3-1997, f. & cert. ef. 9-4-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administration correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 3-2007, f. 7-30-07, cert. ef. 8-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-020-0026

Refunds of Examination Fees

(1) A \$10 nonrefundable processing fee shall be retained from all examination application fees. The remainder of an examination application fee shall be refunded only when the applicant is not qualified or when there are verifiable circumstances beyond the reasonable control of the applicant.

(2) Except as provided in section (3) of this rule, an applicant who has been approved to sit for the examination but who fails to take the exam is a "no-show" or takes but does not pass the examination shall not be entitled to a refund of the examination fee.

(3) If application for examination is made in anticipation of successfully completing the required basic course and the applicant fails to complete the required course a refund of the examination fee will be issued only if:

(a) The applicant establishes that failure to successfully complete the course was beyond the reasonable control of the applicant and

(b) The applicant notifies the Board prior to the scheduled examination date.

(4) A \$10 nonrefundable processing fee shall be retained from all license, renewal and registration application fees. The remainder of the application fee remitted shall be refunded only when the licensee is not qualified or when there are verifiable circumstances beyond the reasonable control of the licensee.

Stat. Auth.: ORS 673.730(3)

Stats. Implemented:

Hist.: TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1983, f. & ef. 3-10-83; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 6-1991, f. & cert. ef. 10-28-91; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-025-0020

Tax Preparation Business Registration

(1) A tax preparation business shall not offer services to the public until the business has:

(a) Complied with applicable laws and rules of the Oregon Corporation Division;

(b) Registered with the Board, on a Board-approved application form, the tax preparation business name, address, telephone number, and e-mail address; the name(s) of the owner(s) of the business; and the name of the individual(s) responsible under OAR 800-025-0040 for the tax activities of the business; and

(c) Paid the tax preparation business registration fee required under OAR 800-025-0025.

(2) Within 15 business days of a change of name or ownership, a tax preparation business must file a new business registration with the Board and pay a new business registration fee.

(3) A person who offers tax preparation services under more than one tax preparation business name must register each such name as a separate business.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 13-1991(Temp), f. & cert. ef. 11-25-91; TSE 14-1991, f. 11-25-91, cert. ef. 1-1-92; TSE 4-1992, f. & cert. ef. 5-15-92; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-025-0023

Reporting Closing of Business; Address and Phone Changes

A tax preparation business shall notify the Board within 15 business days of:

(1) Termination of the tax preparation business;

(2) A change in the mailing address, physical address, e-mail address or telephone number(s) of the tax preparation business.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 7-1991, f. & cert. ef. 10-28-91; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-025-0025

Renewal of Tax Preparation Business Registration

(1) Tax preparation business registrations shall expire annually on June 15, except that combination tax preparation business registration/tax preparer licenses shall expire annually on October 15.

(2) At least 30 calendar days prior to the registration expiration date each year, the Board shall attempt to notify each tax preparation business, using the contact information they provided to the Board, that their tax preparation business registration is up for renewal.

(3) Renewal registrations shall be issued to a qualifying tax preparation business upon receipt of a completed registration renewal application and the fee for registering a tax preparation business specified in OAR 800-020-0025(14) or the fee for a combined tax consultants or tax preparers license and tax preparation business registration specified in OAR 800-020-0025(15).

(4) A tax preparation business whose registration has expired shall not perform tax preparation services for the public, for a fee, or offer such services until the tax business submits a new tax preparation business registration application and the application process has been completed.

Stat. Auth.:

Stats. Implemented:

Hist.: TSE 8-1991, f. & cert. ef. 10-28-91; BTP 1-2004, f. 1-28-04, cert. ef. 2-1-04; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-025-0027

Eligibility for Combined Business Registration and Tax Consultant/Preparer License

(1) A tax preparation business is not eligible for a combined license and registration under OAR 800-020-0025(15) unless at least one (1) of the owners of the tax preparation business is a Licensed Tax Consultant or Licensed Tax Preparer. As used in this section, "owner" means an individual who owns at least ten (10) percent of the tax preparation business.

(2) A tax preparation business, including a tax preparation business that must file a new registration due to a change of name or ownership, is not eligible for a combined license and registration under OAR 800-020-0025(15) unless the registration submitted is:

(a) A new registration, at the time of application for the owner's tax consultant's or tax preparer's license;

(b) A renewal registration, before the expiration date of the current registration.

(3) A licensee who owns more than one (1) tax preparation business is eligible for only one combined license and business registration under OAR 800-020-0025(17). A licensee must pay the full business registration fee for a second or additional tax preparation businesses under OAR 800-020-0025(17).

Stat. Auth.:

Stats. Implemented:

Hist.: TSE 9-1991, f. & cert. ef. 10-28-91; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

ADMINISTRATIVE RULES

800-025-0030

Branch Offices

(1) A tax preparation business shall not operate any branch office until:

(a) The tax preparation business has complied with all laws and rules of the Board concerning tax business registration;

(b) The mailing address, physical address, e-mail and phone number(s) of the branch office and the name and license number of the resident consultant for the branch office have been submitted to the Board; and

(c) The tax preparation business has paid an annual fee for the branch office registration for that location as required under OAR 800-020-0025(16).

(2) Branch office registrations shall expire annually on the expiration date of the associated tax business registration.

(3) At least 30 calendar days before the expiration of a branch office registration, the Board shall attempt to notify each tax preparation business, using the contact information the tax preparation business has provided to the Board, that their tax preparation branch office registration is up for renewal.

(4) Renewal branch office registrations shall be issued to qualifying tax preparation businesses upon receipt of the required annual registration fee.

(5) A tax preparation business operating branch offices shall notify the Board within 15 business days of:

(a) Change of mailing address, physical address, e-mail address or phone number(s) of the branch office.

(b) Change in Resident Consultant and/or Designated Consultant of the branch office.

(c) Closing the branch office.

(6) Branch offices must be conducted under the same name as the principal office. This name and current registration shall be posted in public view in each branch office.

(7) The name of the Designated Consultant and the name of the Resident Consultant must be posted in public view in each branch office.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented: ORS 673.730(5)

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 10-1991, f. & cert. ef. 10-28-91; TSE 5-1992, f. 5-15-92, cert. ef. 7-1-92; TSE 2-1996, f. & cert. ef. 12-30-96; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-025-0050

Management and Supervision of Tax Preparation Business

(1) Each principal and branch office must be under the management and supervision of a Licensed Tax Consultant. Supervision means:

(a) The direct and immediate control of the Licensed Tax Preparer by the Licensed Tax Consultant in such manner that the Licensed Tax Consultant is aware of the line of questioning and the reasoning applied by the Licensed Tax Preparer in the preparation of each return, and that the Licensed Tax Consultant has adequate opportunity to correct or add to the reasoning applied by the Licensed Tax Preparer; and

(b) A system of selecting, training and controlling the Licensed Tax Preparer, including having a set of procedures by which the Licensed Tax Consultant is assured that the Licensed Tax Preparer is providing competent workmanship and abiding by the statutes and Board rules. Such procedures shall include:

(A) An examination and review of all personal income tax returns for errors under the direct supervision of the Licensed Tax Consultant or a Licensed Tax Preparer chosen based on experience and reviewing ability; and

(B) Giving notice to the Licensed Tax Preparer of any adjustments after examination and review; and

(C) Maintaining in principal and branch offices current federal and state personal income tax reference material; and

(D) Providing access to the Licensed Tax Consultant (including telephone or electronic media access from branch offices) so that the Licensed Tax Preparer is encouraged to seek tax law consultation and advice; and

(E) Exercising control by the Licensed Tax Consultant over the tax preparation practices and all other matters governed by the statutes and Board rules in each principal and branch office.

(2) Licensed Tax Preparers who have not had at least 240 hours and one (1) year's tax return preparation experience during the previous three (3) year period must be under the immediate, onsite supervision of more experienced personnel when preparing, advising, or assisting in the preparation of tax returns.

(3) Licensed Tax Consultants who employ any person described in subsection (4) of ORS 673.610 to act in the capacity of Licensed Tax

Preparer or Licensed Tax Consultant under their supervision shall report to the Board the names of these persons and the basis for their exemption from licensure.

(4) If a Licensed Tax Preparer is found by the Board to be in violation of the statutes or Board rules, the Licensed Tax Consultant responsible for supervision of that Licensed Tax Preparer shall be deemed to be in violation in the same manner and to the same extent, and may be disciplined by the Board regardless of any discipline imposed on the Licensed Tax Preparer, unless the Licensed Tax Consultant demonstrates to the satisfaction of the Board that the circumstances that led to the violation occurred without the permission or knowledge of the Licensed Tax Consultant and that the violation occurred regardless of an adequate system of supervision that would generally prevent such violation. In the case of a corporation, firm, or partnership, both the Designated Consultant and the corporation, firm, or partnership may be disciplined.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented: ORS 673.615(2)

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 2-1996, f. & cert. ef. 12-30-96; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-025-0060

Consultant in Residence

(1) A Licensed Tax Consultant shall be in residence at each principal and branch office. "Tax consultant in residence" means that a Licensed Tax Consultant is physically present to conduct and carry out his/her duties in the principal or branch office for at least 50 percent of the time an office is open to the public for tax preparation, assistance and advice during each week from January 1 to the federal filing deadline without extension and during each month for the remainder of the year for year round offices in accordance with OAR 800-025-0050.

(2) The Board may waive the Licensed Tax Consultant in residence requirement of subsection (1) upon written application which details how the management and supervision of principal and branch offices will effectively be accomplished.

(3) In granting or denying a written application for waiver, the Board shall evaluate each case on an individual basis, considering the following factors:

(a) Distance between offices supervised by a Licensed Tax Consultant.

(b) Past compliance of waiver applicants with ORS 673.605 to 673.735 and rules of the Board.

(c) Whether the policies and procedures described in the application will result in effective management and supervision of Licensed Tax Preparers in the absence of a Resident Consultant.

(d) Sickness or death of a Licensed Tax Consultant; and

(e) Any other unusual or unforeseen circumstances making such waiver necessary.

(4) Applicants shall apply annually for waiver of the resident consultant rule. The application shall provide all of the information described in guidelines established by the Board for applying for waivers. Except in emergency circumstances, such as incapacitation, death or resignation of a resident tax consultant, waiver applications will not be accepted after January 31 for branch offices intended to operate at any time during the period January 1 to the federal filing deadline without extension of the same calendar year. Approved waivers shall expire on the expiration date of the associated tax business registration or a date established by the Board.

(5) All applications must be acted upon by the Board. Disapproval of an application by the Board may be appealed.

(6) The supervising Licensed Tax Consultant of an office for which a waiver has been approved shall meet in person with Licensed Tax Preparers in the office at least twice weekly to review the work of each Licensed Tax Preparer and respond to questions.

(7) A tax preparation business shall notify the Board within 15 business days of any change in status of its Resident Consultant.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented: ORS 673.615(2)4

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 5-1986, f. & ef. 10-6-86; TSE 6-1987, f. & ef. 10-2-87; TSE 3-1988, f. & cert. ef. 8-26-88; TSE 5-1995, f. & cert. ef. 5-5-95; TSE 2-1996, f. & cert. ef. 12-30-96; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-030-0025

Civil Penalties

(1) Civil Penalty Ranges. Pursuant to ORS 673.735, a civil penalty in the following range shall be assessed for each violation of the following statutes and rules:

ADMINISTRATIVE RULES

(2) Civil Penalty Factors. Pursuant to ORS 673.735, the following factors shall be considered in determining the amount of civil penalty to assess for each violation above the minimum established under paragraph (1) of this rule or for violations not specified in paragraph (1):

(a) The previous record of the person in complying, or failing to comply, with ORS 673.605 to 673.740, or any rule or order adopted there under.

(b) The harm to the consumer as a result of the violation.

(c) The person's knowledge of the statute, rule, or order violated. An intentional, reckless, or willful violation warrants a high civil penalty per violation.

(d) The person's lack of cooperation with the Board.

(e) The seriousness of the violations committed.

(3) Daily Civil Penalty. Pursuant to ORS 673.735, the Board may impose civil penalties of not more than \$5,000 for each violation of ORS 673.605 to 673.740, or any rule adopted there under. In the case of violations of ORS 673.615, 673.643, or 673.705(5), or OAR 800-010-0025(7) or 800-010-0042, the Board may consider each business day a person continues in violation following Board notification to be a separate violation.

(4) Civil Penalty Adjustment. The civil penalty amount to be imposed under this rule shall be lowered to an appropriate amount when the Board determines that the total civil penalties to be assessed against a person are grossly disproportionate to the seriousness of the violations committed.

(5) Payment of Civil Penalties. Unless otherwise ordered by the Board, payment of any civil penalty imposed by the Board must be made within 60 calendar days of the date a final order assessing the penalty is issued. If the civil penalty is not paid within that time, in addition to any other action allowed by law or Board rules, proceedings may be instituted to suspend, revoke or refuse to renew the tax consultants or tax preparers license of the person against whom the penalty is assessed.

Stat. Auth.: ORS 673.730

Stats. Implemented: ORS 673.735

Hist.: TSE 1-1985, f. & ef. 1-15-85; BTSE 1-1998, f. & cert. ef. 9-3-98; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administrative correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2004, f. 1-28-04, cert. ef. 2-1-04; BTP 3-2004, f. 10-11-04 cert. ef. 11-1-04; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-030-0030

Inspections, Evaluations and Investigations

(1) A business owner shall allow Board representatives to inspect or evaluate the business/branch office or conduct an investigation. Obstructing or hindering the normal progress of an investigation, inspection or evaluation; threatening or exerting physical harm; or enabling another individual or employee to impede an investigation, inspection or evaluation may result in disciplinary action.

(2) Business owners must contact the Board within five (5) business days unless extenuating circumstances exist to make any necessary arrangements for an inspection, evaluation or to allow the Board to conduct an investigation if the Board has been unable to perform an inspection, evaluation or conduct an investigation because the business was closed when visited.

Stat. Auth.: ORS 673.605 - 673.740, 673.990

Stats. Implemented: ORS 673.605 - 673.740, 673.990

Hist.: BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

800-030-0050

Obtaining Information and Purchasing Board-Provided Materials and Services

Materials and services available to the public and licensees through the Tax Board may be obtained or purchased as follows:

(1) In response to telephone requests, the board office may provide the tax practitioner name, license number, whether the license is active or expired, tax preparation business location, business telephone number and whether a discipline record exists.

(2) A copy of the Oregon Revised Statutes Chapter 673 and Oregon Administrative Rules Chapter 800 may be provided upon request at no charge for the first request. A charge will be assessed for additional/multiple copies.

(3) All requests for any information other than that listed in sub-section (1) and (2) of this rule must be submitted in writing to the board office.

(4) The Board may charge for copies of its records. The types of records that the Board can charge for copies includes, but is not limited to, such material as copies of certificate(s), license(s), registration(s), board meeting materials that are available to the public, general information, duplicating requests requiring multiple records search or the compiling and creation of official documents.

(5) Fees shall not exceed the Board's actual costs for copying the record(s) requested including, but not limited to, the Board's cost for locat-

ing, compiling, making available for inspection, obtaining legal or other professional advice related to the request, reviewing the records in order to delete exempt material, supervising a person's inspection of original records, preparing the copy in paper, audio, or electronic format, certifying documents as true copies, and delivery of such record(s).

(6) All fees assessed must be paid before public records are made available. Estimates/fees for processing requests for public records may be given when requested. Person(s) making the public records request is responsible for the actual costs regardless of the estimate.

(7) Persons who want to obtain copies of the following records may learn the charge for them by contacting the board office:

(a) A list of name's, addresses and places of tax preparation business for all licensed tax practitioners currently on file with the Agency;

(b) A list of records, regardless of whether status is active, inactive, expired or archived;

(c) One (1) or more photocopies of any Board document or portion thereof;

(d) Copies of board meeting minutes or committee meeting minutes/reports.

(8) Advertising services provided by the Board for a fee which can be obtained by contacting the board office:

(a) Advertising for help-wanted, sale of a tax preparation business, and tax related services or products in the Board newsletter;

(b) Advertising of Tax Consultant or tax preparation business on the Board Web site. Licensees and tax preparation businesses must be in good standing with the Board to obtain and maintain this service.

(c) All advertising is subject to the review and approval of the Board.

(9) Charges for records may be waived or substantially reduced if the request is in the public interest, pursuant to ORS 192.440(4)&(5).

(10) The following fees apply to requests for the following types of public records, information, and services provided by the Board:

(a) Fee for a list of current licensees, which includes; license number, name, mailing address is \$25.

(b) Fee for a monthly subscription to a list of current licensees is \$120 per year. Lists provided between the 1st - 10th of each month.

(c) Fee for duplicates of tape recordings of board meetings, disciplinary hearings, etc. that are available to the public are \$5 each, plus labor at an hourly rate of \$25, mailing costs and any Department of Justice costs that may need to be incurred.

(d) Fee for board/committee meeting materials, available to the public, is:

(A) \$10 per board/committee meetings' minutes.

(B) \$5 per board/committee notice and agendas.

(e) Fees for advertising for help-wanted and tax related services or products in board newsletter:

(A) \$10 per 3 3/8 inch line or part line.

(B) \$350 for a full page ad.

(C) \$180 for a half page ad.

(D) \$100 for a quarter page ad.

(E) \$50 for a business card size ad.

(f) Fee for advertising of a tax consultant or tax preparation business or as an employee of a tax preparation business on the Board Web site:

(A) Name, business address (physical and e-mail), and phone is \$10 per year per county.

(B) An additional \$10 per county annual fee may be charged for a link to a tax preparation business related website.

(g) Fee for multiple records search including duplicating of documents is labor at an hourly rate of \$30, per page duplicating .05 cents, mailing costs and any Department of Justice costs that may need to be incurred.

(h) Fee for making general photocopies is labor at an hourly rate of \$25, per page duplicating .05 cents, mailing costs and any Department of Justice costs that may need to be incurred.

Stat. Auth.: ORS 192, 670 & 673

Stats. Implemented:

Hist.: TSE 5-1986, f. & ef. 10-6-86; TSE 6-1990, f. & cert. ef. 5-3-90; BTSE 1-1999, f. & cert. ef. 11-23-99; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2004, f. 10-11-04 cert. ef. 11-1-04; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

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Rule Caption: Additional 2010 overhauls of OAR's based on recommendations made by the Rules Advisory Committee and voted on by the Board to become effective July 1, 2011.

Adm. Order No.: BTP 2-2011

Filed with Sec. of State: 2-7-2011

Certified to be Effective: 7-1-11

ADMINISTRATIVE RULES

Notice Publication Date: 12-1-2009

Rules Amended: 800-020-0020, 800-020-0025

Subject: The amendments to the OAR's result from the Board's Rules Advisory Committee, Assistant Attorney General and Board staff recommendations and are for general "housekeeping" & "maintenance" as well as to change language to better reflect the "norm" in industry standards and the practices of other state agencies. In addition, the proposed amendments will provide better clarification to constituents as well as continue to conform to the current standards the Board is operating under.

Other than "housekeeping" language changes and/or additions more substantial changes include the following:

1. Amendment to OAR 800-020-0025 reduces fees for tax preparer initial license from \$80 to \$50.

Rules Coordinator: Jane Billings—(503) 373-1691

800-020-0020

Examinations

(1) Licensing examinations shall be scheduled as the Board deems appropriate.

(2) Tax preparer and tax consultant applicant's examination shall be written. Questions shall be so constructed as to measure the applicant's knowledge of Oregon and federal personal income tax law, theory and practice; the provisions of ORS 673.605 to 673.735 and the Code of Professional Conduct. The tax consultant examination shall require a higher standard of knowledge.

(3) A tax preparer applicant must have at least a 75 percent grade or score on the entire examination to pass.

(4) A tax consultant applicant must have at least a 75 percent grade or score on the entire examination to pass.

(5) An enrolled agent who is enrolled to practice before the Internal Revenue Service, holding a valid treasury card, must have at least a 75 percent grade or score on the Consultant's State-Only portion of the examination to pass.

(6) Pass or fail results, including scores, of the examination shall be provided to each examination candidate, electronically or in writing. Results will not be given by any other means.

(7) No review of examination questions by the applicant will be granted.

(8) An applicant who fails to pass the examination shall be eligible for a succeeding examination upon making application and payment of the examination fee.

(9) A tax preparer applicant must re-take the Basic Course, if after three (3) years from Basic Course completion date; the applicant has not yet passed the preparer examination.

(10) An applicant who passes an examination must apply for licensing within 60 days from the examination date. If application for license is not made within 60 calendar days, the applicant must retake the examination, unless there are verifiable circumstances beyond the reasonable control of the applicant, subject to the discretion of the Board.

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

Stat. Auth.: ORS 673

Stats. Implemented: ORS 673.605 - 673.740 & 673.990

Hist.: TSE 8, f. & ef. 5-19-76; TSE 10(Temp), f. & ef. 11-29-76 thru 3-28-77; TSE 11, f. & ef. 4-6-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1980, f. & ef. 5-30-80; TSE 1-1981 (Temp), f. 1-2-81, ef. 1-5-81; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1983, f. & ef. 3-10-83; TSE 1-1984(Temp), f. & ef. 12-20-84; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1985(Temp), f. & ef. 6-11-85; TSE 2-1986, f. & ef. 7-14-86; TSE 4-1987, f. & ef. 10-2-87; TSE 1-1989, f. & ef. 6-8-89; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 2-2004, f. 8-12-04 cert. ef. 8-31-04; BTP 2-2005, f. 7-28-05, cert. ef. 8-1-05; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 2-2011, f. 2-7-11, cert. ef. 7-1-11

800-020-0025

Fees

The fees for licenses and registrations issued, renewed, reactivated or otherwise, shall be prescribed by the State Board of Tax Practitioners by rule but shall not exceed the following:

(1) The fee for application for examination for a tax preparer's license is \$50.

(2) The fee for application for examination for a tax consultant's license is \$85.

(3) The fee for issuance of a tax preparer's initial license is \$50.

(4) The fee for renewal for a tax preparer's active license is \$80.

(5) The fee for issuance or renewal of a tax consultant's active license is \$95.

(6) The fee for an initial consultant license, if an applicant holds an active preparer's license is \$65.

(7) The fee for an initial combination consultant license/tax preparation business registration, if an applicant holds an active preparer's license is \$125.

(8) The fee to place a tax preparer's license in inactive status is \$35.

(9) The fee to place a tax consultant's license in inactive status is \$50.

(10) The fee for reactivation of a tax preparer license in inactive status is \$80.

(11) The fee for reactivation of a tax consultant license in inactive status is \$95.

(12) The fee to reactivate a tax preparer or tax consultant license in lapsed status is \$35, plus payment of all unpaid renewal fees.

(13) The fee for a duplicate practitioners license is \$10.

(14) The fee for a duplicate business registration is \$10.

(15) The fee for a replacement tax consultant's certificate is \$15.

(16) The fee for issuance or renewal of a tax preparation business registration is \$110.

(17) As provided by subsection (a) and (b) of this section, the fee for issuance or renewal of a combination tax consultant's or tax preparer's license and tax preparation business registration is \$155:

(a) For Consultants — If postmarked on or before June 15th.

(b) For Preparers — If postmarked on or before October 15th.

(18) The fee for issuance or renewal of a branch office registration is \$20.

(19) The nonrefundable processing fee retained for all refunds issued is \$10.

(20) Dishonored Check or Electronic Payment. Pursuant to ORS 30.701, whenever a bank check, credit or debit transaction in payment of an obligation due for fees, penalties, copies of records or materials, or other services to the agency, is dishonored by the bank upon which the check is drawn, the applicant or authorization holder will be assessed and must pay an administrative processing fee in the amount of \$25. The Board may take any other disciplinary action against an authorization holder or payer and may seek other legal remedies in pursuing to effect collection of the returned items. If a check is returned for Non-Sufficient Fund (NSF) or uncollected funds the Board will attempt to collect payment by other means.

Stat. Auth.: ORS 673.730

Stats. Implemented: ORS 673.685

Hist.: TSE 4(Temp), f. & ef. 11-20-75 through 3-19-76; TSE 8, f. & ef. 5-19-76; TSE 14, f. 10-25-77, ef. 11-1-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1987(Temp), f. 6-30-87, ef. 7-1-87; TSE 5-1987, f. & ef. 10-2-87; TSE 7-1987(Temp), f. & ef. 11-17-87; TSE 1-1988, f. & cert. ef. 2-19-88; TSE 4-1990, f. & cert. ef. 5-3-90; TSE 3-1991(Temp), f. 8-14-91, cert. ef. 9-29-91; TSE 5-1991, f. & cert. ef. 10-28-91; TSE 12-1991(Temp), f. & cert. ef. 11-25-91; TSE 3-1992, f. 5-15-92, cert. ef. 6-1-92; TSE 3-1997, f. & cert. ef. 9-4-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administration correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 3-2007, f. 7-30-07, cert. ef. 8-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 2-2011, f. 2-7-11, cert. ef. 7-1-11

Bureau of Labor and Industries Chapter 839

Rule Caption: Amendments to correct internal inconsistencies and to set out process for certain types of charges.

Adm. Order No.: BLI 1-2011

Filed with Sec. of State: 1-31-2011

Certified to be Effective: 2-1-11

Notice Publication Date: 12-1-2010

Rules Amended: 839-050-0440, 839-050-0445

Subject: The amendment to OAR 839-050-0445 corrects an incorrect reference to two other division 50 rules. The amendment to OAR 839-005-0440 set out the contested case process for Orders of Determination (administrative charges) under ORS 652.332 or Notices of Intent (administrative charges) for civil penalties under ORS 652.710 or 652.256.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-050-0440

Contested Case Proceedings based on Orders of Determination and Notices of Intent to Assess Civil Penalties under ORS 652.710 or ORS 652.256

(1) Contested case proceedings based on Orders of Determination under ORS 652.332, Notices of Intent to assess civil penalties under ORS

ADMINISTRATIVE RULES

652.710 or 653.256, or consolidated proceedings based on both types of charging documents are governed by the procedures set forth in OAR chapter 839, division 50, except to the extent those procedures are modified by this rule.

(2) The discovery provisions of OAR 839-050-0200 do not apply to contested case proceedings based on Orders of Determination under ORS 652.332, Notices of Intent to assess civil penalties under ORS 652.710 or 653.256, or consolidated proceedings based on both types of charging documents except that participants may seek discovery through an informal exchange of information.

(3) Prior to a contested case hearing based on an Order of Determination under ORS 652.332, Notices of Intent to assess civil penalties under ORS 652.710 or 653.256, or consolidated proceedings based on both types of charging documents, the administrative law judge will issue a case summary order as provided in OAR 839-050-0210(1)-(4). OAR 839-050-0210(5) will apply to evidence not disclosed in response to the case summary order.

(4) No amendments will be allowed in contested case proceedings based on Orders of Determination under ORS 652.332, Notices of Intent to assess civil penalties under ORS 652.710 or 653.256, or consolidated proceedings based on both types of charging documents, except that the agency may amend an Order of Determination or Notice of Intent once to correct names of respondents or to add respondents.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 1-2011, f. 1-31-11, cert. ef. 2-1-11

839-050-0445

Hearings on Prevailing Wage Rate Determinations

(1) This rule sets forth the procedures used in contested case hearings requested pursuant to ORS 279C.817(4) and OAR 839-025-0005(7).

(2) Hearings on prevailing wage rate determinations are governed by the procedures set forth in OAR 839-050-0000 to 839-050-0430, except to the extent those procedures are modified by this rule.

(3) The following definitions apply to this rule:

(a) "Aggrieved person" means a person adversely affected or aggrieved by a commissioner's determination under ORS 279C.817.

(b) "Determination" means a determination issued by the commissioner under the provisions of ORS 279C.817 and OAR 839-025-0005.

(c) "Party" means a requester or aggrieved person who has requested a hearing after the commissioner issues a determination.

(d) "Requester" means a public agency or other interested person who requests a determination under ORS 279C.817 about whether a project or proposed project is or would be a public works on which payment of the prevailing rate of wage is or would be required under 279C.840.

(4) When the commissioner has issued a determination and the requester or aggrieved person requests a hearing, an administrative law judge will be assigned to hear the case and the Hearings Unit will issue a Notice of Hearing to the party that meets the requirements of OAR 839-050-0080(1) and information will be provided under OAR 839-050-0100.

(5) Within ten days after the Notice of Hearing is issued, the administrative law judge will issue an order requiring:

(a) The party to file a written statement identifying all of the party's reasons for contesting the determination; and

(b) The agency to file copies of all materials provided by the requester under OAR 839-025-0005(1)-(4), a copy of the agency's determination, and a copy of any other materials the agency relied on to reach its determination. The agency will mark these materials and the agency's determination for identification in the manner set forth in 839-050-0270.

(6) The statement, materials, and agency determination filed pursuant to section (5) of this rule will be received into the record as exhibits.

(7) Within twenty days prior to hearing, the party and the agency each will file written statements containing the names of all persons they propose to call as witnesses at the hearing, along with a statement of how each person's testimony will help the administrative law judge understand the materials provided by the requester under OAR 839-025-0005(1)-(4) or the reasons for the agency's determination.

(8) After reviewing the materials and statements filed pursuant to sections (5) and (7) of this rule, the administrative law judge may issue an interim order finding that the testimony of any proposed witness is irrelevant to the issues at hearing and disallowing the proposed testimony. The administrative law judge may also request that the party or agency bring additional witnesses to the hearing.

(9) Evidence presented at hearing is limited to the exhibits and witness testimony explaining the exhibits and their significance.

(10) At hearing, the party will have an opportunity to explain the reasons that the party contests the determination and the agency will have an opportunity to explain the reasons for its determination.

(11) If the party withdraws its request for hearing or does not appear at the scheduled hearing, the administrative law judge will issue an order canceling the hearing. When a hearing is cancelled based on a party's failure to appear at the scheduled hearing, the hearing may be rescheduled if the party establishes good cause for its failure to appear within 10 days after the party fails to appear at hearing. The party's request to reschedule the hearing must be in writing and be accompanied by a written statement, together with appropriate documentation, setting forth facts supporting the claim of good cause.

Stat. Auth.: ORS 183, 651.060(4), 279C.817

Stat. Implemented: ORS 279C.817

Hist.: BLI 25-2008(Temp), f. & cert. ef. 7-29-08 thru 1-23-09; BLI 39-2008, f. & cert. ef. 11-7-08; BLI 1-2011, f. 1-31-11, cert. ef. 2-1-11

Department of Agriculture Chapter 603

Rule Caption: Biodiesel Production Capacity Verification Procedures.

Adm. Order No.: DOA 7-2011

Filed with Sec. of State: 1-26-2011

Certified to be Effective: 1-26-11

Notice Publication Date: 12-1-2010

Rules Amended: 603-027-0420

Subject: Establishes procedures to verify a biodiesel facility's production capacity in order to carry out the provisions in ORS 646.921.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-027-0420

Standard Fuel Specifications

(1) Gasoline and Gasoline-Oxygenate Blends, as defined in this regulation, shall meet the following requirements:

(a) The ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," except that volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency (which includes those promulgated by Oregon and Federally approved State Implementation Plans (SIP's)). Gasoline blended with ethanol shall be blended under any of the following three options:

(A) The base gasoline used in such blends shall meet the requirements of ASTM D 4814; or

(B) The blend shall meet the requirements of ASTM D 4814; or

(C) The base gasoline used in such blends shall meet all the requirements of ASTM D 4814 except distillation, and the blend shall meet the distillation requirements of the ASTM D 4814 specification.

(b) Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than 1.0 psi.

(c) Minimum Antiknock Index (AKI). The AKI shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation.

(d) Minimum Motor Octane Number. The minimum motor octane number must not be less than 82 for gasoline with an AKI of 87 or greater.

(e) Lead Substitute Gasoline. Gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute additive which provides a level of protection against exhaust valve seat recession which is equivalent to the level of protection provided by a gasoline containing at least 0.026 gram of lead per liter (0.10 g per U.S. gal).

(2) Ethanol intended for blending with gasoline shall meet the requirements of ASTM D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel."

(3) Gasoline-Ethanol Blends Required

(a) Consistent with ORS 646.912, the Oregon Department of Agriculture shall study and monitor ethanol fuel production, use, and sales in Oregon.

(b) Except as provided in OAR 603-027-0420(3)(c), all retail dealers, nonretail dealers, or wholesale dealers may only sell or offer for sale gasoline that contains ten percent ethanol by volume.

(c) A retail dealer, nonretail dealer, or wholesale dealer may sell or offer for sale gasoline that is not blended with ethanol if the gasoline;

(A) Has an octane rating, as defined in ORS 646.945, of 91 or above, or if it is for use in;

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- (B) An aircraft;
 - (i) With a supplemental type certificate approved by the Federal Aviation Administration that allows the aircraft to use gasoline that is intended for use in motor vehicles, or
 - (ii) Issued a type certificate by an aircraft engine manufacturer that allows the aircraft to use gasoline that is intended for use in motor vehicles;
- (C) An aircraft that has been issued an experimental certificate, described in 14 C.F.R. 21.191, by the Federal Aviation Administration and that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;
- (D) A light-sport aircraft, as defined in 14 C.F.R. 1.1, that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;
- (E) A vintage aircraft, as defined by the Oregon Department of Aviation by rule, that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;
- (F) An antique vehicle, as defined in ORS 801.125;
- (G) A Class I all-terrain vehicle, as defined in ORS 801.190;
- (H) A Class III all-terrain vehicle, as defined in ORS 801.194;
- (I) A racing activity vehicle, as defined in ORS 801.404;
- (J) A snowmobile, as defined in ORS 801.490;
- (K) Tools, including but not limited to lawn mowers, leaf blowers, and chain saws; or
- (L) A watercraft.
- (d) Gasoline-ethanol blends shall contain not less than 9.2 percent by volume of agriculturally derived ethanol, exclusive of denaturants and permitted contaminants, that complies with
 - (A) OAR 603-027-0420(2) Ethanol ASTM D 4806 standards,
 - (B) Denatured as specified in 27 C.F.R parts 20 and 21, and
 - (C) Complies with the volatility requirements specified in 40 C.F.R. part 80.
- (e) The ethanol shall be derived from agricultural product, woody waste or residue.
- (f) The gasoline and gasoline-ethanol blends shall comply with OAR 603-027-0420(1).
- (g) It is prohibited to blend with casinghead gasoline, absorption gasoline, drip gasoline, or natural gasoline after the gasoline has been sold, transferred, or otherwise removed from a refinery or terminal.
- (4) Gasoline Additive Restrictions.
 - (a) Effective November 1, 2009, a wholesale dealer, retail dealer, or nonretail dealer may not sell or offer to sell any gasoline blended or mixed with:
 - (A) Ethanol unless the blend or mixture meets the specifications or registration requirements established by the United States Environmental Protection Agency pursuant to section 211 of the Clean Air Act, 42 U.S.C. section 7545 and 40 C.F.R. Part 79, and the ethanol complies with ASTM International specification ASTM D 4806;
 - (B) Methyl tertiary butyl ether in concentrations that exceed 0.15 percent by volume; or
 - (C) A total of all of the following oxygenates that exceeds one-tenth of one percent, by weight, of:
 - (i) Diisopropyl ether,
 - (ii) Ethyl tert-butyl ether,
 - (iii) Iso-butanol,
 - (iv) Iso-propanol,
 - (v) N-butanol,
 - (vi) N-propanol,
 - (vii) Sec-butanol,
 - (viii) Tert-amyl methyl ether,
 - (ix) Tert-butanol,
 - (x) Tert-pentanol or tert-amyl alcohol, and
 - (xi) Any other additive that has not been approved by the California Air Resources Board or the United States Environmental Protection Agency.
 - (b) Nothing in this section shall prohibit transshipment through this state, or storage incident to the transshipment, of gasoline that contains methyl tertiary butyl ether in concentrations that exceed 0.15 percent by volume or any of the oxygenates listed in OAR 603-027-0420(4)(a)(C), provided,
 - (A) The gasoline is used or disposed of outside of this state; and
 - (B) The gasoline is segregated from gasoline intended for use within this state.
 - (c) Notwithstanding the additives in OAR 603-027-0420(4)(a), a person may sell, supply, or offer to sell or supply gasoline in this state that contains any oxygenate other than ethanol, if the California Air Resources

Board (CARB), California Environmental Policy Council (CEPC), or the United States Protection Agency (U.S. EPA) allow use of the oxygenate.

(5) Diesel Fuel shall meet the requirements of ASTM D 975, "Standard Specification for Diesel Fuel Oils."

(6) Winter or Winterized Diesel Fuel shall meet the requirements of ASTM D 975, "Standard Specification for Diesel Fuel Oils" and have a cold flow performance measurement which meets the ASTM D 975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D 4539 (Low Temperature Flow Test, LTFT). Winter or winterized diesel (low temperature operability) is only applicable October 1 - March 31 of each year.

(7) Premium Diesel Fuel - All diesel fuels identified on retail and nonretail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such as premium, super, supreme, plus, or premier shall meet the requirements of ASTM D 975, "Standard Specification for Diesel Fuel Oils" and must conform to the following requirements:

(a) Cetane Number - A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D 613;

(b) Low Temperature Operability - A cold flow performance measurement which meets the ASTM D 975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D 4539 (Low Temperature Flow Test, LTFT). Low temperature operability is only applicable October 1 - March 31 of each year;

(c) Thermal Stability - A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D 6468 (180 minutes, 150 OC);

(d) Lubricity - A maximum wear scar diameter of 520 microns as determined by ASTM D 6079. If a single test of more than 560 microns is determined, a second test shall be conducted. If the average of the two tests is more than 560 microns, the sample does not conform to the requirements of this part.

(8) Biodiesel; B100 Biodiesel and Biodiesel intended for blending with diesel fuel must,

(a) Meet the requirements of ASTM D 6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels";

(b) Be analyzed and issued a Certificate of Analysis for each batch or production lot produced in or imported into Oregon prior to blending, sale, or offer for sale in Oregon. The Certificates of Analysis expire 45 days following the date the biodiesel sample was obtained.

(c) Biodiesel must be analyzed for and comply with the visual appearance test (ASTM D 4176) upon its first receipt at a wholesale facility and prior to commingling with existing product.

(d) Prior to blending, sale, or offer for sale in Oregon, biodiesel must be analyzed and the Certificate of Analysis issued by:

(A) An accredited motor fuel laboratory, or

(B) A non-accredited motor fuel laboratory that meets all of the following requirements;

(i) The laboratory facilities must house and allow proper operation of all required equipment in accordance with the applicable test procedures,

(ii) The laboratory must use personnel trained to perform and analyze ASTM International D 6751 biodiesel fuel tests and other required tests,

(iii) The laboratory must use testing equipment that has been calibrated or verified to meet the requirements of each ASTM International test procedure used,

(iv) The laboratory must participate in an ASTM International proficiency program or similar national proficiency program for at least three times per year with appropriate results, and

(v) The laboratory must maintain current documentation of personnel qualifications, equipment verification, and proficiency results for at least one year. These records shall be available for inspection and reproduction upon request by the Director.

(9) Biodiesel Blends;

(a) Biodiesel blends through B5 must meet the requirements of ASTM D 975 Standard Specification for Diesel Fuel Oils.

(b) Biodiesel blends of B6 through B20 must meet the requirements of ASTM D 7467, Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6-B20).

(c) Blends of biodiesel and diesel fuels greater than B20 must meet the following requirements:

(A) The base diesel fuel must meet the requirements of ASTM D 975, Standard Specification for Diesel Fuel Oils; and

(B) The biodiesel blend stock must meet:

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(i) The requirements of ASTM D 6751, Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, and

(ii) The requirements in OAR 603-027-0420(8).

(d) Exception; Biodiesel may be blended with diesel fuel whose sulfur, lubricity, or aromatic levels are outside specification ASTM D 975, Standard Specification for Diesel Fuel Oils, grades 1-D S15, 1-D S500, 2-D S15, or 2-D S500 provided the finished mixture meets pertinent national and local specifications and requirements for these properties.

(10) Other Renewable Diesel must meet its established ASTM International standard, be approved by the United States Environmental Protection Agency, and comply with specifications of the National Conference on Weights and Measures.

(11) Biodiesel Blends Required.

(a) Except as provided in subsection (f) of this section, a retail dealer, nonretail dealer, or wholesale dealer may only sell or offer for sale diesel fuel in Oregon containing at least two percent by volume biodiesel.

(b) When the capacity of biodiesel production facilities in Oregon reaches a level of at least 15 million gallons on an annualized basis as illustrated by the provisions in section OAR 603-027-0420(11)(c):

(A) The Department shall notify all retailers, nonretail dealers, and wholesale dealers in Oregon that the capacity of biodiesel production facilities in Oregon has reached a level of at least 15 million gallons on an annualized basis and that a retail dealer, nonretail dealer, or wholesale dealer may only sell or offer for sale diesel fuel in Oregon containing at least five percent by volume biodiesel within two months of the date on the notification under this subsection, and

(B) Two months after the date of the notice, a retail dealer, nonretail dealer, or wholesale dealer may only sell or offer for sale diesel fuel in Oregon containing at least five percent biodiesel by volume.

(c) The Oregon Department of Agriculture shall examine information submitted by biodiesel production facilities to determine whether the capacity of biodiesel production facilities in Oregon has reached a level of at least 15 million gallons on an annualized basis. The information that the Department of Agriculture examines may include, but is not limited to, review of the following information:

(A) Review of the following written documentation;

(i) Diagram showing the production facility's process flow, batch processing sequence, and amount of time required to complete each batch of biodiesel;

(ii) Schematics showing the production facility's equipment capacity, including but not limited to pump capacity, line size, pressure drops, and heat transfer equipment;

(iii) Description of the specific feedstock(s) used to produce the biodiesel;

(iv) Any changes in equipment, systems, and operations that have increased the biodiesel production capacity, if the minimum 15 million gallons per year (mgy) capacity results from capacity upgrades of an existing biodiesel production facility;

(v) Written description of on-site and off-site storage, shipping, and receiving capacity;

(vi) Report from an Oregon-licensed third-party professional engineer after conducting an on-site examination and review, and assessing the biodiesel facility's annualized production capacity to produce biodiesel complying with OAR 603-027-0420(8);

(vii) An affidavit signed by the reviewing professional engineer declaring their objective third-party status and analysis of the biodiesel production facility's capacity; and

(viii) An affidavit signed by the operator of the biodiesel production facility declaring the correctness of information provided to the professional engineer and the Oregon Department of Agriculture.

(B) In addition to the professional engineer's report, the Oregon Department of Agriculture may conduct an on-site examination of the facility to inspect the equipment, processes, and operations.

(C) If the Oregon Department of Agriculture deems it necessary to carry out the provisions of ORS 646.921(3), the Department of Agriculture may consider supplemental information from the biodiesel producer to provide additional proof of production capacity. Supplemental information may include the results of a production test.

(d) Biodiesel blends and other renewable diesel blends shall contain the volume percent stated to the nearest;

(A) 1 volume percent for blends through 5 volume percent, and

(B) 2 volume percent for blends greater than 5 volume percent through 20 volume percent.

(e) Diesel fuel containing more than five percent biodiesel by volume or other renewable diesel with more than five percent renewable component by volume must be labeled as required in OAR 603-027-0430.

(f) Exemption. The minimum biodiesel fuel content requirements in OAR 603-027-0420 do not apply to diesel fuel:

(A) Sold or offered for sale for use by railroad locomotives, marine engines, or home heating; or

(B) That otherwise meets the requirements in OAR 603-027-0420 but to which there have been added substances to prevent congealing or gelling of diesel fuel containing biodiesel or other renewable diesel. This exception applies only to diesel fuel sold or offered for sale during the period from October 1, 2010 to February 28, 2011.

(12) Aviation Gasoline shall meet the requirements of ASTM D 910, "Standard Specification for Aviation Gasoline."

(13) E85 Fuel Ethanol shall meet the requirements of ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines."

(14) M85 Fuel Methanol shall meet the requirements of ASTM D 5797, "Standard Specification for Fuel Methanol (M70-M85) for Automotive Spark-Ignition Engines."

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 561.190, 646.905 - 646.990, OL 1997, Ch. 310 (SB 414)

Stats. Implemented: ORS 646.905 - 646.990 & 183, OL 1997, Ch. 310 (SB 414)

Hist.: AD 19-1997, f. 12-9-97, cert. ef. 1-1-98; DOA 5-2002, f. & cert. ef. 1-28-02; DOA 19-2006, f. & cert. ef. 9-26-06; DOA 15-2007(Temp), f. & cert. ef. 10-15-07 thru 4-11-08; DOA 20-2007(Temp), f. & cert. ef. 11-29-07 thru 4-11-08; DOA 8-2008, f. & cert. ef. 2-15-08; DOA 12-2008(Temp), f. 3-14-08, cert. ef. 3-17-08 thru 9-12-08; DOA 21-2008, f. & cert. ef. 9-11-08; DOA 11-2009(Temp), f. & cert. ef. 7-24-09 thru 1-17-10; DOA 16-2009, f. 12-23-09, cert. ef. 1-1-10; DOA 19-2010, f. & cert. ef. 9-14-10; DOA 7-2011, f. & cert. ef. 1-26-11

Department of Agriculture, Oregon Sheep Commission Chapter 644

Rule Caption: To increase the assessment rate to \$1.03 cents per pound of wool sold.

Adm. Order No.: SHEEP 1-2011

Filed with Sec. of State: 2-14-2011

Certified to be Effective: 2-14-11

Notice Publication Date: 10-1-2010

Rules Amended: 644-010-0010

Rules Repealed: 644-010-0010(T)

Subject: To repeal the temporary rule and amend the permanent rules establishing the assessment on the sale of wool sold through commercial channels to \$0.03 cents per pound of wool in the grease basis.

Rules Coordinator: Richard Kosesan—(503) 370-7024

644-010-0010

Assessments

(1) Any first purchaser shall deduct and withhold an assessment of three cents (\$.03) per pound from the price paid to the producer thereof, after January 1, 2011, for all wool produced in Oregon.

(2) All casual sales of wool made by the producer direct to the consumer and in an amount less than 200 pounds in any calendar year shall be exempt from the assessment.

(3) Any person (including producers eligible for exemption from assessment as casual sales) may donate to the Commission. Such authorization may be made by so indicating and signing such donation on the payment slips prepared by the first handler (who will include such donations in the quarterly report).

Stat. Auth.: ORS 576

Stats. Implemented: ORS 576.304(2) & 576.325(4)(f)

Hist.: SC 2, f. 12-20-77, ef. 1-1-78; SC 1-1985, f. & ef. 11-20-85; SHEEP 1-2004, f. & cert. ef. 1-8-04; SHEEP 1-2005, f. 12-15-05 cert. ef. 1-1-06; SHEEP 1-2006, f. 12-12-06, cert. ef. 1-1-07; SHEEP 1-2010(Temp), 12-15-10, cert. ef. 1-1-11 thru 3-31-11; SHEEP 1-2011, f. & cert. ef. 2-14-11

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

Rule Caption: Adopts carbon monoxide alarm provisions amending the 2008 ORSC and 2010 OSSC.

Adm. Order No.: BCD 1-2011

Filed with Sec. of State: 2-15-2011

Certified to be Effective: 2-15-11

ADMINISTRATIVE RULES

Notice Publication Date: 1-1-2011

Rules Amended: 918-460-0015, 918-480-0010

Subject: These rules implement a portion of House Bill 3450, approved by the 2009 Legislature, known as the Lofgren and Zander Memorial Act. The bill requires carbon monoxide alarms to be installed in Group R structures (as identified in Section 315 of the Oregon Structural Specialty Code) that is either new construction or undergoes reconstruction, alteration, or repair where a building permit is required. Group R structures are regulated under either the Oregon Structural Specialty Code (OSSC) or the Oregon Residential Specialty Code (ORSC). The bill requires that these provisions become effective April 1, 2011 amending both the 2010 OSSC and the 2008 ORSC, including Appendix N in the 2010 OSSC for low-rise residential apartments.

Rules Coordinator: Stephanie Snyder—(503) 373-7438

918-460-0015

Amendments to the Oregon Structural Specialty Code

The **2010 Oregon Structural Specialty Code** is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **2010 Oregon Structural Specialty Code** are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

(1) Effective January 1, 2011 the **2010 Oregon Structural Specialty Code** is amended by adding Section 1811 Radon Control Methods for Public Buildings and Section 1812 Radon Control Methods for R-2 and R-3 Occupancies.

(a) Radon mitigation provisions in Section 1811 applicable to new public buildings are adopted January 1, 2011 but do not become enforceable until April 1, 2013 as authorized by Chapter 83, 2010 Laws (Senate Bill 1025).

(b) Radon mitigation provisions in Section 1812 applicable to residential buildings indentified as Group R-2 or R-3 are adopted January 1, 2011 but do not become enforceable until April 1, 2011 as authorized by Chapter 83, 2010 Laws (Senate Bill 1025).

(2) Effective April 1, 2011 the **2010 Oregon Structural Specialty Code** Section 908 "Emergency Alarm Systems" is amended by adding new subsection 908.7 requirements for Carbon Monoxide Alarms.

NOTE: Publications referenced are available for review at the division. See division website for information on where to purchase publications.

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

Stat. Auth.: ORS 447.231, 447.247, 455.030, 455.110, 455.112, & 455.610

Stats. Implemented: ORS 447.247, 455.110 & 455.112

Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 22-1994, f. 9-28-94, cert. ef. 1-1-95; BCD 31-1994(Temp), f. & cert. ef. 12-23-94; BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 5-1995, f. & cert. ef. 3-15-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 6-1996, f. 3-29-96, cert. ef. 4-1-96; BCD 12-1997, f. 9-10-97, cert. ef. 10-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 24-1998(Temp), f. & cert. ef. 12-1-98 thru 5-29-99; Temporary Rule repealed by BCD 3-1999, f. 3-12-99, cert. ef. 4-1-99; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 12-1999(Temp), f. 9-23-99, cert. ef. 11-1-99 thru 4-28-00; BCD 2-2000 f. 1-14-00, cert. ef. 4-1-00; BCD 20-2000, f. 9-15-00, cert. ef. 10-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 18-2001, f. 12-21-01, cert. ef. 1-1-02; BCD 14-2003, f. 8-13-03, cert. ef. 10-1-03; BCD 18-2003(Temp) f. & cert. ef. 11-14-03 thru 5-11-04; BCD 5-2004, f. & cert. ef. 4-1-04; BCD 16-2004, f. 9-24-04, cert. ef. 10-1-04; BCD 21-2004, f. & cert. ef. 10-1-04; BCD 9-2005(Temp), f. & cert. ef. 4-7-05 thru 9-30-05; BCD 14-2005, f. & cert. ef. 7-5-05; BCD 18-2005(Temp), f. & cert. ef. 7-12-05 thru 9-30-05; BCD 22-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 23-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 1-2006, f. & cert. ef. 2-1-06; BCD 9-2006, f. 6-30-2006, cert. ef. 7-1-06; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 9-2008(Temp), f. & cert. ef. 6-25-08 thru 12-22-08; BCD 20-2008, f. 9-30-08, cert. ef. 10-1-08; BCD 4-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 19-2010, f. 12-30-10, cert. ef. 1-1-11; BCD 1-2011, f. & cert. ef. 2-15-11

918-480-0010

Amendments to the Oregon Residential Specialty Code

(1) The **Oregon Residential Specialty Code** is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Residential Specialty Code** are placed in this rule, showing the section reference and a descriptive caption.

(2) Effective April 1, 2008:

(a) The 2006 Edition of the Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials and amended by the division, is adopted to provide the plumbing provisions of the **Oregon Residential Specialty Code**; and

(b) The 2008 Edition of the NFPA 70, National Electrical Code as amended by the division is adopted to provide the electrical provisions of the **Oregon Residential Specialty Code**. See OAR chapter 918, division 305 for Oregon amendments to NFPA 70, National Electrical Code.

(3) During the phase-in period established in OAR 918-480-0005(3), plans designed to the **2005 Oregon Residential Specialty Code** must use the plumbing and electrical provisions included in that 2005 code. Plans that are designed to the **2008 Oregon Residential Specialty Code** must use the plumbing and electrical provisions adopted in this rule.

(4) Effective October 1, 2008, the following sections of the 2008 Oregon Residential Specialty Code are amended:

(a) Section R 109.1.4.1 Moisture content.

(b) Section R318.2 Moisture content.

(5) Effective February 1, 2009, following sections of the **2008 Oregon Residential Specialty Code** are amended:

(a) Section R602.10.9 Interior braced wall support.

(b) Section R613.2 Window sills is added

(c) Section R.613.2.1 Operation for emergency escape is added

(d) Chapter 43 Referenced Standards.

(6) Effective October 1, 2009, the following sections of the **2008 Oregon Residential Specialty Code** are amended:

(a) Section AG106 Entrapment Protection For Swimming Pool And Spa Suction Outlets is added.

(b) Section AG107 Abbreviations.

(c) Section AG108 Standards.

(7)(a) Effective January 1, 2010, the following sections of the **2008 Oregon Residential Specialty Code** are amended:

(A) Section R703.1 General

(B) Section R703.1.1 Exterior Wall Envelope

(b) Changes to the **2008 Oregon Residential Specialty Code** made by subsection (a) of this section are subject to a grace period ending March 31, 2010. During the grace period, the building official must approve installations that meet either the standard adopted under Section R703.1 prior to this amendment or the standard established by this amendment.

(8) Effective January 1, 2011, the **2008 Oregon Residential Specialty Code** is amended by adopting **Appendix F Radon Control Methods**. This provision is adopted January 1, 2011 but do not become enforceable until April 1, 2011 as authorized by Chapter 83, 2010 Laws (Senate Bill 1025).

(9) Effective April 1, 2011, the **2008 Oregon Residential Specialty Code** is amended for the purposes of adopting Section R326, requirements for carbon monoxide alarms.

(10) Effective April 1, 2011, **Appendix N** of the **2010 Oregon Structural Specialty Code** is amended for the purpose of adopting the carbon monoxide alarm requirements in **2008 Oregon Residential Specialty Code**, Section R326.

NOTE: The amendments are published in their entirety in Table 2-R beginning on page 9.

NOTE: Publications referenced are available for review at the division. See division website for information on where to purchase publications.

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

Stat. Auth.: ORS 455.020, 455.110, 455.525 & 455.610

Stats. Implemented: ORS 455.610

Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCA 29-1993, f. 11-24-93, cert. ef. 12-1-93; BCD 6-1995, f. 3-31-95, cert. ef. 4-1-95; BCD 3-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 22-1996(Temp), f. 10-1-96, cert. ef. 10-4-96; BCD 5-1997, f. 3-21-97, cert. ef. 4-1-97; Administrative Reformatting 1-19-98; BCD 3-1998, f. 1-29-98, cert. ef. 4-1-98; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 3-2000, f. 1-14-00, cert. ef. 4-1-00; BCD 19-2000(Temp), f. & cert. ef. 8-15-00 thru 2-10-01; BCD 32-2000, f. 12-27-00, cert. ef. 1-1-01; BCD 3-2001, f. 2-9-01, cert. ef. 3-1-01; BCD 2-2002, f. 3-5-02, cert. ef. 4-1-02; BCD 22-2002(Temp), f. 9-13-02 cert. ef. 10-1-02 thru 3-29-03; BCD 30-2002, f. 12-6-02, cert. ef. 1-1-03; BCD 1-2003(Temp), f. & cert. ef. 1-10-03 thru 3-31-03; BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04; BCD 5-2005, f. & cert. ef. 3-28-05; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 5-2008, f. 2-22-08, cert. ef. 4-1-08; BCD 13-2008(Temp), f. & cert. ef. 7-3-08 thru 12-30-08; BCD 21-2008, f. 9-30-08, cert. ef. 10-1-08; BCD 24-2008(Temp), f. & cert. ef. 10-6-08 thru 4-1-09; BCD 1-2009, f. 1-30-09, cert. ef. 2-1-09; BCD 8-2009, f. 9-30-09, cert. ef. 10-1-09; BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 19-2010, f. 12-30-10, cert. ef. 1-1-11; BCD 1-2011, f. & cert. ef. 2-15-11

Rule Caption: Adopts 2011 Oregon Plumbing Specialty Code.

Adm. Order No.: BCD 2-2011

Filed with Sec. of State: 2-15-2011

Certified to be Effective: 2-15-11

Notice Publication Date: 1-1-2011

Rules Amended: 918-690-0300, 918-690-0410, 918-690-0420, 918-750-0100, 918-750-0110

Rules Repealed: 918-690-0310, 918-690-0325, 918-690-0330, 918-690-0360, 918-690-0430, 918-750-0120, 918-750-0130, 918-750-0140, 918-750-0150, 918-750-0160, 918-750-0170, 918-750-0180, 918-750-0190

Subject: These rules adopt the 2011 Oregon Plumbing Specialty Code based upon 2009 edition of the Uniform Plumbing Code pub-

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lished by the International Association of Plumbing and Mechanical Officials with Oregon specific amendments. Additionally, the rules include some non-substantive housekeeping changes to administrative rule that provide clarity and consistency among the division's rules.

Rules Coordinator: Stephanie Snyder—(503) 373-7438

918-690-0300

Reasonable Notice to Interested Parties

Before the adoption, amendment or repeal of any rule relating to plumbing under ORS Chapters 447 or 693, the Building Codes Division shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date; and

(2) By mailing a copy of the notice to notifying persons and organizations on the interested parties mailing list established under ORS 183.335(7); (8) and OAR 918-001-0210.

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341

Hist.: DC 2-1983, f. & ef. 1-3-83; Renumbered from 814-020-0000; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0000; BCD 2-2011, f. & cert. ef. 2-15-11

918-690-0410

Cross Reference to Statutes

Statutory plumbing definitions are generally in ORS 447.010 and 693.010. The following are among words defined by statute:

(1) "Board" is defined in ORS 447.010;

(2) "Building sewer" is defined in ORS 701.348;

(3) "Journeyman Plumber" is defined in ORS 693.010;

(4) "Limited Specialty Plumber" is defined by ORS 693.103;

(5) "Plumbing" is defined in ORS 447.010.

Stat. Auth.: ORS 447.020

Stats. Implemented: ORS 447.020

Hist.: BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98; BCD 2-2011, f. & cert. ef. 2-15-11

918-690-0420

Definitions

Scope of definitions:

(1) "Administrator" means the Administrator of the Building Codes Division.

(2) "Alterations" means to change, to take away, or to add to.

(3) "Apprenticeship Plumbing Experience" means experience equivalent to the training standards of the Oregon State Apprenticeship Program for the specific category of plumber.

(4) "Commercial or Industrial Installation" means an installation of plumbing fixtures in a commercial or public building and in areas of an apartment building, hotel, motel, or similar residential structure, open and available for use by the public at large, or by employees.

(5) "Division" means the Building Codes Division.

(6) "Equivalent Experience" means legal work experience gained outside the State of Oregon equal to general journeyman plumbing experience or apprenticeship plumbing experience.

(7) "Existing Work" is defined in the **Oregon Plumbing Specialty Code**.

(8) "General Journeyman Plumbing Experience" means experience equivalent to the standards required for completion of the Oregon State Apprenticeship Program.

(9) "Inspection" means careful investigation, critical examination, or official examination and review of the plumbing installation at the site of the installation.

(10) "Limited Specialty Plumber" means any person holding a valid limited specialty plumber's certificate of competency issued under ORS 693.103 and these rules.

(11) "Medical Gas" means any gas and vacuum system or equipment intended for medical and dental procedures in health care and non-health care facilities within the scope of the **Oregon Plumbing Specialty Code** as defined in OAR 918-750-0110.

(12) "**Oregon Plumbing Specialty Code**" means the combined codes and standards adopted in OAR 918-750-0110.

(13) "Solar Heating and Cooling System" means any configuration of plumbing equipment and components to collect, convey, store and convert the sun's energy for the purpose of heating or cooling potable water.

(14) "Water Supply System" is defined in the **Oregon Plumbing Specialty Code**.

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

Stat. Auth.: ORS 447.010, 447.020, 455.110 & 693.103

Stats. Implemented: ORS 447.010, 447.020, 455.110 & 693.103

Hist.: DC 4, f. 8-13-71, ef. 9-11-71; DC 25-1978, f. 9-5-78, ef. 9-20-78; Renumbered from 814-021-0500; DC 2-1983, f. & ef. 1-3-83; Renumbered from 814-020-0006; BCA 18-1991, f. & cert. ef. 6-12-91; BCA 19-1993(Temp), 8-26-93, cert. ef. 9-1-93; BCA 26-1993, f. 10-22-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0005; BC-22-2000, f. 9-19-00, cert. ef. 10-1-00; BCD 13-2002, f. 6-28-02, cert. ef. 7-1-02; BCD 24-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 2-2011, f. & cert. ef. 2-15-11

918-750-0100

Scope of the Oregon Plumbing Specialty Code

(1) The **Oregon Plumbing Specialty Code** is applicable and uniform throughout the state and in all municipalities.

(2) Municipalities may not enact or enforce any ordinance, rule or regulation in conflict with the **Oregon Plumbing Specialty Code**.

(3) The **Oregon Plumbing Specialty Code** applies to all plumbing installations as addressed in ORS 447.020 including one- and two-family dwellings of three stories or less within the scope of the Oregon Residential Specialty Code.

(4) The provisions of the **Oregon Plumbing Specialty Code** apply to the erection, installation, alteration, repair, relocation, replacement, addition to, use or maintenance of plumbing systems in commercial buildings, industrial buildings, prefabricated structures, and dwellings.

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

Stat. Auth.: ORS 447.020

Stats. Implemented: ORS 447.020

Hist.: BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98; BCD 2-2011, f. & cert. ef. 2-15-11

918-750-0110

Oregon Plumbing Specialty Code

Effective April 1, 2011, the **2011 Oregon Plumbing Specialty Code** consists of the following:

(1) The **2009 Edition of the Uniform Plumbing Code, Third Printing, Chapters 1–11, 13, 14, 15 and 16, Appendices A, B, D, E, and L** published by the International Association of Plumbing and Mechanical Officials, and further amended by the division. **Appendices F, I, K, and M** are not adopted as part of the **Oregon Plumbing Specialty Code**; and

(2) **Medical Gas and Vacuum Systems Standard NFPA 99C-2002 Edition** as published by the National Fire Protection Association.

NOTE: Publications are available for review at the division. See division website for information on where to purchase publications.]

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

Stat. Auth.: ORS 447.020, 455.020, 455.030 & 455.110

Stats. Implemented: ORS 447.020, 455.020, 455.030 & 455.110

Hist.: DC 40, f. 1-6-75, ef. 2-1-75; DC 99, f. 9-2-77, ef. 11-1-77; DC 15-1979(Temp), f. 12-1-79, ef. 1-1-80; DC 2-1980, f. 2-14-80, ef. 3-1-80; DC 3-1980, f. & ef. 2-14-80; DC 4-1981, f. 5-15-81, ef. 7-1-81; DC 9-1981, f. & ef. 7-6-81; DC 14-1981(Temp), f. 10-30-81, ef. 11-6-81; DC 15-1982(Temp) f. & ef. 5-5-82; DC 1-1983, f. & ef. 1-3-83; DC 28-1984, f. 9-5-84, ef. 10-15-84; DC 10-1985, f. & ef. 4-1-85; DC 4-1987, f. & ef. 3-4-87; DC 11-1987, f. & ef. 4-21-87; Renumbered from 814-021-0005; BCA 27-1989, f. 12-5-89, cert. ef. 1-1-90; BCA 14-1990, f. & cert. ef. 6-13-90; BCA 42-1991, f. & cert. ef. 12-23-91; BCA 19-1993(Temp), f. 8-26-93, cert. ef. 9-1-93; BCA 26-1993, f. 10-22-93, cert. ef. 11-1-93; BCD 4-1996, f. 2-29-96, cert. ef. 4-1-96; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-750-0010; BCD 7-1999, f. 6-21-99, cert. ef. 4-1-2000; BCD 6-2000, f. 3-15-00, cert. ef. 4-1-00; BCD 27-2000, f. 10-13-00, cert. ef. 10-01-01; BCD 24-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 4-2008, f. 2-21-08, cert. ef. 4-1-08; BCD 2-2011, f. & cert. ef. 2-15-11

Department of Consumer and Business Services, Division of Finance and Corporate Securities Chapter 441

Rule Caption: Establishes a general process to conduct audits of appraisal management companies.

Adm. Order No.: FCS 1-2011

Filed with Sec. of State: 1-20-2011

Certified to be Effective: 1-20-11

Notice Publication Date: 11-1-2010

Rules Adopted: 441-674-0510, 441-674-0520

Rules Amended: 441-674-0005

Subject: These permanent rules implement the audit requirements of 2010 House Bill 3624 (the Act), which regulates the activities of appraisal management companies. The Act, passed and signed into law on March 23, 2010, requires appraisal management companies doing business in Oregon to register with the Department of Consumer and Business Services (DCBS) by January 1, 2011. The Act requires DCBS to adopt administrative rules establishing a process to audit registered appraisal management companies. These rules establish the general process for audits conducted under the Act. These rules also correct a citation to rules adopted by the Oregon Appraiser Certification and Licensure Board.

Rules Coordinator: Shelley Greiner—(503) 947-7484

ADMINISTRATIVE RULES

441-674-0005

Definitions

In addition to the definitions in 2010 Or Laws ch 87, § 1, the following definitions apply unless the context clearly requires otherwise:

(1) "Appraisal report" has the same meaning as the term is defined in OAR 161-002-0000.

(2) "Assignment" means:

(a) An agreement between an appraiser and a client to perform a valuation service; and

(b) The valuation service that is provided as a consequence of such an agreement.

(3) "Audit" means a formal or official examination and verification of the accounts, correspondence, memoranda, papers, books and other records of an appraisal management company for compliance with 2010 Or Laws ch 87, §§ 1 to 8.

(4) "Board" means the Appraiser Certification and Licensure Board established under ORS 674.305.

(5) "Competency" or "competent" refers to the Competency Rule as contained in the Uniform Standards of Professional Appraisal Practice, 2010-2011 Edition, approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, dated April 27, 1987, as amended on January 1, 2010 and adopted by the board by reference under OAR 161-025-0060.

(6) "Director" means the Director of the Department of Consumer and Business Services.

(7) "Individual" means a natural person.

(8)(a) A "person with an interest in a real estate transaction" includes, but is not limited to, a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or a consumer.

(b) A "person with an interest in a real estate transaction" does not include an appraiser.

(9) "Quality control examination" means the examination of an appraisal report for compliance and completeness, including examination for grammatical or typographical errors.

(10) "Real property" has the same meaning as the term is defined in OAR 161-002-0000(31).

(11)(a) "Reviews real estate appraisal activity" means, for purposes of section 2, chapter 87, 2010 Or Laws, the act or process of developing or communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal, appraisal review, or appraisal consulting assignment.

(b) "Reviews real estate appraisal activity" does not include a quality control examination.

(12) "System" means an organized or established procedure or method.

Stat. Auth.: 2010 OL Ch. 87, § 1

Stat. Implemented: 2010 OL Ch. 87, § 1-2 & 7

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11; FCS 1-2011, f. & cert. ef. 1-20-11

441-674-0510

Audits Required

(1) An audit of an appraisal management company registered to provide appraisal management services in Oregon shall be conducted no later than two years following registration as an appraisal management company, or two years following a date established by the director.

(2) In the case of a subsidiary or affiliate of a financial institution engaging in business as an appraisal management company without obtaining a registration to provide appraisal management services in Oregon, the director may conduct an audit of the appraisal management company in a joint or alternating manner with the appropriate federal banking agency or the Bureau of Consumer Financial Protection as permitted or required by applicable law.

(3) The director may audit an appraisal management company at any reasonable time or times and may require the production of such records at the office of the director as often as is reasonably necessary.

(4) An appraisal management company that refuses to submit to an audit shall be considered to have failed the audit.

Stat. Auth.: 2010 OL ch 87, § 4

Stat. Implemented: 2010 OL ch 87, § 4

Hist.: FCS 1-2011, f. & cert. ef. 1-20-11

441-674-0520

Audit Standards

An audit under OAR 441-674-0510 will examine the appraisal management company's compliance with 2010 Or Laws ch 87, §§ 1 to 8, including, but not limited to, examination of the following:

(1) The appraisal management company's system to verify the competency of appraisers on the business entity's panel meeting the minimum requirements in OAR 441-674-0120.

(2) The names, license or certification numbers, and competency information required by OAR 441-674-0130 of the Oregon-licensed or certified appraisers on the applicant's appraiser panel.

(3) The appraisal management company's dispute resolution process as described in 2010 Or Laws ch 87, § 7 and OAR 441-674-0130, including a sampling of disputes and the resolution of those disputes chosen by the auditor.

(4) The appraisal management company's record retention schedule, consistent with 2010 Or Laws ch 87, § 2.

(5) The appraisal management company's business practices and transactions that may indicate:

(a) The appraisal management company attempted to influence the development, reporting or review of an appraisal or appraisal review assignment, consistent with the prohibitions established in 2010 Or Laws ch 87, § 5;

(b) The appraisal management company substantively altered in any way a completed appraisal report submitted by an appraiser, consistent with the prohibition established in 2010 Or Laws ch 87, § 5;

(c) The appraisal management company failed to make payments to an independent contractor appraiser for the completion of an appraisal or appraisal review, excluding claims for breach of contract or substandard performance; or

(d) The appraisal management company violated any other provision established in 2010 Or Laws ch 87, §§ 1 to 8.

Stat. Auth.: 2010 OL ch 87, § 4

Stat. Implemented: 2010 OL ch 87, §§ 4, 5

Hist.: FCS 1-2011, f. & cert. ef. 1-20-11

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Rule Caption: Amend the "Accredited Investor" rule definition to conform to recent changes in federal law.

Adm. Order No.: FCS 2-2011

Filed with Sec. of State: 2-15-2011

Certified to be Effective: 2-15-11

Notice Publication Date: 1-1-2011

Rules Amended: 441-035-0010

Subject: The definition of an "accredited investor" definition under OAR 441-035-0010(5) is amended to exclude the value of a natural person investor's primary residence from the \$1 million net worth calculation. The amended definition reflects the modification of the federal "accredited investor" definition under the Dodd-Frank Act.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-035-0010

Accredited Investor

For purposes of ORS 59.035(5) accredited investor includes:

(1) Any bank as defined in Section 3(a)(2) of the Securities Act of 1933 (the "Act"), or any savings and loan association or other institution as defined in Section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934; any insurance company as defined in Section 2(13) of the Act; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940; any small business investment company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of Title 1 of the Employee Retirement Income Security Act of 1974 ("ERISA"), if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of ERISA, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors.

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(2) Any private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940.

(3) Any organization described in **Section 501(c)(3)** of the **Internal Revenue Code**, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000.

(4) Any director, executive officer, or general partner of the issuer of the securities being offered or sold or any director, executive officer, or general partner of a general partner of that issuer.

(5) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of the purchase exceeds \$1,000,000, excluding the value of the natural investor's primary residence.

(6) Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year.

(7) Any trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in **17 CFR 230.506(b)(2)(ii)**.

(8) Any entity in which all of the equity owners are accredited investors.

Stat. Auth.: ORS 59.285
Stats. Implemented: ORS 59.035(5)
Hist.: CC 12-1985(Temp), f. & ef. 11-25-85; CC 1-1987, f. & ef. 2-4-87; FCS 8-1988(Temp), f. & cert. ef. 4-11-88; Renumbered from 815-030-0042; FCS 14-1988, f. & ef. 10-10-88; FCS 5-1990, f. & cert. ef. 8-21-90; FCS 9-2010(Temp), f. 8-2-10, cert. ef. 8-3-10 thru 1-30-11; FCS 2-2011, f. & cert. ef. 2-15-11

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Annual Financial Reports for Self-Insured Groups.

Adm. Order No.: ID 1-2011

Filed with Sec. of State: 2-4-2011

Certified to be Effective: 2-4-11

Notice Publication Date: 1-1-2011

Rules Adopted: 836-011-0250, 836-011-0253, 836-011-0255, 836-011-0258, 836-011-0260

Subject: These rules clarify the requirements for annual financial statements filed by self-insured groups comprising three or more public bodies. In particular the rules specify how to calculate annual contributions, require the financial statement to be supported by an actuarial opinion and provide a due date for filing an annual statement.

Rules Coordinator: Sue Munson—(503) 947-7272

836-011-0250

Authority; Purpose; Scope

(1) OAR 836-011-0250 to 836-011-0260 are adopted by the Director of the Department of Consumer and Business Services pursuant to ORS 731.244. The purpose of OAR 836-011-0250 to 836-011-0260 is to improve the Director's ability to determine whether a self-insurance program satisfies the financial requirements of ORS 30.282 and 731.036 to be exempt from the Insurance Code and to clarify the components of the annual financial statement required under ORS 30.282 and 731.036, including the timeline for providing the annual financial statement to the program participants and to the director.

(2) OAR 836-011-0250 to 836-011-0260 apply to every public body that establishes a self-insurance program that is exempt from the Insurance Code under ORS 30.282 and 731.036.

(3) OAR 836-011-0250 to 836-011-0260 do not limit the Director's authority to order, conduct or perform examinations of self insurance programs to determine whether the program complies with applicable criteria for exemption from the Insurance Code.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 30.282, 731.036
Hist.: ID 1-2011, f. & cert. ef. 2-4-11

836-011-0253

Definitions

As used in OAR 836-011-0250 to 836-011-0260:

(1) "Annual contributions" means total contributions paid by program participants less any premium collected from participants to procure insurance of any kind.

(2) "Annual financial statement" means the financial report required under ORS 731.036 or the annual independently audited financial statement provided to program participants under ORS 30.282. The report described in this rule must comply with all applicable Government Accounting Standards Board requirements.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 30.282, 731.036
Hist.: ID 1-2011, f. & cert. ef. 2-4-11

836-011-0255

Reserve Adequacy

In order to demonstrate that a self-insurance program complies with the reserve adequacy provisions contained in ORS 30.282(6)(d) or 731.036(6)(e), the demonstration of compliance must be accompanied and supported by the written actuarial report issued by a qualified actuary. As used in this rule, "qualified actuary" means a person who is either:

(1) A member in good standing of the Casualty Actuarial Society; or

(2) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 30.282, 731.036
Hist.: ID 1-2011, f. & cert. ef. 2-4-11

836-011-0258

Unallocated Reserve Account

In order to demonstrate compliance with the requirement to maintain an unallocated reserve account as set forth in ORS 30.282(6)(e) in which total assets exceed total liabilities by the greater of 25 percent of annual contributions or \$250,000, total liabilities must include all liabilities identified by a qualified actuary including but not necessarily limited to the items listed in ORS 30.282(6)(d).

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 30.282, 731.036
Hist.: ID 1-2011, f. & cert. ef. 2-4-11

836-011-0260

Distribution of Annual Financial Statement

A public body or the administrator of a self-insurance program must make the annual financial statement available to program participants and to the director not later than six months after the close of the program's fiscal year.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 30.282, 731.036
Hist.: ID 1-2011, f. & cert. ef. 2-4-11

Rule Caption: Annuity Suitability Model Rule.

Adm. Order No.: ID 2-2011

Filed with Sec. of State: 2-4-2011

Certified to be Effective: 2-4-11

Notice Publication Date: 11-1-2010

Rules Adopted: 836-080-0170, 836-080-0172, 836-080-0175, 836-080-0178, 836-080-0180, 836-080-0183, 836-080-0185, 836-080-0188, 836-080-0193

Rules Amended: 836-080-0090

Rules Ren. & Amend: 836-080-0095 to 836-080-0190

Subject: In recent years, the availability and complexity of annuities has increased dramatically. If a consumer purchases an annuity that is not appropriate for the consumer's situation, the consumer may be harmed or fail to receive the expected benefit from the annuity. Determining the suitability of a particular annuity product for a particular consumer requires that the insurer and producer have a thorough knowledge of annuities in general, financial implications of choosing an annuity and the particular products. Products change rapidly. These rules, which in large part adopt the National Association of Insurance Commissioners' (NAIC) Model Rule #275, Suitability in Annuity Transactions (April 2010 version) will ensure that the insurer and producer evaluate the suitability of an annuity for a particular client and also ensure that producers who sell annuities receive minimum training about annuities and suitability.

Rules Coordinator: Sue Munson—(503) 947-7272

ADMINISTRATIVE RULES

836-080-0090

Suitability in the Sale of Life Insurance

A person may not recommend to a consumer the purchase, sale or replacement of a life insurance policy, or any rider, endorsement or amendment to the policy, without reasonable grounds to believe that the recommendation or transaction is not unsuitable for the consumer based upon reasonable inquiry concerning the consumer's insurance objectives, financial situation and needs, age and other relevant information known by the person. For the purpose of this rule, when a person recommends a group life insurance policy, "consumer" refers to the intended group policyholder.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.100, 746.110 & 746.240

Hist.: ID 6-2004, f. 8-26-04, cert. ef. 1-1-05; ID 2-2011, f. & cert. ef. 2-4-11

836-080-0170

Statutory Authority; Purpose

(1) OAR 836-080-0170 to 836-080-0190 are issued under the general rulemaking authority of the director in ORS 731.244 to aid in the effectuation of ORS Chapter 746, especially the provisions of ORS 746.100, 746.110 and 746.240.

(2) The purpose of this rule is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

(3) Nothing in OAR 836-080-0170 to 836-080-0190 shall be construed to create or imply a private cause of action for a violation of OAR 836-080-0170 to 836-080-0190.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.100, 746.110 & 746.240

Hist.: ID 2-2011, f. & cert. ef. 2-4-11

836-080-0172

Applicability

OAR 836-080-0170 to 836-080-0190 apply to any recommendation to purchase, exchange or replace an annuity made to a consumer by an insurance producer, or an insurer where no insurance producer is involved, that results in the purchase, exchange or replacement recommended.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.100, 746.110 & 746.240

Hist.: ID 2-2011, f. & cert. ef. 2-4-11

836-080-0175

Exemptions

Unless otherwise specifically included, OAR 836-080-0170 to 836-080-0190 do not apply to transactions involving:

(1) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to OAR 836-080-0170 to 836-080-0190;

(2) Contracts used to fund:

(a) An employee pension or welfare benefit plan that is covered by the federal Employee Retirement and Income Security Act as amended;

(b) A plan described by sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code, as amended, if established or maintained by an employer;

(c) A government or church plan defined in section 414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the Internal Revenue Code;

(d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(e) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(f) Formal prepaid funeral contracts.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.100, 746.110 & 746.240

Hist.: ID 2-2011, f. & cert. ef. 2-4-11

836-080-0178

Definitions

(1) "Annuity" means an insurance product that is individually solicited, whether the product is classified as an individual or group annuity.

(2) "Insurer" means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

(3) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities.

(4) "Recommendation" means advice provided by an insurance producer, or an insurer where no insurance producer is involved, to an individ-

ual consumer that results in a purchase, exchange or replacement of an annuity in accordance with that advice.

(5) "Replacement" has the meaning given in OAR 836-080-0005.

(6) "Suitability information" means information that is reasonably appropriate to determine the suitability of a recommendation, including the following:

(a) Age;

(b) Annual income;

(c) Financial situation and needs, including the financial resources used for the funding of the annuity;

(d) Financial experience;

(e) Financial objectives;

(f) Intended use of the annuity;

(g) Financial time horizon;

(i) Existing assets, including investment and life insurance holdings;

(j) Liquidity needs;

(k) Liquid net worth;

(l) Risk tolerance; and

(m) Tax status.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.100, 746.110 & 746.240

Hist.: ID 2-2011, f. & cert. ef. 2-4-11

836-080-0180

Duties of Insurers and of Insurance Producers

(1) As used in this rule, "FINRA" means the Financial Industry Regulatory Authority or a succeeding agency.

(2) In addition to the disclosure requirements of OAR 836-051-0900 to 836-051-0925, in recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no insurance producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:

(a) The consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance and investment components and market risk;

(b) The consumer would benefit from certain features of the annuity, such as tax deferred growth, annuitization or death or living benefit;

(c) The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on his or her suitability information; and

(d) In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable including taking into consideration whether:

(A) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living or other contractual benefits), or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;

(B) The consumer would benefit from product enhancements and improvements; and

(C) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months.

(3) Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer where no insurance producer is involved, shall make reasonable efforts to obtain the consumer's suitability information

(4) Except as provided under section (3) of this rule, an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

(5) (a) Except as provided under subsection (b) of this section, neither an insurance producer, nor an insurer, shall have any obligation to a consumer under subsection A or C related to any annuity transaction if:

(A) No recommendation is made;

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(B) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

(C) A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or

(D) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.

(b) An insurer's issuance of an annuity subject to subsection (a) of this section shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(6) An insurance producer or, where no insurance producer is involved, the responsible insurer representative, shall at the time of sale:

(a) Make a record of any recommendation subject to section (2) of this rule;

(b) Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and

(c) Obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation.

(7) (a) An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its insurance producers' compliance with OAR 836-080-0170 to 836-080-0190. The supervision system must include but need not be limited to, the following:

(A) The insurer shall maintain reasonable procedures to inform its insurance producers of the requirements of OAR 836-080-0170 to 836-080-0190 and shall incorporate the requirements of OAR 836-080-0170 to 836-080-0190 into relevant insurance producer training manuals;

(B) The insurer shall establish standards for insurance producer product training and shall maintain reasonable procedures to require its insurance producers to comply with the requirements of OAR 836-080-0185;

(C) The insurer shall provide product-specific training and training materials that explain all material features of its annuity products to its insurance producers;

(D) The insurer shall maintain procedures to review each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that a recommendation is suitable. The review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. An electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(E) The insurer shall maintain a reasonable procedure to detect recommendations that are not suitable. The procedure may include, but need not be limited to, confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters and programs of internal monitoring. Nothing in this paragraph prevents an insurer from complying with this paragraph by applying sampling procedures, or by confirming suitability information after issuance or delivery of the annuity; and

(F) The insurer annually shall provide a report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

(b)(A) Nothing in this section restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under subsection (a) of this section. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties under OAR 836-080-0185 regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph (B) of this paragraph.

(B) An insurer's supervision system under subsection (a) of this section shall include supervision of contractual performance under this subsection. The supervision must include, but is not limited to, the following:

(i) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(ii) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

(C) An insurer is not required to include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer.

(8) An insurance producer shall not dissuade, or attempt to dissuade, a consumer from:

(a) Truthfully responding to an insurer's request for confirmation of suitability information;

(b) Filing a complaint; or

(c) Cooperating with the investigation of a complaint.

(8) (a) Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions shall satisfy the requirements under OAR 836-080-0170 to 836-080-0190. This subsection applies to FINRA broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this subsection shall limit the director's ability to investigate and enforce the provisions of OAR 836-080-0170 to 836-080-0190.

(b) In order for subsection (b) to apply, an insurer shall:

(A) Monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and

(B) Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.100, 746.110 & 746.240

Hist.: ID 2-2011, f. & cert. ef. 2-4-11

836-080-0183

Insurance Producer Training

(1) An insurance producer shall not solicit the sale of an annuity product unless the insurance producer has adequate knowledge of the product to recommend the annuity and the insurance producer is in compliance with the insurer's standards for product training. An insurance producer may rely on insurer-provided product-specific training standards and materials to comply with this section.

(2) (a)(A) An insurance producer who engages in the sale of annuity products shall complete a one-time four credit training course provided by a continuing education provider registered with the department.

(B) Individuals who obtain a life insurance line of authority on or after the effective date of OAR 836-080-0170 to 836-080-0190 may not engage in the sale of annuities until the insurance producer completes the annuity training course required under this section.

(b) The minimum length of the training required under this section shall be sufficient to qualify for at least four continuing education credits, but may be longer.

(c) The training required under this subsection shall include information on the following topics:

(A) The types of annuities and various classifications of annuities;

(B) Identification of the parties to an annuity;

(C) How fixed, variable and indexed annuity contract provisions affect consumers;

(D) The application of income taxation of qualified and non-qualified annuities;

(E) The primary uses of annuities; and

(F) Appropriate sales practices, replacement and disclosure requirements.

(d) Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and may not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

(e) A provider of an annuity training course intended to comply with this section shall register as a continuing education provider in this state and comply with the rules and guidelines applicable to insurance producer continuing education courses as set forth in ORS 744.072 and OAR 836-071-0180 to 836-071-0250.

(f) Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with ORS 744.072 and OAR 836-071-0180 to 836-071-0250.

(g) Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with OAR 836-071-0180 to 836-071-0250.

(h) The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this section in this state.

(i) An insurer shall verify that an insurance producer has completed the annuity training course required under this section before allowing the insurance producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this section by obtaining certificates of

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completion of the training course or obtaining reports provided from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance continuing education providers.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.100, 746.110 & 746.240
Hist.: ID 2-2011, f. & cert. ef. 2-4-11

836-080-0185

Compliance Mitigation; Penalties

(1) An insurer is responsible for compliance with OAR 836-080-0170 to 836-080-0190. If a violation occurs, either because of the action or inaction of the insurer or its insurance producer, the director may order:

(a) An insurer to take reasonably appropriate corrective action for any consumer harmed by violation of OAR 836-080-0170 to 836-080-0190 by the insurer, or by the insurer's producer;

(b) A general agency, independent agency or the insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of OAR 836-080-0170 to 836-080-0190; and

(c) Appropriate penalties and sanctions.

(2) Violation of any provision of OAR 836-080-0170 to 836-080-0190 is an unfair trade practice under ORS 746.240.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.100, 746.110 & 746.240
Hist.: ID 2-2011, f. & cert. ef. 2-4-11

836-080-0188

Recordkeeping

(1) Insurers, general agents, independent agencies and insurance producers shall maintain or be able to make available to the Director records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for three years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

(2) Records required to be maintained by under section (1) of this rule may be maintained in paper, photographic, micro-process, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.100, 746.110 & 746.240
Hist.: ID 2-2011, f. & cert. ef. 2-4-11

836-080-0190

Annuity Sales; Disclosure Not a Defense

The fact that a person made a disclosure to a consumer about the nature of an annuity in connection with the sale of the annuity to the consumer is not a defense by itself to a determination by the Director under OAR 836-080-0170 to 836-080-0188 that the sale was unsuitable with respect to the consumer.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.100, 746.110 & 746.240
Hist.: ID 14-2008, f. & cert. ef. 8-15-08, Renumbered from 836-080-0095, ID 2-2011, f. & cert. ef. 2-4-11

836-080-0193

Effective Date and Operative Date

(1) OAR 836-080-0170 to 836-080-0190 and the amendments to OAR 836-080-0090 become operative on July 1, 2011, except that the requirement under OAR 836-080-0183 (2) shall become operative on August 1, 2011 or six months after the director determines that the requisite training is available.

(2) Insurance producers who hold a life insurance line of authority on the effective date of OAR 836-080-0170 to 836-080-0190 and who desire to sell annuities shall complete the requirements of OAR 836-080-0183 within six months after July 1, 2011.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.100, 746.110 & 746.240
Hist.: ID 2-2011, f. & cert. ef. 2-4-11

Rule Caption: Non-grandfathered Individual Health Insurance Open Enrollment Periods for Persons under 19 Years of Age.

Adm. Order No.: ID 3-2011

Filed with Sec. of State: 2-10-2011

Certified to be Effective: 2-10-11

Notice Publication Date: 11-1-2010

Rules Adopted: 836-100-0010, 836-100-0015

Rules Repealed: 836-100-0010(T), 836-100-0015(T)

Subject: These rules are necessary to make permanent provisions of temporary rules that implement Oregon law in a manner that is consistent with provisions of the federal Affordable Care Act. The rules prohibit insurers from limiting or denying coverage for persons under the age of 19 because of health status or preexisting condition; they establish uniform open enrollment periods in February and August of each year during which all insurers offering subject policies must allow persons under the age of 19 years to enroll in, as a dependent or as the primary policyholder if eligible, and obtain individual health insurance coverage; they provide insurers with standards for providing notice to consumers about these enrollment periods; the rules require the effective date of coverage obtained during the February and August open enrollment periods to be the earlier of the first eligible plan date according to the terms of the plan or the first of the following month. Under specified, limited circumstances, these rules exempt subject insurers from the requirement that they reinsure previously enrolled individuals who reapply within a 12-month period.

These rules will ensure that all carriers offering individual health insurance subject to Sections 1201 and 10103 of the federal Affordable Care Act do so in a manner that is consistent with the requirements of the law, which is essential to the continuing stability and competitiveness of the health insurance market in Oregon. These rules are necessary to avoid public harm because in the absence of certainty provided by this rule, health insurers may stop offering individual policies to persons less than 19 years of age. This rule is necessary to ensure that insurers are consistently and uniformly offering such coverage, and to provide for the broad availability of coverage available to Oregonians.

Rules Coordinator: Sue Munson—(503) 947-7272

836-100-0010

Non-grandfathered Individual Health Insurance Enrollment Periods for Persons Under 19 Years of Age

(1) An insurer that issues a non-grandfathered individual health insurance policy subject to Sections 1201 and 10103 of the Patient Protection and Affordable Care Act, Public Law 111-148, issued or renewed on or after September 23, 2010, may not limit, exclude, or deny health insurance coverage under a non-grandfathered individual health insurance policy based on health status or preexisting condition of a person under the age of 19 years.

(2) Except as provided in section (4) of this rule, an insurer that issues a non-grandfathered individual health insurance policy subject to Sections 1201 and 10103 of the Patient Protection and Affordable Care Act, Public Law 111-148, issued or renewed on or after September 23, 2010 that provides coverage for persons under 19 years of age, must allow a person under the age of 19 years to enroll in, as a dependent or as the primary policyholder if eligible, and obtain individual health insurance coverage during the following time periods:

(a) The month of February each year beginning February 1, 2011.

(b) The month of August of each year beginning August 1, 2011.

(c) The 30-day period after the date the insurer receives notice of loss of other individual coverage if:

(A) Such notice is provided to the insurer no later than the 60th day after the loss of coverage;

(B) The loss of other coverage results from:

(i) Legal separation;

(ii) Divorce;

(iii) Cessation of dependent status;

(iv) Death of the primary policyholder; or

(v) Incurrence of a claim that meets or exceeds a lifetime limit on all benefits; and

(C) The person under 19 years of age is not eligible for group coverage.

(3) Health insurance coverage:

(a) Provided under subsections (2)(a) and (b) of this rule shall be effective on the earlier of the first eligible plan date according to the terms of the plan and the first day of the month following the date the insurer receives the application and initial premium for such coverage.

(b) Provided under subsection (2)(c) of this rule must be, subject to the choice of the applicant, as similar to the prior coverage as is offered by the insurer and shall be effective, upon payment of the premium on the first day following the loss of other coverage.

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(c) Must be effective from the moment of birth for a newly born child of the insured in accordance with ORS 743A.090.

(d) Must be effective upon placement for adoption for an adopted child of the insured in accordance with ORS 743A.090.

(4) An insurer that issues a non-grandfathered individual health insurance policy subject to Sections 1201 and 10103 of the Patient Protection and Affordable Care Act, Public Law 111-148:

(a) Need not comply with section (2) of this rule if the insurer does not condition, deny, or otherwise limit eligibility for individual coverage based on health status or preexisting conditions of persons under 19 years of age.

(b) Need not provide coverage to a person under 19 years of age if the person previously had coverage with the insurer during the 12 months prior to the application for coverage and that coverage was terminated:

(A) For conduct that constituted the basis for a legally valid rescission;

(B) Except as provided in subsection (2)(c) of this rule, for failing to abide by the terms and conditions of the insurance contract, including but not limited to the failure to pay premiums in a timely manner; or

(C) Except as provided in subsection (2)(c) of this rule, by the policyholder.

(5) Except as provided in subsection (2)(c) of this rule, an insurer that issues an individual health insurance policy subject to Sections 1201 and 10103 of the Patient Protection and Affordable Care Act, Public Law 111-148 is not required to provide coverage to a person under 19 years of age as the primary policyholder.

Stat. Auth.: ORS 731.244 & 743.773

Stats Implemented: ORS 743.731, 743A.090 & 743.769

Hist.: ID 19-2010(Temp), f. & cert. ef. 9-23-10 thru 3-21-11; ID 3-2011, f. & cert. ef. 2-10-11

836-100-0015

Notice of Enrollment Periods for Persons Under 19 Years of Age in Non-grandfathered Individual Health Insurance Policies

(1) An insurer that issues a non-grandfathered health insurance policy that provides coverage to a person under the age of 19 years according to OAR 836-100-0010(2) must provide, at a minimum, written notice, which includes notice written in electronic format, of the enrollment periods listed in OAR 836-100-0010(2):

(a) To its policyholders at least 30 days prior to but no more than 60 days prior to each enrollment period;

(b) To the public by prominently posting such notice on its public website at least 30 days prior to the open enrollment period through the end of the open enrollment period; and

(c) In pre-enrollment materials.

(2) An insurer that issues a non-grandfathered health insurance policy that provides coverage to a person under the age of 19 years according to OAR 836-100-0010(2) must provide notice of the enrollment periods listed in OAR 836-100-0010(2)(c) to persons eligible for coverage during such enrollments within five business days after the insurer learns of the person's eligibility.

(3) A health insurer covering persons under the age of 19 years according to OAR 836-100-0010(2) must implement eligibility and enrollment periods consistent with OAR 836-100-0010(2).

Stat. Auth.: ORS 731.244 & 743.773

Stats Implemented: ORS 743.731, 743A.090 & 743.769

Hist.: ID 19-2010(Temp), f. & cert. ef. 9-23-10 thru 3-21-11; ID 3-2011, f. & cert. ef. 2-10-11

Rule Caption: Changes to Long Term Care Insurance Claims Requirements.

Adm. Order No.: ID 4-2011

Filed with Sec. of State: 2-10-2011

Certified to be Effective: 2-10-11

Notice Publication Date: 11-1-2010

Rules Adopted: 836-052-0790

Rules Amended: 836-052-0636, 836-052-0756, 836-052-0776

Subject: These rules change exhibits to reflect changes in the National Association of Insurance Commissioners' model law relating to long term care. In addition, a requirement is added so that insurers include information for policyholders about how to contact the Insurance Division when a claim is denied. Currently, insurers are not required to provide that information as they are for other kinds of insurance policies. Insurers are required to include information on a quarterly basis about benefits paid under a long term care policy.

Two forms are revised and the language of the related rules revised to refer stakeholders to the Insurance Division website for the latest form. This will allow the Division to more quickly adapt to changes that insurers must make in all states.

Rules Coordinator: Sue Munson—(503) 947-7272

836-052-0636

Reporting Requirements

(1) Every insurer shall maintain records for each insurance producer of that insurance producer's amount of replacement sales as a percent of the insurance producer's total annual sales and the amount of lapses of long-term care insurance policies sold by the insurance producer as a percent of the insurance producer's total annual sales.

(2) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.

(3) Every insurer shall report to the Director annually by June 30 the ten percent of its insurance producers with the greatest percentages of lapses and replacements as measured by section (1) of this rule using the form provided by the director on the Insurance Division website or a similar form and shall also include the following information in the annual report:

(a) The number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year.

(b) The number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year.

(4) Every insurer shall report to the Director annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied using the form provided by the director on the Insurance Division website or a similar form.

(5) As used in this rule:

(a) "Claim" means, subject to subsection (b) of this section, a request for payment of benefits under an in force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met;

(b) "Denied" means the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition;

(c) "Policy" means only long term care insurance; and

(d) "Report" means on a statewide basis.

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

Stat. Auth.: ORS 731.244, 742.023, 743.013, 743.655, 743.656 & 746.240

Stats. Implemented: ORS 731.244, 742.003, 742.005, 742.009, 743.010(3), 743.013(3), 743.650, 743.653, 743.655, 743.656 & 746.240

Hist.: ID 3-2005, f. & cert. ef. 3-1-05; ID 10-2007, f. 12-3-07, cert. ef. 1-1-08; ID 4-2011, f. & cert. ef. 2-10-11

836-052-0756

Standards for Benefit Triggers

(1) A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than three of the activities of daily living or the presence of cognitive impairment.

(2)(a) Activities of daily living shall include at least the following as defined in OAR 836-052-0516 and in the policy:

- (A) Bathing;
- (B) Continence;
- (C) Dressing;
- (D) Eating;
- (E) Toileting; and
- (F) Transferring;

(b) An insurer may use activities of daily living to trigger covered benefits in addition to those contained in subsection (a) of this section as long as they are defined in the policy.

(c) For purposes of this rule, a cognitive impairment must be a result of a clinically diagnosed organic dementia, including but not limited to Alzheimer's disease or a related progressive degenerative dementia of an organic origin such as the following, by way of example only:

- (A) Parkinson's Disease;
- (B) Huntington's Disease;
- (C) Creutzfeldt-Jakob Disease;
- (D) Picks Disease;

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- (E) Multi-infarct dementia;
- (F) Normal pressure hydrocephalus;
- (G) Multiple sclerosis;
- (H) Inoperable tumors of the brain.

(3) An insurer may use additional provisions for determining when benefits are payable under a policy, certificate or rider, but the provisions shall not restrict, and are not in lieu of, the requirements contained in sections (1) and (2) of this rule.

(4) For purposes of this rule, the determination of a deficiency shall not be more restrictive than:

(a) Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or

(b) Requiring that if the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed in order to protect the insured or others.

(5) Assessments of activities of daily living and cognitive impairment shall be performed by licensed or certified professionals, such as physicians, nurses or social workers.

(6) A long term care insurance policy shall include a clear description of the process for appealing and resolving benefit determinations.

(7) If an insurer denies payment of benefits under a long term care policy, the insurer shall include in its denial letter information about how the insured may contact the Insurance Division of the Department of Consumer and Business Services for assistance either by contacting the Insurance Division Consumer Advocacy Unit at its toll free telephone number or visiting the Division's website at the website address currently provided by the Division as may be updated from time to time on the Division website.

(8) The requirements set forth in this rule are effective March 1, 2006, except for the following:

(a) The requirements of this rule apply to a long-term care policy or rider issued in this state on or after March 1, 2005.

(b) This rule does not apply to a certificate issued on or after March 1, 2006, under a group long-term care insurance policy as defined in ORS 743.652(3)(a) that was in force on March 1, 2005.

Stat. Auth.: ORS 731.244, 742.023, 743.013, 743.655, 743.656 & 746.240
Stats. Implemented: ORS 731.244, 742.003, 742.005, 742.009, 743.010(3), 743.650, 743.653, 743.655, 743.656 & 746.240
Hist.: ID 3-2005, f. & cert. ef. 3-1-05; ID 10-2007, f. 12-3-07, cert. ef. 1-1-08; ID 4-2011, f. & cert. ef. 2-10-11

836-052-0776

Standard Format Outline of Coverage

(1) This rule implements, interprets and makes specific the provisions of ORS 743.655(7) in prescribing a standard format and the content of an outline of coverage. The format for the outline of coverage shall be as provided by the Department of Consumer and Business Services and displayed on the department's website.

(2) The following requirements apply to the outline:

(a) The outline must be presented in the format prescribed on the department's website and must be a free-standing document;

(b) The outline must be printed in no smaller than ten-point type;

(c) The outline may not contain material of an advertising nature;

(d) Text that is capitalized or underscored in the standard format outline of coverage on the department's website may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring.

(e) Use of the text and sequence of text of the standard format outline of coverage on the department's website is mandatory, unless otherwise specifically indicated.

[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth.: ORS 731.244, 742.023, 743.013, 743.655, 743.656 & 746.240
Stats. Implemented: ORS 742.003, 742.005, 743.650, 743.655 & 743.656
Hist.: ID 20-1990, f. 12-13-90, cert. ef. 1-1-91; ID 1-1996, f. & cert. ef. 1-12-96; Renumbered from 836-052-0600, ID 3-2005, f. & cert. ef. 3-1-05; ID 10-2007, f. 12-3-07, cert. ef. 1-1-08; ID 4-2011, f. & cert. ef. 2-10-11

836-052-0790

Disclosure of Benefits Paid

(1) Each insurer shall provide at a minimum the following information at least quarterly to each insured, or a designee of the insured, who is currently receiving, or has received during that quarter, any benefits under a qualified long term care partnership insurance policy:

(a) The total benefits paid by the insurer for services rendered during the quarter;

(b) The total amount of benefits paid to date under the policy; and

(c) A general disclosure statement that informs the policyholder or the designee of the policyholder:

(A) The benefits paid are pursuant to a long term care partnership policy; and

(B) To determine if the benefits paid would qualify for asset protection, the policyholder should contact their local Medicaid office.

(2) An insurer shall provide the information required under section (1) of this rule each quarter until the claim is no longer active. The insurer may include the information required in section (1) of this rule either in a separate report to the insured or as part of the explanation of benefits provided to the insured when the insurer pays benefits under the long term care partnership policy.

Stat. Auth.: ORS 731.244, 743.655, 743.656 & 746.240
Stats. Implemented: ORS 743.650, 743.655 & 743.656
Hist.: ID 4-2011, f. & cert. ef. 2-10-11

Department of Consumer and Business Services, Oregon Occupational Safety and Health Division Chapter 437

Rule Caption: Adopt changes to Division 3, Construction. Oregon and Federal OSHA changes in Cranes and Derricks.

Adm. Order No.: OSHA 1-2011

Filed with Sec. of State: 2-9-2011

Certified to be Effective: 2-9-11

Notice Publication Date: 12-1-2010

Rules Adopted: 437-003-1423, 437-003-3600

Rules Amended: 437-003-0001

Subject: This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Oregon OSHA held two public hearings in January 2011. Testimony was received at the hearings as well as written comments submitted throughout the comment period. All comments were carefully considered before proceeding with this final rulemaking.

Oregon OSHA adopted most of the Federal OSHA changes as they appear in the August 9, 2010 Federal Register. These changes revise the construction industry crane and derrick rules found in new Subpart CC of 29 CFR Part 1926. The Oregon OSHA differences are outlined in this document.

The crane and derrick construction standard was revised to update and specify industry work practices necessary to protect employees. This final standard also addresses advances in the designs of cranes and derricks, related hazards, and the qualifications of employees needed to operate them safely. Under this final rule, employers must determine whether the ground is sufficient to support the anticipated weight and associated loads of hoisting equipment. The employer is also required to assess hazards within the work zone that would affect the safe operation of hoisting equipment, such as power lines and objects or personnel that would be within the work zone or swing radius of the hoisting equipment. Finally, the employer is required to ensure that the equipment is in safe operating condition through required inspections and that employees in the work zone are trained to recognize hazards associated with the use of the equipment and any related duties that they are assigned to perform.

Federal OSHA, in 1926.1427 Operator qualification and certification, paragraph (k), implemented a phase-in period based on a number of comments that Option (1) of the section (operator certification by an accredited testing organization) is the only viable option for many employers. Concern was also expressed about the availability of sufficient accredited testing organizations to meet the demand that this rule would create. Therefore, in the final rule, Federal OSHA has provided a four-year phase-in period for compliance. Oregon OSHA is keeping the current Oregon Administrative Rule (OAR 437-003-0081 Crane operator safety training requirements) until such time that the 1926.1427(k) phase-in period has expired, November 10, 2014.

Federal OSHA established minimum clearance distances for power line safety up to 350 kV for equipment in accordance with Table A of 1926.1408 Power line safety (up to 350 kV) – equipment operations. Table A is based upon the same formula that was used in subpart N (the 10-foot rule) and is similar to Table 1 in ASME B30.5–2004. Unlike subpart N, which required employers to calcu-

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late the minimum clearance distance from a formula, Table A sets specified clearance distances in a readily understood table and requires no calculations. Oregon OSHA's Crane Advisory Committee (CAC) pointed out that Table A of the final rule specified alternating current (AC) and did not address minimum clearance distances for direct current (DC). Therefore, Oregon OSHA is inserting a note clarifying that the clearance distances for power line safety up to 350 kV (AC) for equipment established in Table A, will apply to (DC) electrical distribution and transmission power lines as well. A note will also be placed in section 1926.1411 Power line safety while traveling under or near power lines with no load, to emphasize (DC) voltages.

Section 1926.1423 Fall Protection, of the Federal OSHA rule, contains provisions designed to protect workers on equipment covered by subpart CC from fall hazards. Falls have traditionally been the leading cause of deaths among construction workers. The federal Crane and Derrick Advisory Committee (CDAC) determined that safety would be enhanced by addressing the problem of fall hazards associated with cranes and derricks comprehensively and that putting requirements in subpart CC would make it easier for employers to readily determine the applicable fall protection requirements.

The Oregon OSHA CAC recommended revising portions of the fall protection section in 1926.1423. Specifically, it was decided not to adopt the following sections in 1926.1423:

- (d) Personal Fall Arrest and Fall Restraint Systems
- (e) Fall Protection Requirements for Non-Assembly/ Disassembly Work;
- (f) Assembly/Disassembly;
- (h) Tower Cranes;
- (j) Anchoring to the Load Line;
- and portions of (g) Anchorage Criteria, and (k) Training

To maintain consistency throughout the Oregon construction industry, the committee felt that changing paragraphs (d), (e), (f), and (h) to one fall height of ten (10) feet would give clarity to this new rule and parallel Oregon's current rule regarding general fall protection requirements under OAR 437-003-1501 General Fall Protection.

Adopted new OAR 437-003-1423 Fall Protection will:

- Replace 1926.1423(d) with 437-003-1423(1);
- Replace 1926.1423(e) and (f) with 437-003-1423(2);
- Replace 1926.1423(g)(1) with 437-003-1423(3);
- Replace 1926.1423(h) with 437-003-1423(4);
- Replace 1926.1423(j) with 437-003-1423(5);
- Be added to 1926.1423(k) as 437-003-1423(6).

Federal OSHA also made changes in the following areas in Construction. Oregon OSHA adopted these changes except where specified:

- Subpart A General, new rule 1926.6 is added which is an incorporation by reference of agencies of the U.S. Government, and other organizations. 1926.31 is removed with the majority of the text included in the new 1926.6. The new 1926.6 will parallel the existing standard 1910.6 in general industry.

- Subpart C General Safety and Health Provisions, 1926.31 was removed and reserved.

- Subpart L Scaffolds, 1926.450, scope, application, and definitions applicable to the subpart was revised to say the section does not apply to crane or derrick suspended personnel platforms and the criteria for aerial lifts are set out exclusively in 1926.453.

- Subpart M Fall Protection, 1926.500 scope, application, and definitions applicable to the subpart, 1926.500 was amended by revising paragraph (a)(2)(ii), adding paragraph (a)(3)(v), and revising paragraph (a)(4).

- New subpart DD, consisting of section 1926.1500 was added to read, Subpart DD—Cranes and Derricks Used in Demolition and Underground Construction, applies only to employers engaged in demolition work covered by sections 1926.856 and 1926.858, and underground construction work covered by section 1926.800. The subpart applies in lieu of 1926 subpart CC.

- The Subpart N heading was revised to read Helicopters, Hoists, Elevators, and Conveyors from the former heading Cranes, Derricks, Hoists, Elevators, and Conveyors. 1926.550 was redesignated as 1926.1501 in new subpart DD. 1926.550 is reserved and 1926.553 was amended by adding paragraph (c) base-mounted drum hoists. Oregon OSHA relocated OAR 437-003-0080 Wind velocity device, and OAR 437-003-0081 Crane Operator Safety Training Requirements, into new subpart CC, 1926.1427.

- Subpart O Motorized Vehicles, Mechanical Equipment, and Marine Operations, 1926.600 was amended by revising paragraph (a)(6). Oregon OSHA is not adopting 1926.600(a)(6)(i), (a)(6)(ii), and (a)(6)(v), but adopted new rule OAR 437-003-3600 Equipment, to replace Federal OSHA language of "crane" with "equipment" in the three paragraphs.

- Subpart R Steel Erection, 1926.753 was amended by revising paragraphs (a) and (c)(4) to reflect provisions of subpart CC.

- Subpart S Underground Construction, Caissons, Cofferdams, and Compressed Air, 1926.800 was amended by revising paragraph (t), hoisting unique to underground construction.

- Subpart T Demolition, Removal of walls, floors, and material with equipment, 1926.856 was amended by revising paragraph (c) as well as 1926.858 is amended by revising paragraph (b).

- Subpart V Power Transmission and Distribution, 1926.952 was amended by revising paragraph (c).

- Subpart X Stairways and Ladders, 1926.1050 was amended by revising paragraph (a).

- Subparts AA and BB [Reserved].

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Rules Coordinator: Sue C. Joye—(503) 947-7449

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.

(e) 29 CFR 1926.6 Incorporation by reference, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(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)

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- (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.
- (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 (Reserved).
- (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 Methylenedianiline (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)

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- (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)
- (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 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (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 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (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 — HELICOPTERS, HOISTS, ELEVATORS, AND CONVEYORS
- (a) 29 CFR 1926.550 (Reserved).
- (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 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (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 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (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 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (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.

ADMINISTRATIVE RULES

(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.

(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 8/9/10, FR vol. 75, no. 152, pp.47906-48177.

(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 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(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 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(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 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(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 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(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.

(26) Subdivision AA — (Reserved)

(27) Subdivision BB — (Reserved)

(28) Subdivision CC — Cranes and Derricks in Construction

ADMINISTRATIVE RULES

(a) 29 CFR 1926.1400 Scope, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(b) 29 CFR 1926.1401 Definitions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(c) 29 CFR 1926.1402 Ground conditions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(d) 29 CFR 1926.1403 Assembly/Disassembly — selection of manufacturer or employer procedures, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(e) 29 CFR 1926.1404 Assembly/Disassembly — general requirements (applies to all assembly and disassembly operations), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(f) 29 CFR 1926.1405 Disassembly — additional requirements for dismantling of booms and jibs (applies to both the use of manufacturer procedures and employer procedures), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(g) 29 CFR 1926.1406 Assembly/Disassembly — employer procedures — general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(h) 29 CFR 1926.1407 Power line safety (up to 350 kV) — assembly and disassembly, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(i) 29 CFR 1926.1408 Power line safety (up to 350 kV) — equipment operations, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(j) 29 CFR 1926.1409 Power line safety (over 35 kV), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(k) 29 CFR 1926.1410 Power line safety (all voltages) — equipment operations closer than the Table A zone, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(l) 29 CFR 1926.1411 Power line safety — while traveling, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(m) 29 CFR 1926.1412 Inspections, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(n) 29 CFR 1926.1413 Wire rope — inspection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(o) 29 CFR 1926.1414 Wire rope — selection and installation criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(p) 29 CFR 1926.1415 Safety devices, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(q) 29 CFR 1926.1416 Operational aids, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(r) 29 CFR 1926.1417 Operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(s) 29 CFR 1926.1418 Authority to stop operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(t) 29 CFR 1926.1419 Signals — general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(u) 29 CFR 1926.1420 Signals — radio, telephone or other electronic transmission of signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(v) 29 CFR 1926.1421 Signals — voice signals — additional requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(w) 29 CFR 1926.1422 Signals — hand signal chart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(x) 29 CFR 1926.1423 Fall protection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(y) 29 CFR 1926.1424 Work area control, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(z) 29 CFR 1926.1425 Keeping clear of the load, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(aa) 29 CFR 1926.1426 Free fall and controlled load lowering, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(bb) 29 CFR 1926.1427 Operator qualification and certification, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(cc) 29 CFR 1926.1428 Signal person qualifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(dd) 29 CFR 1926.1429 Qualifications of maintenance & repair employees, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ee) 29 CFR 1926.1430 Training, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ff) 29 CFR 1926.1431 Hoisting personnel, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(gg) 29 CFR 1926.1432 Multiple-crane/derrick lifts — supplemental requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(hh) 29 CFR 1926.1433 Design, construction and testing, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ii) 29 CFR 1926.1434 Equipment modifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(jj) 29 CFR 1926.1435 Tower cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(kk) 29 CFR 1926.1436 Derricks, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ll) 29 CFR 1926.1437 Floating cranes/derricks and land cranes/derricks on barges, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(mm) 29 CFR 1926.1438 Overhead & gantry cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(nn) 29 CFR 1926.1439 Dedicated pile drivers, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(oo) 29 CFR 1926.1440 Sideboom cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(pp) 29 CFR 1926.1441 Equipment with a rated hoisting/lifting capacity of 2,000 pounds or less, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(qq) 29 CFR 1926.1442 Severability, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(rr) Appendix A to Subdivision CC of 1926 — Standard Hand Signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ss) Appendix B to Subdivision CC of 1926 — Assembly/Disassembly — Sample Procedures for Minimizing the Risk of Unintended Dangerous Boom Movement, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(tt) Appendix C to Subdivision CC of 1926 — Operator Certification — Written Examination — Technical Knowledge Criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(29) Subdivision DD — Cranes and Derricks Used in Demolition and Underground Construction, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(a) 29 CFR 1926.1500 Scope, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(b) 29 CFR 1926.1501 Cranes and Derricks, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

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; 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; OSHA 1-2011, f. & cert. ef. 2-9-11

437-003-1423

Fall Protection

(1) Personal fall arrest and fall restraint systems must use personal fall arrest components that conform to the criteria in Division 3/M Fall Protection.

NOTE: Except that 1926.502(d)(15), Fall Protection Systems Criteria and Practices/Personal fall arrest systems (anchors), does not apply to components used in personal fall arrest and fall restraint systems. (See 1926.1423(g) and 437-003-1423(3))

(2) When employees are assembling, disassembling or otherwise performing work on a walking/working surface of a crane with an unprotected side or edge more than 10 feet above a lower level, the employer must provide fall protection systems and ensure they are installed and used according to the criteria in Division 3/M, Fall Protection.

(a) When moving point-to-point:

(A) On non-lattice booms (whether horizontal or not horizontal).

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(B) On lattice booms that are not horizontal.

(C) On horizontal lattice booms where the fall distance is 10 feet or more.

(b) While at a work station on any part of the equipment (including the boom, of any type), except when the employee is at or near draw-works (when the equipment is running), in the cab, or on the deck.

(3) Anchorage criteria. 1926.502(d)(15), 1926.502(e)(2), and 437-003-0502(4) apply to equipment covered by this subdivision only to the extent delineated in paragraphs 1926.1423(g)(2) and (3).

(4) Tower cranes. When employees are erecting, climbing, dismantling or otherwise performing work on a walking/working surface of a tower crane with an unprotected side or edge more than 10 feet above a lower level, employers must ensure that fall protection systems are provided, installed, and used according to the criteria in Division 3/M, Fall Protection.

(5) Anchoring to the load line. A personal fall arrest system is permitted to be anchored to the crane/derrick's hook or other part of the load line when all of the following requirements are met:

(a) A qualified person determines that the set up and rated capacity of the crane/derrick, including the hook, load line and rigging, meets or exceeds the requirements in 1926.502(d)(15).

(b) The operator is informed that it is being used for this purpose and is in view of and no more than 25 feet from the operator station/cab.

(c) No load is suspended from the crane/derrick when the personal fall arrest system is anchored and used.

(d) The crane/derrick is not moved when the personal fall arrest system is anchored and being used.

(6) Training. The employer must train each employee who may be exposed to fall hazards while on, or hoisted by, equipment covered by this subdivision on the applicable requirements in OARs 437-003-1599 and 437-003-0502.

Stat. Auth.: ORS 654.025(2) & 656.726(4).
Stats. Implemented: ORS 654.001 - 654.295.
Hist.: OSHA 1-2011, f. & cert. ef. 2-9-11

437-003-3600

Equipment

(1) For lines rated 50 kV or below, minimum clearance between the lines and any part of the equipment or load must be 10 feet.

(2) For lines rated over 50 kV, minimum clearance between the lines and any part of the equipment or load must be 10 feet plus 0.4 inch for each 1 kV over 50 kV, or twice the length of the line insulator, but never less than 10 feet.

(3) Cage-type boom guards, insulating links, or proximity warning devices may be used on equipment but the use of such devices must not alter the requirements of any other regulation of this part even if such device is required by law or regulation.

Stat. Auth.: ORS 654.025(2) & 656.726(4).
Stats. Implemented: ORS 654.001 & 654.295.
Hist.: OSHA 1-2011, f. & cert. ef. 2-9-11

Department of Corrections Chapter 291

Rule Caption: Adopting rules to establish procedures for identifying and supervising offenders deemed sexually violent and dangerous.

Adm. Order No.: DOC 1-2011

Filed with Sec. of State: 1-28-2011

Certified to be Effective: 1-28-11

Notice Publication Date: 12-1-2010

Rules Adopted: 291-202-0100, 291-202-0110, 291-202-0120, 291-202-0130

Rules Amended: 291-202-0020

Subject: These rules are necessary to comply with ORS 144.637, which requires the Department of Corrections and the Board of Parole and Post-Prison Supervision to jointly adopt rules establishing procedures for identifying sexually violent dangerous offenders and methods of intensive supervision for sexually violent dangerous offenders.

Rules Coordinator: Janet R. Worley — (503) 945-0933

291-202-0020

Definitions

(1) Chemical Treatment: The use of hormone or antiandrogen agents, such as medroxyprogesterone acetate, under the supervision of a physician,

to reduce the sex drive of sexual offenders who are referred for treatment in accordance with these rules.

(2) Community Practitioner: A physician or other licensed medical practitioner who treats sexual offenders who are referred for chemical treatment in accordance with these rules.

(3) Consulting Physician: A physician or other licensed medical practitioner who, at the request of the Department of Corrections, evaluates sexual offenders for suitability for participation in the department's pilot chemical treatment program.

(4) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(5) Offender: Any person under the supervision of the Department of Corrections who is on parole, post-prison supervision or probation status.

(6) Sex Crimes: Those sexual offenses listed in ORS 181.594(2), and public indecency as defined in ORS 163.465.

Stat. Auth.: ORS 144.625, 144.627, 179.040, 423.020, 423.030 & 423.075

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

Hist.: DOC 6-2000(Temp), f. & cert. ef. 1-21-00 thru 7-19-00; DOC 19-2000, f. & cert. ef. 7-14-00; DOC 1-2011, f. & cert. ef. 1-28-11

291-202-0100

Offenders Eligible for Sexually Violent Dangerous Offender Designation

(1) "Sexually violent dangerous offender" is a person who is being released from custody after serving a sentence of incarceration as a result of conviction for an offense listed in subparagraph (a) of this paragraph, who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault, and who the State Board of Parole and Post-Prison Supervision or local supervisory authority finds presents a substantial probability of committing an offense listed in subparagraph (a) of this paragraph.

(a) The offenses to which this rule applies are:

(A) Rape in the first degree and sodomy in the first degree if the victim was:

(i) Subjected to forcible compulsion by the person;

(ii) Under 12 years of age; or

(iii) Incapable of consent by reason of mental defect, mental incapacitation or physical helplessness;

(B) Unlawful sexual penetration in the first degree; and

(C) An attempt to commit a crime listed in (A) or (B) of this subparagraph.

(b) "History of sexual assault" means that a person has engaged in unlawful sexual conduct that:

(A) Is not related to the crime for which the person is currently on parole or post-prison supervision; and

(B) Seriously endangered the life or safety of another person or involved a victim under 12 years of age.

(2) Every six months the Department of Corrections will provide the Board of Parole and Post-Prison Supervision with a list of inmates or offenders who have a history of sexual assault as defined in (1)(b) above, are serving a sentence of incarceration as a result of conviction for an offense listed in (1)(a) above, and who are within six months of release from custody.

(3) When any inmate or offender convicted as a "dangerous offender" under ORS 161.725 and ORS 161.735 is granted a firm release date by the Board of Parole and Post-Prison Supervision or is otherwise within six months of release from custody, Board of Parole and Post-Prison Supervision staff will screen the inmate or offender to determine if the inmate's or offender's record reveals that the inmate or offender was convicted of an offense listed in (1)(a) and has a history of sexual assault as described in (1)(b).

(4) If Board staff determines that an inmate or offender has the qualifying conviction and history of sexual assault, the Board of Parole and Post-Prison Supervision will make a finding that the inmate or offender is eligible for designation as a sexually violent dangerous offender.

Stat. Auth.: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075

Stats Implemented: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075

Hist.: DOC 1-2011, f. & cert. ef. 1-28-11

291-202-0110

Sexually Violent Dangerous Offender Designation

(1) The Board may designate an inmate or offender as a sexually violent dangerous offender only if the inmate or offender:

(a) Participated in or refused to participate in a psychological evaluation ordered by the Board of Parole and Post-Prison Supervision; and,

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(b) Requested an evidentiary hearing in accordance with these rules or waived entitlement to such a hearing.

(2) An inmate or offender who has been identified as eligible for designation as a sexually violent dangerous offender designation will receive notice of the inmate's or offender's eligibility for designation and of the inmate's or offender's right to request a hearing before the Board of Parole and Post-Prison Supervision to present evidence why the sexually violent dangerous offender finding should not be made.

(3) The Board of Parole and Post-Prison Supervision will provide the inmate or offender with a copy of the SVDO-1, Notice of Rights, prior to the evidentiary hearing. Upon receipt of the Notice of Rights the inmate or offender may request an evidentiary hearing or waive his or her right to the hearing.

(4) The Board of Parole and Post-Prison Supervision must receive and review the signed SVDO-1 Notice of Rights before an evidentiary hearing is conducted or waived to determine a SVDO finding. A refusal to participate in the hearings process shall also constitute a waiver of the right to a hearing.

(5) The Board of Parole and Post-Prison Supervision will consider any written objections to the psychological evaluation that are submitted by the inmate or offender. An inmate or offender may elect to waive the right to submit written objections.

Stat Auth: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075
Stats Implemented: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075
Hist.: DOC 1-2011, f. & cert. ef. 1-28-11

291-202-0120

Sexually Violent Dangerous Offender Evidentiary Hearing

(1) The purposes of the evidentiary hearing are to:

(a) Determine whether the inmate or offender meets the criteria of a sexually violent dangerous offender as defined in OAR 291-202-0100(1)(a) & (b), and;

(b) Determine if there is a substantial probability of inmate's or offender's committing one of the offenses listed in OAR 291-202-0100(1)(a).

(2) At the conclusion of the evidentiary hearing, the Board of Parole and Post-Prison Supervision will determine whether the inmate or offender should be designated as a sexually violent dangerous offender. A finding that an inmate or offender is a sexually violent dangerous offender may be made by two Board of Parole and Post-Prison Supervision members, except in the case of an inmate or offender who has been sentenced to life imprisonment or convicted of a crime involving the death of a victim, pursuant to ORS 144.054.

(3) When an inmate or offender eligible for designation as a sexually violent dangerous offender has waived the right to an evidentiary hearing, the Board of Parole and Post-Prison Supervision will make the determination whether to designate the inmate or offender a sexually violent dangerous offender based on all the information in the record, including any psychological evaluations.

(4) A finding that an inmate or offender is a sexually violent dangerous offender will be contained in the inmate's or offender's original order of supervision or an amended order of supervision.

Stat Auth: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075
Stats Implemented: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075
Hist.: DOC 1-2011, f. & cert. ef. 1-28-11

291-202-0130

Sexually Violent Dangerous Offender Community Supervision

The community corrections agency supervising an inmate or offender found to be a sexually violent dangerous offender shall subject the inmate or offender to intensive supervision as defined in OAR 255-005-0005(26).

Stat Auth: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075
Stats Implemented: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075
Hist.: DOC 1-2011, f. & cert. ef. 1-28-11

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Amend rule to allow hunting of Canada geese within City of Boardman city limits.

Adm. Order No.: DFW 5-2011(Temp)

Filed with Sec. of State: 1-19-2011

Certified to be Effective: 1-19-11 thru 7-15-11

Notice Publication Date:

Rules Amended: 635-051-0048

Subject: Amend rule to permit Canadian goose hunting with Boardman city limits during regular goose hunting seasons and when a permit has been issued by the Boardman Parks and Recreation District Manager or their designee. The permit will include specific dates, times and will have assigned methods of take and locations of take.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-051-0048

Other Restrictions

Except as provided in section (1)(a), (b), (c), (2)–(6) of this rule, it is unlawful: To hunt within the corporate limits of any city or town, public park or cemetery, or on any campus or grounds of a public school, college, or university or from a public road, road right-of-way, or railroad right-of-way.

(1) Migratory game bird hunting is permitted within the city limits of Warrenton in the following described areas:

(a) Beginning at a point located at the west end of the Lewis and Clark Bridge (Alternate Highway 101) at the southern boundary of the Warrenton city limits and west bank of the Lewis and Clark River, then westerly along the common southern boundary of the Port of Astoria airport and the Warrenton City limits to the west bank of Adams Slough (formerly Adair's Slough), then northerly along the west tracks, then westerly along said railroad tracks to its intersection with Northeast King Avenue, then northerly along Northeast King Avenue to the mouth of the Skipanon River, then generally northwesterly following a contour line 100 yards inland from the shoreline at mean high water of the Columbia River, and on the Columbia River side of the Burlington Northern Railroad tracks to its intersection with the Warrenton/Hammond city limits at Tansy Point, then in a generally southeasterly direction upstream along the Columbia River, Youngs Bay and Lewis and Clark River to the point of beginning.

(b) Beginning at a point of intersection with the low tide of the Pacific Ocean and the westerly extension of Delaura Beach Road (County Road #34), then easterly along Delaura Beach Road and Oceanview Cemetery Road (County Road #321) to the junction with Wild Ace Lake Drive to the Warrenton School Dump Road (County Road #286), then easterly along the Warrenton School Dump Road to the junction of Southwest Juniper Avenue, then northerly along Southwest Juniper Avenue to the road's end, then continuing northerly along the common boundary of Section 16 and 17 to the Warrenton/Hammond city limits, then westerly along the Warrenton/Hammond city limits to the low tide of the Pacific Ocean, then southerly to the point of beginning.

(c) Beginning at a point of intersection with the most southerly boundary of the Warrenton city limits and Oregon Coast Highway 101 and the west bank of the Skipanon River, then northerly along the west bank of the Skipanon River to the bridge on (Crab Pot Way) Alternate Highway 101 (Fort Stevens Highway #104), then in a generally easterly direction along Alternate Highway 101 to Southeast 14th Place, then in a generally south-easterly direction along Southeast 14th Place and its easterly extension, crossing the Oregon Coast Highway 101 to its intersection with the Warrenton city limits, then southerly and westerly along the line of the Warrenton city limits to the point of beginning.

(2) Game bird hunting is permitted within the city limits of Dunes City.

(3) Game bird hunting is permitted within the boundary limits of the Klamath Falls Airport.

(4) Waterfowl hunting is permitted in the following portion of Miami Cove lying within the city limits of Garibaldi: That land in the east one-half of the northwest quarter of Section 22, Township 1 North, Range 10 West, Willamette Meridian, lying south of Coast Highway 101, and in the east one-half of the southwest quarter of Section 22, Township 1 North, Range 10 West, lying north and west of Coast Highway 101, provided that no hunting be permitted within 100 yards of any residence or commercial structure.

(5) Waterfowl hunting is allowed within a portion of Coos Bay City limits as described in Coos Bay City Ordinance number 100, section 3(2)(a) as of August 3, 2007.

(6) Waterfowl hunting is allowed within Boardman City limits as described in City of Boardman Resolution 4-2011 as of January 19, 2011.

(7) No person shall take any wild bird without a permit or destroy the eggs or nests of wild birds

(8) Notwithstanding the prohibition in paragraph (6):

(a) If registered through the Resident Canada Goose Nest and Egg Registration Site of the U.S. Fish and Wildlife Service (<https://epermits.fws.gov/eRCGR/geSI.aspx>), any person may destroy the eggs or nests of resident Canada geese:

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(A) Inside incorporated cities or urban growth boundaries; or
(B) On golf courses, parks or other highly developed recreational areas outside incorporated cities or urban growth boundaries.

(b) The U.S. Fish and Wildlife Service, or anyone issued a depredation permit by the USFWS, may take any wild migratory bird, its eggs or nest for the purpose of protecting public health or safety, to address public nuisance or to deal with crop depredation. Any wild bird captured for the purpose of translocation must be reported to the department and the translocation site approved by the department prior to release.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 46-1983, f. & ef. 9-19-83; FWC 65-1983(Temp), f. & ef. 11-22-83; FWC 9-1984, f. & ef. 3-12-84; FWC 51-1984, f. & ef. 9-5-84; FWC 64-1985, f. & ef. 10-2-85; FWC 58-1986, f. & ef. 9-17-86; FWC 80-1988, f. & cert. ef. 9-2-88; FWC 105-1989, f. & cert. ef. 9-29-89; FWC 92-1990, f. & cert. ef. 9-4-90; FWC 80-1992, f. & cert. ef. 8-26-92; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 116-2006(Temp), f. & cert. ef. 10-12-06 thru 4-10-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 37-2008(Temp), f. & cert. ef. 4-21-08 thru 10-17-08; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 5-2011(Temp), f. & cert. ef. 1-19-11 thru 7-15-11

Rule Caption: Adopt and Amend rules regarding the use of game birds for dog and falconry training.

Adm. Order No.: DFW 6-2011(Temp)

Filed with Sec. of State: 1-28-2011

Certified to be Effective: 1-28-11 thru 7-25-11

Notice Publication Date:

Rules Adopted: 635-051-0076, 635-051-0078

Rules Amended: 635-043-0100

Subject: Adopt rules related to permit requirements for domestically reared game birds used in training hunting dogs and falcons. Amend rule regarding harassment of wildlife during dog training.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-043-0100

Harassment Defined for Dog Training

For the purpose of this rule, relating to dog training only, harassment means acts to frighten but not kill wildlife. Dog training is considered harassment during the months of April, May, June, and July unless it is conducted on unproductive wildlife habitat, on private lands, or on identified dog training areas that are owned or managed by a government agency.

Stat. Auth.: ORS 183 & 496
Stats. Implemented: ORS 183 & 496
Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0223, Renumbered from 635-007-0340; FWC 49-1991, f. & cert. ef. 5-13-91; DFW 6-2011(Temp), f. & cert. ef. 1-28-11 thru 7-25-11

635-051-0076

Permit to Release Domestically Reared Game Birds for Hunting Dog and Falconry Training

(1) Persons wishing to release domestically reared game birds for the purpose of hunting dog or raptor training shall first obtain a Game Bird Release Permit for hunting dog and raptor training from the Department.

(2) Game bird species which may be released under the permit are: common pheasant (all races of Phasianus colchicus, most commonly known as ring-necked), California (valley) bobwhite, Coturnix quail, Hungarian (gray) chukar, red-legged partridge, and mallard ducks, provided that such birds were legally acquired and (except for bobwhite and Coturnix quail) are permanently marked by either a nasal scar or by a healed scar produced by either the removal upon hatching of the outer toe of the right foot (for upland game birds) or by the removal of the right rear toe (for mallards).

Stat. Auth.: ORS 183, 496.012, 496.116, 496.138, 498.002, 498.006, 496.106
Stats. Implemented: ORS 183, 496.012, 496.116, 496.138, 498.002, 498.006, 496.106
Hist.: DFW 6-2011(Temp), f. & cert. ef. 1-28-11 thru 7-25-11

635-051-0078

Domestically Reared Game Bird Season for Hunting Dog and Falconry Training

Domestically reared game birds may be taken and possessed during hunting dog or raptor training at any time and in any number on private lands or on identified dog training areas that are owned or managed by a government agency, provided that:

(1) the game birds were released under a Game Bird Release Permit for hunting dog and raptor training;

(2) the person taking the game birds first obtains any special use permits required by a government agency;

(3) the person taking the game birds possesses a valid Oregon hunting license and, if 14 years of age or older, an Oregon upland game bird or waterfowl validation(s).

Stat. Auth.: ORS 183, 496.012, 496.116, 496.138, 498.002, 498.006, 496.106
Stats. Implemented: ORS 183, 496.012, 496.116, 496.138, 498.002, 498.006, 496.106
Hist.: DFW 6-2011(Temp), f. & cert. ef. 1-28-11 thru 7-25-11

Rule Caption: Establishes 2011 seasons and Regulations for Game Mammals.

Adm. Order No.: DFW 7-2011

Filed with Sec. of State: 1-31-2011

Certified to be Effective: 2-1-11

Notice Publication Date: 9-1-2010

Rules Amended: 635-069-0000, 635-073-0000, 635-073-0065, 635-073-0070

Subject: Establish the 2011 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas and other rules including general hunting and controlled hunt regulations.

Rules Coordinator: Therese Kucera—(503) 947-6033

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.

(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 “**2011 Oregon Big Game Regulations**,” into Oregon Administrative Rules. Therefore, persons must consult the “2011 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 and website 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; DFW 7-2011, f. 1-31-11, cert. ef. 2-1-11

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 “**2011 Oregon Big Game Regulations**,” into Oregon Administrative Rules. Therefore, persons must consult the “**2011 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 and website 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.]

ADMINISTRATIVE RULES

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; DFW 7-2011, f. 1-31-11, cert. ef. 2-1-11

635-073-0065

Early Western Oregon Bowhunting Seasons

(1) General Deer Bowhunting Seasons — Western Oregon.

(a) Open Season: August 27 — September 25, 2011;

(b) Bag Limit and Hunt Area: The bag limit is one buck deer having not less than a forked antler in the Tioga, Dixon, Sixes, Powers, Evans Creek, Rogue, Chetco, and Applegate units; the bag limit is one deer in the Alsea, Indigo, McKenzie, Melrose, Saddle Mountain, Santiam, Scappoose, Siuslaw, Stott Mountain, Trask, Willamette, and Wilson units,

(2) General Elk Bowhunting Seasons — Western Oregon.

(a) Open Season: August 27 — September 25, 2011;

(b) Bag Limit and Hunt Area: The bag limit is one legal bull elk in the Sixes, Powers, Chetco and Santiam (within the exterior boundary of Mt. Hood National Forest) units; the bag limit is one legal bull or antlerless elk in the Alsea, Applegate, Dixon, Evans Creek, Indigo, McKenzie, Melrose, Rogue, Saddle Mountain, Santiam (within the exterior boundary of Mt. Hood National Forest, antlerless elk cannot be harvested), Scappoose, Siuslaw, Stott Mountain, Tioga, Trask, Willamette, and Wilson units.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: DFW 53-2004, f. & cert. ef. 6-16-04; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 4-2010, f. 1-12-10, cert. ef. 2-1-10; DFW 7-2011, f. 1-31-11, cert. ef. 2-1-11

635-073-0070

Early Eastern Oregon Bowhunting Seasons

(1) General Deer Bowhunting Seasons — Eastern Oregon.

(a) Open Season: August 27 — September 25, 2011;

(b) Bag Limit and Hunt Area: The bag limit is one buck deer having a visible antler in the Grizzly, Metolius, Upper Deschutes, Paulina, Sprague, Fort Rock, Heppner, Keno, Klamath Falls, Interstate, Wagontire, Juniper, Beatys Butte, Owyhee, Malheur River, Silvies, Murderers Creek, Beulah, Fossil, Northside, Desolation, Ukiah, Starkey, Mt. Emily, Walla Walla, Wenaha, Minam, Catherine Creek, Sumpter, Lookout Mountain, Keating, Pine Creek, Imnaha, Snake River, Silver Lake, and Whitehorse units (see exception below) and that part of the White River Unit within the Mt. Hood National Forest except :

(A) That part of the Whitehorse Unit south of Whitehorse Ranch Rd. and west of US Hwy 95 (Trout Creek Mts.), is closed to deer bowhunting during the general bowhunting season unless the hunter has a Trout Creek Mts. controlled bow deer tag.

(B) The Steens Mountain Unit shall be closed to all deer bowhunting unless the hunter has a valid, controlled Steens Mountain deer bow tag.

(C) The Maury Unit shall be closed to all deer bowhunting unless the hunter has a valid, controlled Maury deer bow tag.

(D) The Warner Unit shall be closed to all deer bowhunting unless the hunter has a valid, controlled North Warner or South Warner deer bow tag.

(E) The Chesnimnus Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has a Chesnimnus controlled bow elk tag (used or unused).

(F) The Sled Springs Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has a Sled Springs controlled bow elk tag (used or unused).

(G) The Ochoco Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has an Ochoco controlled bow elk tag (used or unused).

(H) Approximately 40 square miles of the Starkey Experimental Forest within the Starkey Unit shall be closed to all deer bow hunting unless the hunter has a valid controlled deer tag for the Experimental Forest.

(I) The bag limit is one deer in the Biggs, Columbia Basin (except: That portion of the Columbia Basin Unit described as follows shall be closed to all bowhunting: Beginning at Heppner; north and west State Highway 74 to Lexington; north and east on State Highway 207 to Butter Creek Junction; south on Butter Creek Road to Highway 74 at Vinson; west on Highway 74 to Heppner; point of beginning.), Hood, and Maupin units.

(2) General Elk Bowhunting Seasons — Eastern Oregon.

(a) Open Season: August 27 — September 25, 2011;

(b) Bag Limit and Hunt Area: The bag limit is one legal bull elk in the Metolius, Upper Deschutes, Fort Rock Unit West of Hwy 97, North Sumpter (see hunt 251A area description), Heppner, Keno, Klamath Falls, Interstate, Ukiah, Silver Lake, Sprague, Starkey, Desolation, Mt. Emily, Walla Walla, Wenaha, Catherine Creek, Minam, Keating, Snake River except:

(A) approximately 40 square miles of the Starkey Experimental Forest within the Starkey Unit shall be closed to all elk bowhunting unless the hunter has a valid controlled elk hunt tag for the Experimental Forest.

(B) The Chesnimnus Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Chesnimnus elk bow tag.

(C) The Sled Springs Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Sled Springs elk bow tag, the bag limit is one legal bull or antlerless elk.

(D) The Ochoco Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Ochoco elk bow tag, the bag limit is one legal bull or antlerless elk.

(E) The Steens Mountain Unit shall be closed to elk bowhunting during the general bowhunting season unless the hunter also has a Steens Mountain controlled bow deer tag (used or unused), the bag limit is one legal bull or antlerless elk.

(F) The Maury Unit shall be closed to elk bowhunting during the general bowhunting season unless the hunter also has a Maury controlled bow deer tag (used or unused).

(G) The Warner Unit shall be closed to elk bowhunting during the general bowhunting season unless the hunter also has a North Warner or South Warner controlled bow deer tag (used or unused).

(H) The bag limit is one legal bull or antlerless elk in the Beatys Butte, Beulah, Biggs, Columbia Basin (except: That portion of the Columbia Basin Unit described as follows shall be closed to all bowhunting: Beginning at Heppner; north and west State Highway 74 to Lexington; north and east on State Highway 207 to Butter Creek Junction; south on Butter Creek Road to Highway 74 at Vinson; west on Highway 74 to Heppner; point of beginning.), Fort Rock East of Hwy 97, Fossil, Grizzly, Hood, Imnaha, Juniper, Lookout Mountain, Malheur River, Maupin, Murderers Creek, Northside, Owyhee, Paulina, Pine Creek, Silvies, South Sumpter (see hunt 251B1 area description), Wagontire, White River, and Whitehorse units.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: 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 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 57-2001, f. & cert. ef. 7-6-01; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 4-2010, f. 1-12-10, cert. ef. 2-1-10; DFW 7-2011, f. 1-31-11, cert. ef. 2-1-11

Rule Caption: Treaty Indian Winter Fisheries Set to Open February 1, 2011.

Adm. Order No.: DFW 8-2011(Temp)

Filed with Sec. of State: 1-31-2011

Certified to be Effective: 2-1-11 thru 4-1-11

Notice Publication Date:

Rules Amended: 635-041-0065

Subject: This amended rule implements the 2011 treaty winter gillnet fishery in the Columbia River above Bonneville Dam and platform and hook-and-line fisheries above and below Bonneville Dam. The fisheries are set to run from February 1 through March 21, 2011. Allowable sales include: Chinook salmon, steelhead, walleye, shad, yellow perch, catfish, bass, and carp. White sturgeon between 38 and 54 inches in fork length caught in the Bonneville Pool as well as white sturgeon between 43 and 54 inches in fork length caught in The Dalles and John Day pools may also be sold.

Rules Coordinator: Therese Kucera—(503) 947-6033

ADMINISTRATIVE RULES

635-041-0065 Winter Season

(1) Chinook Salmon, steelhead, shad, white sturgeon, walleye, catfish, bass, yellow perch and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 7:00 a.m. February 1 to 6:00 p.m. March 21, 2011.

(a) The winter gillnet fishery in the Bonneville Pool opens at 7:00 a.m. Tuesday, February 1 and closes at 6:00 p.m. Friday, February 4, 2011. The fishery will continue weekly from Monday at 7:00 a.m. through Thursday at 6:00 p.m. The winter gillnet fishery will end no later than 6:00 p.m. on March 21, 2011 but may be closed earlier if the commercial white sturgeon harvest guideline is reached. The allowed sales include: Chinook salmon, steelhead, walleye, shad, yellow perch, catfish, bass and carp as well as white sturgeon between 38-54 inches in fork length.

(b) The platform/hook-and-line fishery in the Bonneville Pool opens at 7:00 a.m. Tuesday, February 1 and closes at 6:00 p.m. on March 21, 2011. The allowed sales include Chinook salmon, steelhead, walleye, shad, yellow perch, catfish, bass and carp as well as white sturgeon between 38-54 inches in fork length caught during periods when the commercial gillnet fishery in the Bonneville Pool is open.

(c) The Dalles and John Day pools are open at 7:00 a.m. Tuesday, February 1 and close at 6:00 p.m. on March 21, 2011. The allowed sales include: Chinook salmon, steelhead, walleye, shad, yellow perch, catfish, bass and carp as well as white sturgeon between 43-54 inches in fork length. Sale of platform/hook-and-line caught fish is allowed during open commercial gillnet seasons, with the same allowable species.

(d) Salmon, steelhead, white sturgeon, walleye, shad, carp, catfish, bass and yellow perch landed during an open commercial fishing period may be sold at any time.

(2) There are no mesh size restrictions.

(3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(4) Sales of fish caught in platform and hook-and-line fisheries conducted by the Yakama, Warm Springs, and Umatilla tribes downstream of Bonneville Dam (bank fishing only) under provisions of the agreements with the states of Oregon and Washington is allowed whenever Zone 6 platform and hook-and-line fisheries are open for commercial sales.

(a) Allowable sales include: Chinook salmon, steelhead, walleye, shad, yellow perch, catfish, bass and carp.

(b) White sturgeon caught below Bonneville Dam must be released;

(c) Dates of allowable sales are from 7:00 a.m. February 1 through 6:00 p.m. March 21, 2011. Sales may not occur on USACE property.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef. 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 20-2008(Temp), f. 2-28-08, cert. ef. 2-29-08 thru 7-28-08; DFW 21-2008(Temp), f. & cert. ef. 3-5-08 thru 7-28-08; DFW 22-2008(Temp), f. 3-7-08, cert. ef. 3-10-08 thru 7-28-08; Administrative correction 8-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 6-2009(Temp), f. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; DFW 11-2009(Temp), f. 2-13-09, cert. ef. 2-16-09 thru 7-31-09; DFW 22-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 7-31-09; Administrative correction 8-21-09; DFW 9-2010(Temp), f. & cert. ef. 2-3-10 thru 8-1-10; DFW 12-2010(Temp), f. 2-10-10, cert. ef. 2-11-10 thru 8-1-10; DFW 18-2010(Temp), f. 2-

24-10, cert. ef. 2-26-10 thru 4-1-10; DFW 24-2010(Temp), f. 3-2-10, cert. ef. 3-3-10 thru 4-1-10; Administrative correction 4-21-10; DFW 8-2011(Temp), f. 1-31-11, cert. ef. 2-1-11 thru 4-1-11

Rule Caption: Treaty Indian Winter Fisheries In Bonneville Pool Continue Seven Days a Week.

Adm. Order No.: DFW 9-2011(Temp)

Filed with Sec. of State: 2-9-2011

Certified to be Effective: 2-10-11 thru 4-1-11

Notice Publication Date:

Rules Amended: 635-041-0065

Rules Suspended: 635-041-0065(T)

Subject: This amended rule expands the ongoing Treaty winter gillnet fishery in the Bonneville Pool from four to seven days per week. The fishery is set to run through March 21, 2011. Allowable sales include: Chinook salmon, steelhead, walleye, shad, yellow perch, catfish, bass, and carp. White sturgeon between 38 and 54 inches in fork length caught in the Bonneville Pool may also be sold.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0065

Winter Season

(1) Chinook Salmon, steelhead, shad, white sturgeon, walleye, catfish, bass, yellow perch and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 7:00 a.m. February 1 to 6:00 p.m. March 21, 2011.

(a) The winter gillnet fishery in the Bonneville Pool opens at 7:00 a.m. Tuesday, February 1 and closes at 6:00 p.m. Friday, February 4, 2011. The winter gillnet fishery re-opens at 7:00 a.m. Monday February 7, 2011 and will continue seven days per week through no-later-than 6:00 p.m. Monday March 21, 2011; but may be closed earlier if the commercial white sturgeon harvest guideline is reached. The allowed sales include: Chinook salmon, steelhead, walleye, shad, yellow perch, catfish, bass and carp as well as white sturgeon between 38-54 inches in fork length.

(b) The platform/hook-and-line fishery in the Bonneville Pool opens at 7:00 a.m. Tuesday, February 1 and closes at 6:00 p.m. on March 21, 2011. The allowed sales include Chinook salmon, steelhead, walleye, shad, yellow perch, catfish, bass and carp as well as white sturgeon between 38-54 inches in fork length caught during periods when the commercial gillnet fishery in the Bonneville Pool is open.

(c) The Dalles and John Day pools are open at 7:00 a.m. Tuesday, February 1 and close at 6:00 p.m. on March 21, 2011. The allowed sales include: Chinook salmon, steelhead, walleye, shad, yellow perch, catfish, bass and carp as well as white sturgeon between 43-54 inches in fork length. Sale of platform/hook-and-line caught fish is allowed during open commercial gillnet seasons, with the same allowable species.

(d) Salmon, steelhead, white sturgeon, walleye, shad, carp, catfish, bass and yellow perch landed during an open commercial fishing period may be sold at any time.

(2) There are no mesh size restrictions.

(3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(4) Sales of fish caught in platform and hook-and-line fisheries conducted by the Yakama, Warm Springs, and Umatilla tribes downstream of Bonneville Dam (bank fishing only) under provisions of the agreements with the states of Oregon and Washington is allowed whenever Zone 6 platform and hook-and-line fisheries are open for commercial sales.

(a) Allowable sales include: Chinook salmon, steelhead, walleye, shad, yellow perch, catfish, bass and carp.

(b) White sturgeon caught below Bonneville Dam must be released;

(c) Dates of allowable sales are from 7:00 a.m. February 1 through 6:00 p.m. March 21, 2011. Sales may not occur on USACE property.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-

ADMINISTRATIVE RULES

1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef. 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 20-2008(Temp), f. 2-28-08, cert. ef. 2-29-08 thru 7-28-08; DFW 21-2008(Temp), f. & cert. ef. 3-5-08 thru 7-28-08; DFW 22-2008(Temp), f. 3-7-08, cert. ef. 3-10-08 thru 7-28-08; Administrative correction 8-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 6-2009(Temp), f. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; DFW 11-2009(Temp), f. 2-13-09, cert. ef. 2-16-09 thru 7-31-09; DFW 22-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 7-31-09; Administrative correction 8-21-09; DFW 9-2010(Temp), f. & cert. ef. 2-3-10 thru 8-1-10; DFW 12-2010(Temp), f. 2-10-10, cert. ef. 2-11-10 thru 8-1-10; DFW 18-2010(Temp), f. 2-24-10, cert. ef. 2-26-10 thru 4-1-10; DFW 24-2010(Temp), f. 3-2-10, cert. ef. 3-3-10 thru 4-1-10; Administrative correction 4-21-10; DFW 8-2011(Temp), f. 1-31-11, cert. ef. 2-1-11 thru 4-1-11; DFW 9-2011(Temp), f. 2-9-11, cert. ef. 2-10-11 thru 4-1-11

Rule Caption: Recreational Sturgeon Fisheries in the Willamette River Downstream of Willamette Falls Re-Open.

Adm. Order No.: DFW 10-2011(Temp)

Filed with Sec. of State: 2-10-2011

Certified to be Effective: 2-17-11 thru 6-29-11

Notice Publication Date:

Rules Amended: 635-017-0095

Rules Suspended: 635-017-0095(T)

Subject: Amended rule re-opens the recreational white sturgeon fishery in the lower Willamette River downstream of Willamette Falls including Multnomah Channel and the Gilbert River. Revisions are consistent with action taken February 8, 2011 by the State of Oregon.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-017-0095

Sturgeon Season

(1) The **2011 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2011 Oregon Sport Fishing Regulations**.

(2)(a) The Willamette River downstream of Willamette Falls (including Multnomah Channel and the Gilbert River) is open to the retention of white sturgeon three days per week, Thursday, Friday, and Saturday during the following periods:

(b) February 17 through March 31 or until the harvest guideline is met.

(3) Bank angling is prohibited from the east shore of the Willamette River the entire year in the area beginning west of Highway 99E, at the northern-most extent of the parking area near the intersection of 8th Street and Highway 99E in Oregon City, approximately 290 feet downstream of the Oregon City/West Linn bridge (Hwy 43) and extending upstream approximately 1715 feet to the retaining wall extending into the Willamette River at the NW corner of the Blue Heron Paper Mill.

(4) Only white sturgeon with a fork length of 38–54 inches may be retained. Retention of green sturgeon is prohibited all year in all areas.

(5) Angling for sturgeon, including catch-and-release, is prohibited seven days per week during May 1 through August 31 from Willamette Falls downstream to the I-205 Bridge.

[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 2-2005(Temp), f. & cert. ef. 1-21-05 thru 7-19-05; DFW 55-2005, f. & cert. ef. 6-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 74-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 7-2008, f. & cert. ef. 2-11-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008,

f. 12-31-08, cert. ef. 1-1-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 90-2010(Temp), f. 6-29-10, cert. ef. 7-5-10 thru 12-31-10; DFW 154-2010(Temp), f. & cert. ef. 11-8-10 thru 12-31-10; DFW 163-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 10-2011(Temp), f. 2-10-11, cert. ef. 2-17-11 thru 6-29-11

Rule Caption: Columbia River Mainstem Recreational Sturgeon Fisheries Modified.

Adm. Order No.: DFW 11-2011(Temp)

Filed with Sec. of State: 2-10-2011

Certified to be Effective: 2-11-11 thru 7-31-11

Notice Publication Date:

Rules Amended: 635-023-0095

Rules Suspended: 635-023-0095(T)

Subject: This amended rule modifies recreational sturgeon seasons and regulations from in the Columbia River mainstem from the mouth at Buoy 10 upstream to The Dalles Dam effective February 11, 2011. Further rule modifications close a known sturgeon concentration area (below Bonneville Dam) to angling for all species in order to protect the resource and to provide regulations concurrent with the State of Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0095

Sturgeon Season

(1) The **2011 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 **2011 Oregon Sport Fishing Regulations**.

(2) The mainstem Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam, excluding the lower Willamette River upstream to Willamette Falls, Multnomah Channel, and the Gilbert River, is open to the retention of white sturgeon with a fork length of 38-54 inches, three days per week, Thursdays through Saturdays, during the following periods:

(a) January 1 through July 31; and

(b) October 8 through December 31.

(3) The retention of white sturgeon in the area identified in section (2) of this rule is prohibited August 1 through October 7.

(4) The mainstem Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of white sturgeon seven days per week during the following periods:

(a) January 1 through April 30;

(b) May 14 through June 26; and

(c) July 1 through July 4 (or until guideline is met).

(5) The retention of white sturgeon in the area identified in section (4) of this rule is prohibited May 1 through May 13, from June 27 through June 30, and July 5 through December 31.

(6) During the fishing period as identified in subsection (4)(a) of this rule, only white sturgeon with a fork length of 38-54 inches may be retained.

(7) During the fishing periods as identified in subsections (4)(b) and (4)(c) of this rule, only white sturgeon with a fork length of 41–54 inches may be retained.

(8) Angling for sturgeon is prohibited from:

(a) Bonneville Dam downstream to a line crossing the Columbia River from Navigation Marker 82 on the Oregon shore through the upstream exposed end of Skamania Island, continuing in a straight line to Washington shore during May 1 through August 31;

(b) Highway 395 Bridge upstream to McNary Dam; and

(c) From the west end of the grain silo at Rufus upstream to John Day Dam during May 1 through July 31.

(d) The upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline (slough at Rooster Rock State Park) from January 1 through April 30, 2011.

(9) Effective 12:01 a.m. Saturday February 19, 2011 the retention of sturgeon in Bonneville Reservoir and tributaries is prohibited.

(10) The mainstem Columbia River from McNary Dam upstream to the Oregon-Washington border at river mile 309.5 is open to retention of white sturgeon with a fork length of 43-54 inches, seven days per week from February 1 through July 31.

(11) The retention of white sturgeon in the area identified in section (10) of this rule is prohibited August 1 through January 31.

ADMINISTRATIVE RULES

(12) Retention of green sturgeon is prohibited all year in all areas.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 50-2010(Temp), f. 4-29-10, cert. ef. 5-6-10 thru 11-1-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; DFW 91-2010(Temp), f. 6-29-10, cert. ef. 8-1-10 thru 12-31-10; DFW 99-2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 12-31-10; DFW 165-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 11-2011(Temp), f. 2-10-11, cert. ef. 2-11-11 thru 7-31-11

Rule Caption: 2011 Commercial Winter – Summer Fisheries for Columbia River Select Areas.

Adm. Order No.: DFW 12-2011(Temp)

Filed with Sec. of State: 2-10-2011

Certified to be Effective: 2-13-11 thru 7-29-11

Notice Publication Date:

Rules Amended: 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

Subject: Amended rules to set seasons, area boundaries and catch restrictions for Chinook salmon and sturgeon winter, spring and summer commercial fisheries for in the Columbia River Select Areas. Modifications are consistent with the action taken February 8, 2011 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, subsection (1)(a)(A); the spring fishery, subsection (1)(a)(B); and summer fishery, subsection (1)(a)(C), as follows:

(A) Winter Season:

(i) Entire Youngs Bay: Sunday, Tuesday and Thursday days from February 13 through March 10 (12 days) starting at 12:00 noon through 6:00 a.m. the following morning (18 hours).

(ii) Upstream of old Youngs Bay Bridge: 2:00 p.m. to 8:00 p.m. Monday, March 14, 2011 (6 hours) and 2:00 p.m. to 8:00 p.m. Wednesday, March 16, 2011 (6 hours).

(B) Spring Season: Entire Youngs Bay: 6:00 p.m. to midnight Monday, April 18, 2011 (6 hours); 6:00 p.m. to midnight Thursday, April 21, 2011 (6 hours); 6:00 p.m. Monday April 25 to noon Tuesday, April 26, 2011 (18 hours); 6:00 p.m. Thursday, April 28 to noon Friday, April 29, 2011 (18 hours); 6:00 p.m. Sunday, May 1 to noon Monday, May 2, 2011 (18 hours); 6:00 p.m. Tuesday, May 3 to noon Wednesday, May 4, 2011 (18 hours); 6:00 p.m. Thursday, May 5 to noon Friday, May 6, 2011 (18 hours); and Mondays at noon through Fridays at noon (4 days), beginning Monday, May 9 through Friday, June 10, 2011 (20 days total).

(C) Summer Season: Entire Youngs Bay: 6:00 a.m. Wednesdays to 6:00 a.m. Fridays (48 hours) beginning Wednesday, June 15 through Friday, July 29, 2011 (14 fishing days).

(b) The fishing areas for the winter, spring and summer fisheries are:

(A) From February 13 through March 11 and from April 18 through July 29, 2011, the fishing area is identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to 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) On March 14 and 16, 2011, the fishing area extends from the old Youngs Bay Bridge upstream to the upper boundary markers at the confluence of the Youngs and Klaskanine rivers.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is *unlawful* to use a gill net having a mesh size that is less than 7-inches during the winter season. It is *unlawful* to use a gill net having a mesh size that is more than 9.75 inches during the spring and summer seasons. Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(3) A maximum of two 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 subsections (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 120-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-

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31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. & cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 8-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; 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; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11

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) and (1)(a)(B) of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in Blind Slough and Knappa Slough in paragraph (B). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough Only: Sunday and Thursday nights beginning Sunday, February 13 through Sunday, March 13, 2011 (9 nights); Wednesday night March 16, 2011 (1 night); and Sunday nights from March 20 through April 3, 2011 (3 nights).

(B) Blind and Knappa Sloughs: Monday and Thursday nights beginning Monday, April 18 through Thursday, June 9, 2011 (16 nights).

(b) The fishing areas for the winter and spring seasons are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the period from May 2 through June 10, 2011, the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) Gear restrictions are as follows:

(A) During the winter fishery, outlined above in (1)(a)(A), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is less than 7 inches.

(B) During the spring fishery, outlined above in (1)(a)(B), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is more than 9.75 inches.

(C) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(2) A maximum of two 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 aggregate sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11

635-042-0170

Tongue Point Basin and South Channel

(1) Tongue Point includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facility through navigation marker #6 to Mott Island (new spring lower dead-line), a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the Oregon shore.

(2) South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker "10" thence northwesterly to a marker on Burnside Island defining the terminus of South Channel.

(3)(a) Salmon, shad and white sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are:

(b) Spring Season: Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Monday, April 25 through Thursday, June 9, 2011 (14 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

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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.

(c) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(5) A maximum of two white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in section (3)(a) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(6) During April 25 through May 20, transportation or possession of fish outside the fishing area is *unlawful* except while in transit to the ODFW sampling station and until ODFW staff has biologically sampled individual catches. A sampling station will be established near the Tongue Point fishing area. Fishers will be able to confirm the location of the sampling station by calling (503) 428-0518. After sampling, fishers will be issued a transportation permit by agency staff. Beginning May 23, 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 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 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; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11

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)(A) Winter season: Sunday and Wednesday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning February 13 through March 20, 2011; Sunday, March 27 from 7:00 p.m. to 7:00 a.m. the following morning (12 hours); and Sunday, April 3, 2011 from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) for 13 nights in all.

(B) From Sunday, March 27 through Monday, April 4, 2011 the authorized fishing area is reduced to extend from the Oneida Road boat ramp (approximately one-half mile up Deep River from navigation marker 16) upstream to the Highway 4 Bridge.

(b) Spring season: Sunday and Wednesday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning April 17 through June 8, 2011 (16 nights).

(3) Gear restrictions are as follows:

(a) 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.

(b) It is *unlawful* to operate in any river, stream or channel any gill net longer than three-fourths the width of the stream. It is *unlawful* in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area. Nets (or parts of nets) not specifically authorized for use in these areas may be onboard a 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.

(c) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(d) 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;

(e) During the spring season, outlined above in (2)(b) it is *unlawful* to use a gill net having a mesh size that is more than 9.75 inches.

(4) A maximum of two 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.

(5) Transportation or possession of fish outside the fishing area (except to the sampling station) is *unlawful* until WDFW staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by WDFW staff. During the winter season, described in subsection (2)(a) above, fishers are required to call (360) 795-0319 for the location and time of sampling. During the spring season, described in subsection (2)(b) above, a sampling station will be established downstream of the Highway 4 Bridge at Stephen's dock.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; DFW 112-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 10-30-09; DFW 121-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; Administrative correction 11-19-09; DFW 16-2010(Temp), f. 2-19-10, cert. ef. 2-22-10 thru 6-10-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11

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Rule Caption: 2011 Recreational Spring Chinook Seasons in the Columbia River.

Adm. Order No.: DFW 13-2011(Temp)

Filed with Sec. of State: 2-14-2011

Certified to be Effective: 2-14-11 thru 6-15-11

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 635-023-0125

Subject: These rule modifications set the 2011 Columbia River spring Chinook season regulations with a description of areas, dates, and bag limits for recreational harvest of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead. Revisions are consistent with action taken February 8, 2011 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0125

Spring Sport Fishery

(1) The **2011 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 **2011 Oregon Sport Fishing Regulations**.

(2) The Columbia River is open from January 1 through February 28 from the mouth at Buoy 10 upstream to the I-5 Bridge with the following restrictions:

(a) Adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead may be retained.

(b) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead may be retained per day. Catch limits for jacks remain in effect as per the **2011 Oregon Sport Fishing Regulations**.

(3) The Columbia River is open March 1 through April 4, 2011 from Buoy 10 upstream to Rooster Rock (boat and bank angling); plus bank angling only from Rooster Rock upstream to Bonneville Dam. Legal boundary for Rooster Rock is defined as "A true North/South line projected from Rooster Rock on the Oregon shore to the Washington shoreline."

(a) Catch limits of two adult adipose fin-clipped salmonids per day, of which only one may be a Chinook.

(b) From the upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline (slough at Rooster Rock State Park) angling for all species is closed from January 1 through April 30, 2011.

(c) Effective March 1 through June 15, 2011, the daily bag limit in Oregon's Select Areas may not include more than one adipose fin-clipped Chinook when the recreational fishery in the mainstem Columbia River below Bonneville Dam is open to retention of Chinook.

(4) The Columbia River is open March 16 through April 24, 2011 from the Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to the Oregon/Washington border; plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines. Catch limits of two adult adipose fin-clipped Chinook or steelhead per day; or one of each.

(5) Only adipose fin-clipped fish may be retained. All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(6) Effective March 1 through May 15, 2011, the mainstem Columbia River will be open for retention of adipose fin-clipped steelhead and shad only during days and seasons open for retention of adipose fin-clipped spring Chinook.

(7) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line to the Oregon/Washington border from February 15 through June 15 it is *unlawful* when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-

07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10; Suspended by DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 13-2011(Temp), f. & cert. ef. 2-14-11 thru 6-15-11

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Rule Caption: Establishes rule regarding Western Oregon deer Regulations for 2011.

Adm. Order No.: DFW 14-2011

Filed with Sec. of State: 2-15-2011

Certified to be Effective: 3-1-11

Notice Publication Date: 9-1-2010

Rules Amended: 635-068-0000

Subject: Establish the 2011 hunting regulations for western Oregon deer including season date, bag limits, areas, methods and other restrictions.

Rules Coordinator: Therese Kucera—(503) 947-6033

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 68 by reference.

(3) OAR chapter 635, division 68 incorporates, by reference, the requirements for hunting western Oregon deer as described in the document entitled "2011 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2011 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 and website 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; 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 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 121-2003, f. 12-4-03, cert. ef. 1-19-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 124-2004, f. 12-21-04, cert. ef. 3-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 131-2005, f. 12-1-05, cert. ef. 3-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 125-2006, f. 12-4-06, cert. ef. 3-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 116-2007, f. 10-31-07, cert. ef. 3-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 13-2009, f. 2-19-09, cert. ef. 3-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 14-2010, f. 2-16-10, cert. ef. 3-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 14-2011, f. 2-15-11, cert. ef. 3-1-11

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Rule Caption: Amend the rules related to Wildlife Taxonomy and Wildlife Integrity Rules.

Adm. Order No.: DFW 15-2011

Filed with Sec. of State: 2-15-2011

Certified to be Effective: 2-15-11

Notice Publication Date: 1-1-2011

Rules Amended: 635-044-0000, 635-044-0060, 635-056-0000, 635-056-0010, 635-056-0020, 635-056-0050, 635-056-0060, 635-056-0070, 635-056-0075, 635-056-0080, 635-056-0130, 635-057-0000

Subject: Review, update and amend rules relating to controlled, uncontrolled, 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 also

ADMINISTRATIVE RULES

include housekeeping and other changes necessary to update the rules.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-044-0000

Purpose

The purpose of these rules is to regulate the holding and propagation of game birds and native wildlife, except those cervids regulated pursuant to OAR chapter 635, division 49.

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
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
Hist.: FWC 9-1993, f. & cert. ef. 2-8-93; FWC 69-1996, f. & cert. ef. 12-20-96; DFW 15-2011, f. & cert. ef. 2-15-11

635-044-0060

License Required to Propagate Wildlife

(1) Any person desiring to propagate for sale any game mammal (excluding the family *Cervidae*) or game bird, or desiring to sell any propagated game mammal (excluding the family *Cervidae*) or game bird must first secure a Wildlife Propagation License by applying on a form provided to the Oregon Department of Fish and Wildlife. The application shall list the wildlife species and numbers being held for propagation purposes, or the species being held for sale. The application shall also include the date of application, and the name, address, and signature of applicant.

(2) Wildlife Propagation License shall cost \$25.00 (plus a \$2.00 license agent fee) and shall expire on December 31 of the year issued.

(3) Any person desiring to propagate and sell any raptor must adhere to all permit requirements and regulations pertaining to the propagation and selling of raptors, as adopted by the U.S. Department of the Interior on July 8, 1983. (Federal Register, Vol. 48, No. 132, Part 21.)

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
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
Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0043, Renumbered from 635-007-0150; FWC 6-1984, f. & ef. 2-29-84; FWC 28-1987, f. & ef. 6-19-87; FWC 69-1996, f. & cert. ef. 12-20-96; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 108-2009, f. & cert. ef. 9-8-09; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 15-2011, f. & cert. ef. 2-15-11

635-056-0000

Purpose and General Information

(1) The purpose of these rules is to protect Oregon's native wildlife. These rules aim for this goal by regulating human actions involving nonnative wildlife (whether those actions involve trade in nonnative wildlife or involve interaction with nonnative species in the wild). The rules allow private use or ownership of nonnative species to the extent that they do not pose a significant risk of harm to native species.

(2) In the matter of scientific taxonomic nomenclature and common names the following are authoritative:

(a) Mammals – Wilson, D. E. and D. M. Reeder, Editors. 2005. *Mammal Species of the World. A Taxonomic and Geographic Reference*. 3rd Edition. Johns Hopkins University Press

(b) Birds – Clements, J.F. 2007. *The Clements Checklist of Birds of the World*, Sixth Edition. Cornell University, Ithaca, New York.

(c) Amphibians and Reptiles – Frank, N. and E. Ramus. 1996. *A Complete Guide to Scientific and Common Names of Reptiles and Amphibians of the World*. N G Publishing, Pottsville, Pennsylvania.

(d) Fish (except subfamily Serrisalminae) – Nelson, J.S. et al. 2004. *Common and Scientific Names of Fishes from the United States, Canada, and Mexico*. 6th Edition. American Fisheries Society Special Publication 29. American Fisheries Society, Bethesda, Maryland; Robbins, C.L. et al. 1991. *World Fishes Important to North Americans*. Special Publication 21. American Fisheries Society, Bethesda, Maryland; Subfamily Serrisalminae: Reis, R.E., S. Kullander and C. Ferraris, Jr., Editors. 2003. *Check List of the Freshwater Fishes of South and Central America*. ERIDUCRS. Porto Alegre, Brazil.

(e) Mollusks – Turgeon, D.D. 1998. *Common and Scientific Names of Aquatic Invertebrates from the United States and Canada: Mollusks*, 2nd Edition. American Fisheries Society Special Publication 26. American Fisheries Society, Bethesda, Maryland.

(f) Crustaceans (except whiteleg shrimp) – McLaughlin, P.A. 2005. *Common and Scientific Names of Aquatic Invertebrates from the United States and Canada: Crustaceans*, American Fisheries Society Special Publication 31. American Fisheries Society, Bethesda, Maryland. Whiteleg shrimp: Holthius, L.B. 1980. *Shrimps and Prawns of the World: An*

Annotated Catalogue of Species of Interest to Fisheries. Food and Agriculture Organization Fisheries Synopsis no. 125, vol. 1.

(3) If the taxonomic status of individual species is changed through subsequent publications scientific taxonomy shall remain as cited in 635-056 for the purposes of implementing and enforcing 635-056-0000 through 635-056-0150.

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
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
Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; DFW 99-1998, f. & cert. ef. 12-22-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 114-2008, f. & cert. ef. 9-19-08; DFW 15-2011, f. & cert. ef. 2-15-11

635-056-0010

Definitions

For the purposes of these rules, the definitions in ORS 496.004 and OAR 635-045-0002 apply. In addition, the following definitions apply:

(1) "Aquaria" means any tanks, pools, ponds, bowls or other containers intended for and capable of holding or maintaining live fish and from which there is no outfall to any waters of this state.

(2) "Aquaria Fish" means any fish, shellfish or marine invertebrates legally acquired and sold in the pet store trade, except game fish, state or federally protected threatened and endangered species and those species listed as Prohibited or Controlled.

(3) "Commercial Fur Farm" means any operation which raises captive fox (*Vulpes vulpes* or *Urocyon cinereoargenteus*) or mink (*Mustela vison*) for profit and possesses 10 or more animals.

(4) "Controlled Species" means wildlife that the commission has placed on the Controlled list.

(5) "Domestic" means those animals which are identified in OAR 635-056-0020 (Domestic or Otherwise Exempt Animals).

(6) Except where used in reference to ORS chapter 609, "Exotic" means a wildlife species not native to Oregon; foreign or introduced.

(7) "Hold" means any form of possession or control of an animal, gamete, or hybrid thereof.

(8) "Hybrid" means any animal, gamete or egg that is produced by crossing at least one wild individual of a species with any other species or subspecies.

(9) "Import/importation" means to bring or cause live wildlife to be transported into Oregon by any means.

(10) "Introduced" means a species, subspecies or populations which occur in Oregon because of human action or intervention, rather than natural (nonhuman) colonization or immigration.

(11) "Live Foodfish" means any fish or marine invertebrate legally acquired and held in aquaria or packaged live and sold in the wholesale or retail trade for human consumption, except game fish, state or federally protected threatened and endangered species and those species listed as Prohibited or Controlled.

(12) "Marine invertebrate" means any marine invertebrate species commonly sold in the wholesale or retail trade for human consumption, or commonly found in the ornamental aquarium trade.

(13) "Native" means species, subspecies or populations which occur currently or historically in Oregon through natural (i.e. nonhuman) colonization or immigration, rather than by human action or intervention.

(14) "Nonnative" means a wildlife species not native to Oregon; foreign or introduced.

(15) "Noncontrolled Species" means wildlife that the commission has placed on the Noncontrolled list.

(16) "Prohibited Species" means wildlife that the commission has placed on the Prohibited list.

(17) "Species" means a unit of classification of animals which are capable of interbreeding and producing fertile offspring.

(18) "Subspecies" means a unit of classification of animals within a species which show differences in size, color or form as a result of being partially or completely reproductively isolated from other populations of the species.

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
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
Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 122-2007, f. & cert. ef. 11-19-07; DFW 15-2011, f. & cert. ef. 2-15-11

ADMINISTRATIVE RULES

635-056-0020

Animals Exempt from These Rules

Pursuant to the definition of "wildlife," the following species are not subject to these rules because they are not "wild": SPECIES – SCIENTIFIC NAME

- (1) Alpaca, Guanaco, Llama – *Lama glama*.
- (2) Ass, Burro, Donkey – *Equus asinus*.
- (3) Bison – *Bison bison*.
- (4) Camel – *Camelus bactrianus* and *C. dromedarius*.
- (5) Cat (all domestic breeds) – *Felis catus*.
- (6) Cattle and Yak – *Bos species*.
- (7) Chinchilla – *Chinchilla laniger*.
- (8) Dog (all domestic breeds) – *Canis familiaris*.
- (9) European Rabbit – *Oryctolagus cuniculus*.
- (10) Ferret (European polecat) – *Mustela putorius*.
- (11) Gerbil (Mongolian Jird) – *Meriones unguiculatus*.
- (12) Goat – *Capra hircus*.
- (13) Guinea pig – *Cavia porcellus*.
- (14) Common Hamster – *Cricetus cricetus*.
- (15) Horse – *Equus caballus*.
- (16) Mouse (House mouse) – *Mus musculus*.
- (17) Mule and Hinny – *Equus asinus* x *E. caballus*.
- (18) Rat – *Rattus norvegicus* and *R. rattus*.
- (19) Sheep – *Ovis aries* and hybrids of *O. aries* with *O. aries orientalis*, hybrids of *O. aries* with *Ammotragus lervia*, and hybrids of *O. aries* with *Pseudois nayaur*.
- (20) Swine – *Sus scrofa domestica* (includes pot-bellied pigs)
- (21) Vicuña – *Vicuña vicugna*.
- (22) Cassowary – *Casuarus species*.
- (23) Chicken – *Gallus gallus*.
- (24) Ducks and Geese (morphologically distinct from wild waterfowl; except Egyptian geese and Mute swans).
- (25) Emu – *Dromaius novaehollandiae*.
- (26) Guinea fowl – *Numida meleagris*.
- (27) Ostrich – *Struthio camelus*.
- (28) Parrots, Parakeets, Lories, and Cockatoos – Psittaciforme (All species).
- (29) Peafowl – *Pavo cristatus*.
- (30) Pigeon or Rock dove – *Columba livia*.
- (31) Rhea – *Rhea americana* and *R. pennata*.
- (32) Turkey (morphologically distinct from wild turkey) – *Meleagris gallopavo*.

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
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
Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; DFW 21-1998, f. & cert. ef. 3-13-98; DFW 99-1998, f. & cert. ef. 12-22-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 122-2007, f. & cert. ef. 11-19-07; DFW 15-2011, f. & cert. ef. 2-15-11

635-056-0050

Prohibited Species

- (1) Except as otherwise provided in these rules or other rules of the commission, live wildlife listed below may not be imported, possessed, sold, purchased, exchanged or transported in the state:
- (A) Prohibited Mammals: Common Name – Family – Genus/species:
 - (A) Order Didelphimorphia Virginia opossum – Didelphidae – *Didelphis virginiana*.
 - (B) Order Dasyuromorphia
 - (i) Broad-footed marsupial mice – Dasyuridae – *Antechinus* All species and hybrids;
 - (ii) Brush-tailed marsupial mice – Dasyuridae – *Phascogale* All species and hybrids;
 - (iii) Dunnant – Dasyuridae – *Sminthopsis* All species and hybrids.
 - (C) Order Diprotodontia
 - (i) Common brushtail – Phalangeridae – *Trichosurus vulpecula*;
 - (ii) Common ringtail – Pseudocheiridae – *Pseudocheirus peregrinus*.
 - (D) Order Cingulata Nine-banded armadillo – Dasypodidae – *Dasyops novemcinctus*.
 - (E) Order Erinaceomorpha Eurasian hedgehogs – Erinaceidae – *Erinaceus europaeus*, *E. concolor*, *E. amurensis*.
 - (F) Order Chiroptera Bats – All families except Pteropodidae – All species and hybrids.
 - (G) Order Carnivora
 - (i) Wild canids – Canidae – All native species. However, fox (*Vulpes vulpes* and *Urocyon cinereoargenteus*) are exempt from this prohibition if

- when part of a commercial fur farming operation or for wildlife rehabilitation purposes by a licensed wildlife rehabilitator;
- (ii) Mongooses – Herpestidae – All species and hybrids;
- (iii) Civets and Genets – Viverridae – All species and hybrids (except *Arctictis binturong*).
- (H) Order Artiodactyla.
 - (i) Sheep, Goats, Chamois, Tahr – Bovidae – Subfamily Caprinae; All species and hybrids except:
 - (I) *Capra hircus*;
 - (II) *Ovis aries*;
 - (III) Hybrids of *Ovis aries* with *O. a. orientalis*; hybrids of *O. aries* with *Ammotragus lervia*; and hybrids of *O. aries* with *Pseudois nayaur*;
 - (ii) Wildebeest – Bovidae – *Connochaetes* All species and hybrids;
 - (iii) Central Asian gazelles – Bovidae – Procprae All species and hybrids;
 - (iv) Wild boar – Suidae – *Sus scrofa* (except *Sus scrofa domestica*).
 - (I) Order Rodentia.
 - (i) Argentine Plains viscacha – Chinchillidae – *Lagostomus maximus*;
 - (ii) Chinese jumping mouse – Dipodidae – *Eozapus setchuanus*;
 - (iii) Desert jerboas – Dipodidae – *Jaculus* All species and hybrids;
 - (iv) Kangaroo rats – Heteromyidae – *Dipodomys* All nonnative species except *D. deserti* and *D. spectabilis*;
 - (v) Pale kangaroo mouse – Heteromyidae – *Microdipodops pallidus*;
 - (vi) Pocket mice – Heteromyidae – *Perognathus* All nonnative species and hybrids;
 - (vii) Capybara – Hydrochaeridae – *Hydrochaeris hydrochaeris*;
 - (viii) Old world porcupines – Hystricidae – *Hystrix africaeaustralis*, *H. cristata*, and *H. indica*;
 - (ix) Mouselike hamster – Muridae – *Calomyscus* All species and hybrids;
 - (x) Ratlike hamsters – Muridae – *Cricetulus* All species and hybrids;
 - (xi) Bushy-tailed jird – Muridae – *Sekeetamys calurus*;
 - (xii) Nutria (Coypu) – Myocastoridae – *Myocastor coypus*;
 - (xiii) Fat dormouse – Myoxidae – *Glis glis*;
 - (xiv) Hazel dormouse – Myoxidae – *Muscardinus avellanarius*;
 - (xv) Antelope ground squirrels – Scuriidae – *Ammospermophilus* All nonnative species and hybrids except *A. harrisi*;
 - (xvi) Tricolored squirrels – Scuriidae – *Callosciurus* All species and hybrids except *C. prevostii*;
 - (xvii) Prairie dogs – Scuriidae – *Cynomys* All species and hybrids;
 - (xviii) Southern flying squirrel – Scuriidae – *Glaucomys volans*;
 - (xix) Marmots – Scuriidae – *Marmota* All nonnative species and hybrids;
 - (xx) Giant flying squirrel – Scuriidae – *Petaurista* All species and hybrids;
 - (xxi) Eastern gray squirrel – Scuriidae – *Sciurus carolinensis*;
 - (xxii) Eastern Fox squirrel – Scuriidae – *Sciurus niger*;
 - (xxiii) Eurasian red squirrel – Scuriidae – *Sciurus vulgaris*;
 - (xxiv) Ground squirrels – Scuriidae – *Spermophilus* All nonnative species and hybrids except *S. adocetus*, *S. annulatus*, *S. atricapillus*, *S. madrensis*, *S. mexicanus*, *S. mohavensis*, *S. perotensis*, and *S. tereticaudus*;
 - (xxv) Chipmunks – Scuriidae – *Tamias* All nonnative species and hybrids.
 - (xxvi) African ground squirrels – Scuriidae – *Xerus* All species and hybrids;
 - (J) Order Lagomorpha
 - (i) Hares and Jackrabbits – Leporidae – *Lepus* All nonnative species and hybrids;
 - (ii) Cottontails – Leporidae – *Sylvilagus* All nonnative species and hybrids.
 - (b) Prohibited Birds: Common Name – Family – Genus/species:
 - (A) Order Anseriformes Egyptian Goose – Anatidae – *Alopochen aegyptiaca*.
 - (B) Order Charadriiformes Spotted thick-knee – Burhinidae – *Burhinus capensis*.
 - (C) Order Coraciiformes.
 - (i) Malachite kingfisher – Alcedinidae – *Alcedo cristata*;
 - (ii) Laughing kookaburra – Alcedinidae – *Dacelo novaeguineae*.
 - (D) Order Passeriformes.
 - (i) Yellowhammer – Emberizidae – *Emberiza citrinella*;
 - (ii) European greenfinch – Fringillidae – *Carduelis chloris*;
 - (iii) Chaffinch – Fringillidae – *Fringilla coelops*.
 - (c) Prohibited Amphibians: Common Name – Family – Genus/species:
 - (A) Order Caudata.

ADMINISTRATIVE RULES

- (i) Tiger salamander – Ambystomatidae – *Ambystoma tigrinum* All nonnative sub-species;
 - (ii) Amphiumas – Amphiumidae – All species and hybrids;
 - (iii) Giant salamanders and Hellbenders – Cryptobranchidae – All species and hybrids;
 - (iv) American giant salamanders – Dicamptodontidae – All nonnative species and hybrids;
 - (v) Asian salamanders – Hynobiidae – *Ranodon* All species and hybrids;
 - (vi) Shovel-nosed salamander – Plethodontidae – *Leurognathus marmoratus*;
 - (vii) Waterdogs – Proteidae – *Necturus* All species and hybrids;
 - (viii) Firebelly newts – Salamandridae – *Cynops* All species and hybrids;
 - (ix) European Mountain or Brook salamanders – Salamandridae – *Euproctus* All species and hybrids;
 - (x) Caucasus or Spine-tailed salamanders – Salamandridae – *Mertensiella* All species and hybrids;
 - (xi) Red-spotted or Eastern newt – Salamandridae – *Notophthalmus viridescens*;
 - (xii) Chinese newts – Salamandridae – *Pachytriton* All species and hybrids;
 - (xiii) Warty newts – Salamandridae – *Paramesotriton* All species and hybrids;
 - (xiv) Ribbed newts – Salamandridae – *Pleurodeles* All species and hybrids;
 - (xv) Fire salamanders – Salamandridae – *Salamandra* All species and hybrids;
 - (xvi) Roughskin newts – Salamandridae – *Taricha rivularis* and *T. torosa*;
 - (xvii) Alpine newts – Salamandridae – *Triturus* All species and hybrids;
 - (xviii) Crocodile newts – Salamandridae – *Tylotriton* All species and hybrids;
 - (xix) Sirens – Sirenidae – All species and hybrids.
- (B) Order Anura.
- (i) Fire-bellied toads – Bombinatoridae – *Bombina* All species and hybrids;
 - (ii) True toads – Bufonidae – *Bufo* All nonnative species and hybrids except *Bufo marinus*;
 - (iii) Midwife toads – Discoglossidae – *Alytes* All species and hybrids;
 - (iv) Painted frogs – Discoglossidae – *Discoglossus* All species and hybrids;
 - (v) Cricket frog – Hylidae – *Acris* All species and hybrids;
 - (vi) European tree frog – Hylidae – *Hyla arborea*;
 - (vii) Cope’s gray tree frog – Hylidae – *Hyla chrysoscelis*;
 - (viii) Green tree frog – Hylidae – *Hyla cinerea*;
 - (ix) Mediterranean tree frog – Hylidae – *Hyla meridionalis*;
 - (x) Gray tree frog – Hylidae – *Hyla versicolor*;
 - (xi) Chorus frog – Hylidae – *Pseudacris* All nonnative species and hybrids;
 - (xii) Australian froglets – Myobatrachidae – *Crinia* All species and hybrids;
 - (xiii) Australian swamp frogs – Myobatrachidae – *Limnodynastes* All species and hybrids;
 - (xiv) Barred frogs – Myobatrachidae – *Mixophyes* All species and hybrids;
 - (xv) Spadefoot toads – Pelobatidae – All nonnative species and hybrids;
 - (xvi) African clawed frog – Pipidae – *Xenopus* All species and hybrids;
 - (xvii) African bull frog – Ranidae – *Pyxicephalus* All species and hybrids;
 - (xviii) Siberian frog – Ranidae – *Rana altaica*;
 - (xix) Khabarovsk frog – Ranidae – *Rana amurensis*;
 - (xx) Crawfish frog – Ranidae – *Rana areolata*;
 - (xxi) Swedish swamp frog – Ranidae – *Rana arvalis*;
 - (xxii) Asian frog – Ranidae – *Rana asiatica*;
 - (xxiii) Rio Grande leopard frog – Ranidae – *Rana berlandieri*;
 - (xxiv) Plains leopard frog – Ranidae – *Rana blairi*;
 - (xxv) Caucasus frog – Ranidae – *Rana camerani*;
 - (xxvi) Inkiapo frog – Ranidae – *Rana chensinensis*;
 - (xxvii) Toudaohe frog – Ranidae – *Rana chevronta*;
 - (xxviii) Green frog – Ranidae – *Rana clamitans*;
 - (xxix) Spring frog – Ranidae – *Rana dalmatina*;
 - (xxx) Dybowski’s frog – Ranidae – *Rana dybowskii*;
 - (xxxi) Stream frog – Ranidae – *Rana graeca*;
 - (xxxii) Pig frog – Ranidae – *Rana grylio*;
 - (xxxiii) River frog – Ranidae – *Rana heckscheri*;
 - (xxxiv) Turkish frog – Ranidae – *Rana holtzi*;
 - (xxxv) Iberian frog – Ranidae – *Rana iberica*;
 - (xxxvi) Agile frog – Ranidae – *Rana japonica*;
 - (xxxvii) Italian agile frog – Ranidae – *Rana latastei*;
 - (xxxviii) Kokarit or Taipa frog – Ranidae – *Rana longicrus*;
 - (xxxix) Brusa frog – Ranidae – *Rana macrocnemis*;
 - (xl) Nikko frog – Ranidae – *Rana ornativentris*;
 - (xli) Pickeral frog – Ranidae – *Rana palustris*;
 - (xlii) Mink frog – Ranidae – *Rana septentrionalis*;
 - (xliii) Wood frog – Ranidae – *Rana sylvatica*;
 - (xliv) Tago frog – Ranidae – *Rana tagoe*;
 - (xlv) European common frog – Ranidae – *Rana temporaria*;
 - (xlvi) Tsushima frog – Ranidae – *Rana tsushimensis*;
 - (xlvii) Carpenter frog – Ranidae – *Rana virgatipes*.
- (d) Prohibited Reptiles: Common Name – Family – Genus/species:
- (A) Order Testudines.
- (i) Snapping turtle – Chelydridae – All species and hybrids;
 - (ii) Chinese pond turtle – Emydidae – *Chinemys* All species and hybrids;
 - (iii) Pond turtle – Emydidae – *Clemmys* All nonnative species;
 - (iv) Painted turtle – Emydidae – *Chrysemys* All nonnative sub-species;
 - (v) European pond turtle – Emydidae – *Emys orbicularis*;
 - (vi) Blanding’s turtle – Emydidae – *Emydoidea blandingii*;
 - (vii) Map turtle – Emydidae – *Graptemys* All species and hybrids;
 - (viii) Asian pond turtle – Emydidae – *Mauremys* All species and hybrids;
 - (ix) Pond slider – Emydidae – *Pseudemys* and *Trachemys* All species and hybrids;
 - (x) Common musk turtle – Kinosternidae – *Kinosternon odoratum*;
 - (xi) Common mud turtle – Kinosternidae – *Kinosternon subrubrum*;
 - (xii) North American soft shell – Trionychidae – *Apalone* All species and hybrids;
 - (xiii) African soft shell – Trionychidae – *Trionyx triunguis*.
- (B) Order Squamata (Suborder Lacertilia).
- (i) Slow worm – Anguidae – *Anguis fragilis*;
 - (ii) Sand lizard – Lacertidae – *Lacerta agilis*;
 - (iii) Jewelled Lizard – Lacertidae – *Lacerta lepida*;
 - (iv) Iberian Mountain Lizard – Lacertidae – *Lacerta monticola*;
 - (v) Meadow Lizard – Lacertidae – *Lacerta praticola*;
 - (vi) Iberian Emerald Lizard – Lacertidae – *Lacerta schreiberi*;
 - (vii) Balkan Emerald Lizard – Lacertidae – *Lacerta trilineata*;
 - (viii) Emerald Lizard – Lacertidae – *Lacerta viridis*;
 - (ix) Viviparous Lizard – Lacertidae – *Lacerta vivipara*;
 - (x) Erhard’s Wall Lizard – Lacertidae – *Podarcis erhardi*;
 - (xi) Iberian Wall Lizard – Lacertidae – *Podarcis hispanica*;
 - (xii) Common Wall Lizard – Lacertidae – *Podarcis muralis*;
 - (xiii) Crocodile lizard – Xenosauridae – *Shinisaurus crocodilurus*.
- (C) Order Squamata (Suborder Serpentes).
- (i) Brown tree snake – Colubridae – *Boiga irregularis*;
 - (ii) Black-necked spitting cobra – Elapidae – *Naja nigricollis*;
 - (iii) Cape cobra – Elapidae – *Naja nivea*;
 - (iv) Copperheads and cottonmouths – Viperidae – *Agkistrodon* All species and hybrids;
 - (v) Puff adders – Viperidae – *Bitis* All species and hybrids except *Bitis gabonica* and *B. nasicornis*;
 - (vi) Lanceheads – Viperidae – *Bothrops* All species and hybrids;
 - (vii) Palm pit vipers – Viperidae – *Bothriechis* All species and hybrids;
 - (viii) Rattlesnakes – Viperidae – All nonnative species and hybrids except *Crotalus aquilus*, *C. basiliscus*, *C. durissus*, *C. intermedius*, *C. poly-stictus*, *C. pusillus*, *C. tortugensis*, *C. triseriatus*, *C. unicolor*, and *C. veg-randis*;
 - (ix) Mid-east vipers – Viperidae – *Daboia* All species and hybrids;
 - (x) Pygmy rattlesnake – Viperidae – *Sistrurus catenatus*;
 - (xi) Asian pit vipers – Viperidae – *Trimeresurus* All species and hybrids;
 - (xii) Wagler’s palm viper – Viperidae – *Tropidolaemus wagleri*;
 - (xiii) Sand vipers – Viperidae – *Vipera* All species and hybrids.
- (e) Prohibited Fish: Common Name – Family – Genus/species:
- (A) Order Amiiformes Bowfin – Amiidae – *Amia calva*.

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(B) Order Cypriniformes.

(i) Piranha or Caribe – Characidae subfamily Serrasalminae commonly known as caribe or piranha – All species and hybrids except carnivorous species of *Pygocentrus*, *Serrasalmus* or *Pristobrycon* pursuant to ORS 498.242;

(ii) Walking catfish (ORS 498.242) – Clariidae – All species and hybrids;

(iii) Oriental weatherfish – Cobitidae – *Misgurnus anguillicaudatus*;

(iv) Ide – Cyprinidae – *Leuciscus idus*;

(v) Rudd – Cyprinidae – *Scardinius erythrophthalmus*.

(C)(i) Order Lepisosteiformes

(ii) Gar – Lepisosteidae – All species and hybrids.

(D) Order Perciformes.

(i) Snakehead – Channidae – *Channa* All species and hybrids;

(ii) Round Goby – Gobiidae – *Neogobius melanostomus*;

(iii) Ruffe – Percidae – *Gymnocephalus cernuus*;

(iv) Zander or Pike-perch – Percidae – *Sander lucioperca*.

(E) Order Salmoniformes Pikes, Pickerel, Muskellunge – Esocidae – All species and hybrids.

(f) Prohibited Mollusks Common Name – Family – Genus/species:

(A) Order Bivalvia

(i) Asian clam – Corbiculidae – All species;

(ii) Zebra mussel, Quagga mussel – *Dreissenidae* – All species.

(B) Order Neogastropoda Japanese oyster drill – Muricidae – *Ceratosoma inornatum*.

(C) Order Architaenioglossa

(i) Chinese mystery snail – Viviparidae – *Cipangopaludina chinensis*;

(ii) Japanese mystery snail – Viviparidae – *Cipangopaludina japonica*.

(g)(A) Prohibited Crustaceans Common Name – Family – Genus/species:

(B) Order Decapoda.

(i) Chinese mitten crab – Grapsidae – *Eriocheir* All species;

(ii) Blue crab – Portunidae – *Callinectes sapidus*;

(iii) Crayfish – Cambaridae – All species.

(2) The department may issue a permit for the importation, possession, sale, purchase, exchange or intrastate transportation of prohibited species and those species not yet classified if the department finds that the following standards have been met:

(a) The facility is constructed to minimize escape of prohibited species;

(b) There are adequate security and safety programs and procedures which minimize the possibility of escape;

(c) There is adequate record keeping to aid in tracking of confined animals or recovery of escaped animals;

(d) There are adequate procedures, equipment and trained staff to maximize capture of escaped animals;

(e) Adequate veterinary care is provided to identify and minimize the spread of diseases; and

(f) The applicant has a good reputation for care of animals and compliance with the wildlife laws.

(g) Using forms provided by the department, persons or entities may apply for a permit under subsection (2) as follows:

(A) Facilities accredited by the American Zoo and Aquarium Association (AZA). Because the department finds that the current AZA accreditation process holds these facilities to standards equivalent to those in subsection (2), AZA accreditation shall be evidence that the department's standards for importation, possession, sale, purchase, exchange or intrastate transportation of prohibited species are met. To obtain a permit for these activities, AZA accredited facilities shall submit a completed application form and proof of accreditation.

(B) Universities and colleges. To obtain a permit, universities and colleges shall submit:

(i) A completed application form;

(ii) A written description of escape avoidance procedures and facilities; and

(iii) Identification of the time period(s) during which prohibited species will be held.

(C) Others. To apply for a permit, persons and entities other than universities, colleges and AZA accredited facilities shall submit:

(i) A completed application form; and

(ii) A completed Prohibited Species Questionnaire.

(h) Satisfactory facilities inspections may be required prior to issuance of any permit.

(3) The prohibitions imposed above regarding possession of Virginia opossum, nutria, Eastern gray squirrel, fox squirrel, and Eastern cottontail rabbit do not apply to licensed wildlife rehabilitators conducting wildlife rehabilitation in compliance with Department rules. Release of these species by licensed wildlife rehabilitators shall occur at a location designated by the Department.

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

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

Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 16-1997(Temp), f. & cert. ef. 3-13-97; FWC 41-1997(Temp), f. & cert. ef. 7-23-97; FWC 59-1997, f. & cert. ef. 9-3-97; FWC 59-1997, f. & cert. ef. 9-3-97; FWC 72-1997, f. & cert. ef. 12-29-97; DFW 21-1998, f. & cert. ef. 3-13-98; DFW 63-1998, f. & cert. ef. 8-10-98; DFW 96-1998, f. & cert. ef. 11-25-98; DFW 99-1998, f. & cert. ef. 12-22-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 114-2008, f. & cert. ef. 9-19-08; DFW 15-2011, f. & cert. ef. 2-15-11

635-056-0060

Noncontrolled Species

Except as otherwise provided in these rules or other rules of the commission, wildlife listed below may be imported, possessed, sold, purchased, exchanged or transported in the state without a permit:

(1) Noncontrolled Mammals: Common Name – Family – Genus/species:

(a) Order Monotremata: Echidnas – Tachyglossidae – All species.

(b) Order Didelphimorphia: Short-tailed opossums – Didelphinae – *Monodelphis* All species.

(c) Order Dasyuromorphia: Numbat – Myrmecobiidae – *Myrmecobius fasciatus*.

(d) Order Peramelemorphia:

(A) Dry country bandicoots – Peramelidae – All species except *Isoodon obesulus*, *Perameles gunnii*, and *P. nasuta*;

(B) Rainforest bandicoots – Peramelidae – All species.

(e) Order Diprotodontia:

(A) Feathertail glider – Acrobatidae – *Acrobates pygmaeus*;

(B) Kangaroos and wallabies – Macropodidae – All species;

(C) Striped possums – Petauridae – *Dactylopsila* All species;

(D) Sugar glider – Petauridae – *Petaurus breviceps*;

(E) Cuscuses – Phalangeridae – *Phalanger* All species;

(f) Order Pilosa:

(A) Three-toed tree sloths – Bradypodidae – All species;

(B) Two-toed tree sloths – Megalonychidae – All species;

(C) Anteaters – Myrmecophagidae – All species.

(g) Order Erinaceomorpha: Four-toed hedgehog – Erinaceidae – *Atelerix albiventris*.

(h) Order Dermoptera: Flying lemurs or colugos – Cynocephalidae – All species.

(i) Order Chiroptera: Old World fruit bats – Pteropodidae – All species.

(j) Order Carnivora:

(A) Aardwolf – Hyaenidae – *Proteles cristatus*;

(B) Seals and sea lions – Otariidae – All nonnative species.

(C) Red/Lesser Panda – Procyonidae – *Ailurus fulgens*;

(D) Olingos – Procyonidae – *Bassaricyon* All species;

(E) Coatimundis – Procyonidae – *Nasua* All species;

(F) Kinkajou – Procyonidae – *Potos flavus*;

(G) Binturong – Viverridae – *Arctictis binturong*.

(k) Order Cetacea: Whales and dolphins – All families – All species.

(l) Order Sirenia: Manatees – All families – All species

(m) Order Proboscidea: Elephants – Elephantidae – All species.

(n) Order Perissodactyla:

(A) Zebra and Asses – Equidae – *Equus* All species;

(B) Rhinoceros – Rhinocerotidae – All species;

(C) Tapirs – Tapiridae – All species.

(o) Order Hyracoidea: Hyraxes – Procaviidae – All species.

(p) Order Tubulidentata: Aardvark – Orycteropodidae – *Orycteropus afer*.

(q) Order Artiodactyla:

(A) Antelope and buffalo – Bovidae – All species except subfamily Caprinae and *Procopra* species;

(B) Giraffe and okapi – Giraffidae – All species;

(C) Pygmy hippopotamus – Hippopotamidae – *Hexaprotodon liberiensis*;

(D) Hippopotamus – Hippopotamidae – Hippopotamus amphibius;

(E) Peccary – Tayassuidae – All species;

(F) Chevrotains – Tragulidae – All species.

(r) Order Pholidota: Pangolins – Manidae – All species.

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- (s) Order Rodentia:
- (A) Scaly-tailed squirrels – Anomaluridae – All species;
 - (B) Hutias – Capromyidae – All species;
 - (C) Mara (Patagonian hare) – Caviidae – *Dolichotis* All species;
 - (D) Mountain viscachas – Chinchillidae – *Lagidium* All species;
 - (E) Dwarf hamsters – Cricetidae – *Phodopus* All species
 - (F) Paca – Cuniculidae – *Cuniculus paca*;
 - (G) Agoutis – Dasyproctidae – *Dasyprocta* All species;
 - (H) Acouchis – Dasyproctidae – *Myoprocta* All species;
 - (I) Pacarana – Dinomyidae – *Dinomys branickii*;
 - (J) Prehensile-tailed Porcupines – Erethizontidae – *Coendou* All species;
 - (K) Kangaroo Rats – Heteromyidae – *Dipodomys deserti* and *D. spectabilis*;
 - (L) Brush-tailed porcupines – Hystricidae – *Atherurus* All species;
 - (M) Old world porcupines – Hystricidae – *Hystrix* All species except *H. africae australis*, *H. cristata*, and *H. indica*;
 - (N) Spiny mice – Muridae – *Acomys* All species;
 - (O) Crateromys (Bushy tailed cloud rats) – Muridae – *Crateromys* All species;
 - (P) African giant pouched rats – Muridae – *Cricetomys* All species;
 - (Q) African White-tailed rat – Muridae – *Mystromys albicaudatus*;
 - (R) Phloeomys (Slender tailed rats) – Muridae – *Phloeomys* All species;
 - (S) Degus – Octodontidae – *Octodon* All species;
 - (T) South African Springhare – Pedetidae – *Pedetes capensis*;
 - (U) Prevost's squirrel – Sciuridae – *Callosciurus prevostii*;
 - (V) African palm squirrels – Sciuridae – *Epixerus* All species;
 - (W) Pygmy flying squirrels – Sciuridae – *Petaurillus* All species;
 - (X) Oil palm squirrels – Sciuridae – *Protoxerus* All species;
 - (Y) Giant squirrels – Sciuridae – *Ratufa* All species.
- (2) Noncontrolled Birds: Nothing in this subsection authorizes the importation, possession, sale, confinement or transportation of birds protected by the federal Migratory Bird Treaty Act: Common Name – Family – Genus/species:
- (a) Order Tinamiformes: Tinamou – Tinamidae – All species.
 - (b) Order Sphenisciformes: Penguins – Spheniscidae – All species.
 - (c) Order Galliformes.
 - (A) Curassows, guans, and chachalacas – Cracidae – All species except *Chamaepetes goudotii*, *Penelope montagnii*, and *P. supercilii*.
 - (B) Megapodes – Megapodiidae – All species.
 - (d) Order Gruiformes:
 - (A) Trumpeters – Psophiidae – All species.
 - (B) Buttonquails and hemipodes – Turnicidae – All species.
 - (e) Order Charadriiformes:
 - (A) Senegal thick-knee – Burhinidae – *Burhinus senegalensis*;
 - (B) Water thick-knee – Burhinidae – *Burhinus vermiculatus*.
 - (f) Order Coliiformes: Mousebirds and Collies – Coliidae – All species.
 - (g) Order Cuculiformes: Turacos, plaitain eaters and go-away birds – Musophagidae – All species:
 - (A) White browed coucal – Centropodidae – *Centropus superciliosus burchelli*;
 - (B) Pheasant coucal – Centropodidae – *Centropus phasianinus*;
 - (C) Senegal coucal – Centropodidae – *Centropus senegalensis*;
 - (D) Greater coucal – Centropodidae – *Centropus sinensis*.
 - (h) Order Trogoniformes: Trogons – Trogonidae – All species;
 - (i) Order Coraciiformes:
 - (A) Blue-winged kookaburra – Alcedinidae – *Dacelo leachii*;
 - (B) Woodland kingfisher – Alcedinidae – *Halcyon senegalensis*;
 - (C) African pygmy kingfisher – Alcedinidae – *Ispidina picta*;
 - (D) Hornbills – Bucerotidae – All species;
 - (E) Rollers – Coraciidae – All species;
 - (F) Bee-eaters – Meropidae – All species except *Merops apiaster*, *M. oreobates*, *M. pusillus*, and *Nyctyornis athertoni*;
 - (G) Motmots – Momotidae – All species.
 - (j) Order Piciformes:
 - (A) Barbets – Capitonidae – All species;
 - (B) Toucans – Ramphastidae – All species;
 - (k) Order Passeriformes:
 - (A) Orange-breasted bunting – Cardinalidae – *Passerina leclancherii*;
 - (B) Cotingas – Cotingidae – All species;
 - (C) Red-crested finch – Emberizidae – *Coryphospingus cucullatus*;
 - (D) Pileated finch – Emberizidae – *Coryphospingus pileatus*;
 - (E) Yellow-breasted bunting – Emberizidae – *Emberiza aureola*;
 - (F) Golden-breasted bunting – Emberizidae – *Emberiza flaviventris*;
 - (G) Cinnamon-breasted bunting – Emberizidae – *Emberiza tahapisi*;
 - (H) Yellow cardinal – Emberizidae – *Gubernatrix cristata*;
 - (I) Black-crested finch – Emberizidae – *Lophospingus pusillus*;
 - (J) Crested bunting – Emberizidae – *Melophus lathamii*;
 - (K) Yellow-billed cardinal – Emberizidae – *Paroaria capitata*;
 - (L) Red-crested cardinal – Emberizidae – *Paroaria coronata*;
 - (M) Black-capped warbling finch – Emberizidae – *Poospiza melanoleuca*;
 - (N) Saffron finch – Emberizidae – *Sicalis flaveola*;
 - (O) Double-collared seedeater – Emberizidae – *Sporophila caerulescens*;
 - (P) Rusty-collared seedeater – Emberizidae – *Sporophila collaris*;
 - (Q) Parrot-billed seedeater – Emberizidae – *Sporophila peruviana*;
 - (R) Slate-colored seedeater – Emberizidae – *Sporophila schistacea*;
 - (S) Swallow tanager – Emberizidae – *Tersina viridis*;
 - (T) Cuban grassquit – Emberizidae – *Tiaris canorus*;
 - (U) Blue-back grassquit – Emberizidae – *Volatinia jacarina*;
 - (V) Waxbills, mannikins, munias – Estrilididae – All species;
 - (W) Broadbills – Eurylaimidae – All species;
 - (X) Black siskin – Fringillidae – *Carduelis atrata*;
 - (Y) Linnet – Fringillidae – *Carduelis cannabina*;
 - (Z) European goldfinch – Fringillidae – *Carduelis carduelis*;
 - (AA) Red siskin – Fringillidae – *Carduelis cucullata*;
 - (BB) Hooded siskin – Fringillidae – *Carduelis magellanica*;
 - (CC) Yellow-breasted greenfinch – Fringillidae – *Carduelis spinoides*;
 - (DD) European siskin – Fringillidae – *Carduelis spinus*;
 - (EE) Yellow-rumped siskin – Fringillidae – *Carduelis uropygialis*;
 - (FF) Yellow-bellied siskin – Fringillidae – *Carduelis xanthogastra*;
 - (GG) Yellow-billed grosbeak – Fringillidae – *Eophona migratoria*;
 - (HH) Japanese grosbeak – Fringillidae – *Eophona personata*;
 - (II) Oriole finch – Fringillidae – *Linurgus olivaceus*;
 - (JJ) Brown bullfinch – Fringillidae – *Pyrrhula nipalensis*;
 - (KK) Eurasian bullfinch – Fringillidae – *Pyrrhula pyrrhula*;
 - (LL) Black-throated island canary – Fringillidae – *Serinus atrogularis*;
 - (MM) Island canary – Fringillidae – *Serinus canaria*;
 - (NN) Yellow crowned canary – Fringillidae – *Serinus flaviventris*;
 - (OO) White-rumped seedeater – Fringillidae – *Serinus leucopygius*;
 - (PP) Yellow-fronted canary – Fringillidae – *Serinus mozambicus*;
 - (QQ) European serin – Fringillidae – *Serinus serinus*;
 - (RR) Long-tailed rosefinch – Fringillidae – *Uragus sibiricus*;
 - (SS) Troupials and Allies – Icteridae – All nonnative species;
 - (TT) Leafbirds and fairy bluebirds – Irenidae – All species;
 - (UU) Honeyeaters – Meliphagidae – All species;
 - (VV) Old World Flycatchers – Muscipidae – *Copyschus* All species;
 - (WW) Sunbirds – Nectariniidae – All species;
 - (XX) Sudan sparrow – Passeridae – *Passer luteus*;
 - (YY) Red-headed weaver – Ploceidae – *Anaplectes rubriceps*;
 - (ZZ) Yellow-crowned bishop – Ploceidae – *Euplectes afer*;
 - (AAA) Red-collared widowbird – Ploceidae – *Euplectes ardens*;
 - (BBB) Black-winged bishop – Ploceidae – *Euplectes hordeaceus*;
 - (CCC) Jackson's widowbird – Ploceidae – *Euplectes jacksoni*;
 - (DDD) Yellow-shouldered widowbird – Ploceidae – *Euplectes macrourus*;
 - (EEE) Red bishop – Ploceidae – *Euplectes orix*;
 - (FFF) Long-tailed widowbird – Ploceidae – *Euplectes progne*;
 - (GGG) Red fody – Ploceidae – *Foudia madagascariensis*;
 - (HHH) Orange weaver – Ploceidae – *Ploceus aurantius*;
 - (III) Village weaver – Ploceidae – *Ploceus cucullatus*;
 - (JJJ) Lesser masked weaver – Ploceidae – *Ploceus intermedius*;
 - (KKK) Little weaver – Ploceidae – *Ploceus luteolus*;
 - (LLL) Baya weaver – Ploceidae – *Ploceus philippinus*;
 - (MMM) Vitelline-masked weaver – Ploceidae – *Ploceus vitellinus*;
 - (NNN) Speckle-fronted weaver – Ploceidae – *Sporopipes frontalis*;
 - (OOO) Scaly weaver – Ploceidae – *Sporopipes squamifrons*;
 - (PPP) Sugarbirds – Promeropidae – All species;
 - (QQQ) Golden-crested myna – Sturnidae – *Ampeliceps coronatus*;
 - (RRR) Violet-backed starling – Sturnidae – *Cinnyricinclus leucogaster*;
 - (SSS) Emerald starling – Sturnidae – *Lamprotornis iris*;
 - (TTT) Golden-breasted starling – Sturnidae – *Lamprotornis regius*;
 - (UUU) Common hill myna – Sturnidae – *Gracula religiosa*;

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- (VVV) Long-tailed glossy-starling – Sturnidae – *Lamprotornis caudatus*;
- (WWW) Bronze-tailed glossy-starling – Sturnidae – *Lamprotornis chalcurus*;
- (XXX) Greater blue-eared glossy-starling – Sturnidae – *Lamprotornis chalybaeus*;
- (YYY) Lesser blue-eared glossy-starling – Sturnidae – *Lamprotornis chloropterus*;
- (ZZZ) Hildebrandt's starling – Sturnidae – *Lamprotornis hildebrandti*;
- (AAAA) Chestnut-bellied starling – Sturnidae – *Lamprotornis pulcher*;
- (BBBB) Purple-headed glossy-starling – Sturnidae – *Lamprotornis purpureiceps*;
- (CCCC) Purple glossy-starling – Sturnidae – *Lamprotornis purpureus*;
- (DDDD) Rueppell's glossy-starling – Sturnidae – *Lamprotornis purpuroptera*;
- (EEEE) Splendid glossy-starling – Sturnidae – *Lamprotornis splendidus*;
- (FFFF) Superb starling – Sturnidae – *Lamprotornis superbus*;
- (GGGG) Bali myna – Sturnidae – *Leucopsar rothschildi*;
- (HHHH) Golden myna – Sturnidae – *Mino anais*;
- (IIII) Yellow-faced myna – Sturnidae – *Mino dumontii*;
- (JJJJ) Tanagers and Allies – Thraupidae – All nonnative species;
- (KKKK) Babblers – Timaliidae – All species;
- (LLLL) White-eyes – Zosteropidae – All species;
- (3) Noncontrolled Amphibians: Common Name – Family – Genus/species:
- (a) Order Caudata:
- (A) Axolotl – Ambystomatidae – *Ambystoma mexicanum*;
- (B) Gold-striped salamander – Salamandridae – *Chioglossa lusitana*;
- (C) Black-spotted and striped newts – Salamandridae – *Notophthalmus meridionalis* and *N. perstriatus*;
- (D) Spectacled salamander – Salamandridae – *Salamandrina terdigitata*;
- (b) Order Gymnophiona: Caecilians – All species.
- (c) Order Anura:
- (A) Allophrynid tree frog – Allophrynidae – *Allophryne* All species;
- (B) Hairy frogs – Arthroleptidae – *Trichobatrachus* All species;
- (C) Cane toad – Bufonidae – *Bufo marinus*;
- (D) African tree toads – Bufonidae – *Nectophryne* All species;
- (E) Live-bearing toads – Bufonidae – *Nectophrynoidea* All species;
- (F) Glass frogs – Centrolenidae – All species;
- (G) Poison arrow frogs – Dendrobatidae – All species;
- (H) Ghost frogs – Heleophrynidae – *Heleophryne* All species;
- (I) Shovel-nosed frogs – Hemisotidae – *Hemisus* All species;
- (J) Leaf frogs – Hylidae – *Agalychnis* All species;
- (K) Casque-headed frogs – Hylidae – *Aparashpenodon* All species;
- (L) Water-holding frogs – Hylidae – *Cyclorana* All species;
- (M) Marsupial frogs – Hylidae – *Gastrotheca* All species;
- (N) Australian giant tree frogs – Hylidae – *Litoria chlorus* and *L. infrafrenata*;
- (O) Slender-legged tree frogs – Hylidae – *Osteocephalus* All species;
- (P) Cuban tree frogs – Hylidae – *Osteopilus* All species;
- (Q) White's tree frog – Hylidae – *Pelodryas caerulea*;
- (R) Golden-eyed tree frogs – Hylidae – *Phrynohyas* All species;
- (S) Monkey frogs – Hylidae – *Phyllomedusa* All species;
- (T) Burrowing frogs – Hylidae – *Pterohyla* All species;
- (U) Casque-headed tree frogs – Hylidae – *Trachycephalus* All species;
- (V) Shovel-headed tree frogs – Hylidae – *Tripidon* All species;
- (W) Banana frogs – Hyperoliidae – *Arixalax* All species;
- (X) Reed frogs – Hyperoliidae – *Hyperolius* All species;
- (Y) Running frogs – Hyperoliidae – *Kassina* All species;
- (Z) Forest tree frogs – Hyperoliidae – *Leptopelis* All species;
- (AA) New Zealand frogs – Leiopelmatidae – *Leiopelma* All species;
- (BB) Common horned frogs – Leptodactylidae – *Ceratophrys* All species;
- (CC) Rain or robber frogs – Leptodactylidae – *Eleutherodactylus* All species;
- (DD) Paraguay horned toads – Leptodactylidae – *Lepidobatrachus* All species;
- (EE) Asian horned toad – Megophryidae – *Megophrys montana* (*nasuta*);
- (FF) Tomato frogs – Microhylidae – *Dyscophus* All species;
- (GG) Narrow-mouthed frogs – Microhylidae – *Gastrophryne* All species;
- (HH) Sheep frogs – Microhylidae – *Hypopachus* All species;
- (II) Malaysian narrowmouth toad – Microhylidae – *Kaloula pulchra*;
- (JJ) Tusked frog – Myobatrachidae – *Adelotus brevis*;
- (KK) Pouched frog – Myobatrachidae – *Assa darlingtoni*;
- (LL) Giant burrowing frogs – Myobatrachidae – *Heleioporus* All species;
- (MM) Cannibal frogs – Myobatrachidae – *Lechriodus* All species;
- (NN) Turtle frog – Myobatrachidae – *Myobatrachus gouldii*;
- (OO) Australian spadefoot toads – Myobatrachidae – *Noiaden* All species;
- (PP) Crowned toadlets – Myobatrachidae – *Pseudophryne* All species;
- (QQ) Gastric brooding frog – Myobatrachidae – *Rheobatrachus* All species;
- (RR) Torrent frogs – Myobatrachidae – *Taudactylus* All species;
- (SS) Australian toadlets – Myobatrachidae – *Uperoleia* All species;
- (TT) Parsley frogs – Pelodytidae – *Pelodytes* All species;
- (UU) Dwarf clawed frogs – Pipidae – *Hymenochirus* All species;
- (VV) Surinam frogs – Pipidae – *Pipa* All species;
- (WW) Mantella frogs – Ranidae – *Mantella* All species;
- (XX) Foam nest tree frogs – Rhacophoridae – *Chiromantis* All species;
- (YY) Gliding or flying frogs – Rhacophoridae – *Rhacophorus* All species;
- (ZZ) Mexican burrowing frog – *Rhinodermatidae* – *Rhinophrynus dorsalis*;
- (AAA) Seychelles frogs – Sooglossidae – All species.
- (4) Noncontrolled Reptiles: Common Name – Family – Genus/species:
- (a) Order Testudines:
- (A) Pignose turtles – Carettochelyidae – All species;
- (B) Austro-American side-necked turtles – Chelidae – All species;
- (C) Marine turtles – Cheloniidae – All species;
- (D) River turtles – Dermatemydidae – All species;
- (E) Leatherback turtles – Dermochelyidae – All species;
- (F) Pond and box turtles – Emydidae – All nonnative species except *Pseudemys* spp., *Trachemys* spp., *Chinemys* spp., *Clemmys* spp., *Chrysemys* spp., *Graptemys* spp., *Emys orbicularis*, *Emydoidea blandingii* and *Mauremys* spp.;
- (G) American mud and musk turtles – Kinosternidae – All species except *Kinosternon subrubrum* and *K. odoratum*;
- (H) Afro-American side-necked turtles – Pelomedusidae – All species;
- (I) Bighead turtles – Platysternidae – All species;
- (J) Tortoises – Testudinidae – All species;
- (K) Softshell turtles – Trionychidae – All species except *Apolone* spp. and *Trionyx triunguis*;
- (b) Order Squamata (Suborder Amphisbaenia): Worm lizards – All species.
- (c) Order Squamata (Suborder Lacertilia):
- (A) Pricklenapes – Agamidae – *Acanthosaura* All species;
- (B) Common or rainbow agama – Agamidae – *Agama agama*;
- (C) Frilled dragon – Agamidae – *Chlamydosaurus kingii*;
- (D) Humphead forest dragons – Agamidae – *Gonocephalus* All species;
- (E) Sailfin lizards – Agamidae – *Hydrosaurus* All species;
- (F) Anglehead forest dragons – Agamidae – *Hypsilurus* All species;
- (G) Water dragons – Agamidae – *Lophognathus* All species;
- (H) Water dragons – Agamidae – *Physignathus* All species;
- (I) Bearded dragons – Agamidae – *Pogona* All species;
- (J) Mastigures – Agamidae – *Uromastyx* All species;
- (K) Chameleons – Chamaeleonidae – All species;
- (L) Plated lizards – Cordylidae – *Gerrhosaurus* All species;
- (M) Flat lizards – Cordylidae – *Platysaurus* All species;
- (N) Gekkos – Gekkonidae – All species;
- (O) Gila monster, beaded lizard – Helodermatidae – All species;
- (P) Iguanid lizards – Iguanidae – All nonnative species except: *Crotaphytus* spp., *Gambelia* spp., *Sceloporus* spp., *Uta* spp., *Phrynosoma* spp.;
- (Q) Skinks – Scincidae – All nonnative species except *Eumeces* spp.;

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- (R) Ameivas – Teiidae – *Ameiva* All species;
- (S) Tegus – Teiidae – *Tupinambis* All species;
- (T) Monitor lizards – Varanidae – All species except *Varanus griseus*;
- (U) Night lizards – Xantusiidae – All species;
- (V) American knob-scaled lizards – *Xenosauridae* – *Xenosaurus* All species.

(d) Order Squamata (Suborder Serpentes).

- (A) File snakes – Acrochordidae – All species;
- (B) Pythons and Boas – Boidae – All nonnative species;
- (C) Milk, Pine, Corn, Rat, Garter snakes – Colubridae – All nonnative species except *Boiga irregularis*, *Lampropeltis getula*, *L.zonata*, and *Pituophis catenifer*;

(D) Kingsnakes and gopher (bull) snakes – Colubridae – Individuals of *Lampropeltis getula*, *L. zonata* and *Pituophis catenifer* that are morphologically distinct from native species.

- (E) Egyptian cobra – Elapidae – *Naja haje*;
 - (F) Black & white cobra – Elapidae – *Naja melanoleuca*;
 - (G) Indian cobra – Elapidae – *Naja naja*;
 - (H) Red spitting cobra – Elapidae – *Naja pallida*;
 - (I) King cobra – Elapidae – *Ophiophagus hannah*;
 - (J) Bush vipers – Viperidae – *Atheris* All species;
 - (K) Gaboon viper – Viperidae – *Bitis gabonica*;
 - (L) Rhinoceros viper – Viperidae – *Bitis nasicornis*;
 - (M) Horned vipers – Viperidae – *Cerastes* All species;
 - (N) Rattlesnakes – Viperidae – *Crotalus aquilus*, *C. basiliscus*, *C. durissus*, *C. intermedius*, *C. polystictus*, *C. pusillus*, *C. tortugensis*, *C. triseriatus*, *C. unicolor*, and *C. vegrandis*;
 - (O) Saw-scaled vipers – Viperidae – *Echis* All species;
 - (P) Bushmaster – Viperidae – *Lachesis muta*;
 - (Q) False horned vipers – Viperidae – *Pseudocerastes* All species;
 - (R) Pygmy rattlesnakes – Viperidae – *Sistrurus miliarius* and *S. ravus*.
- (5) Noncontrolled Fish: Common Name – Family – Genus/species:

Aquaria fish and Live Foodfish – All species.

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
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
Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; Administrative correction 10-27-97; FWC 72-1997, f. & cert. ef. 12-29-97; DFW 21-1998, f. & cert. ef. 3-13-98; DFW 63-1998, f. & cert. ef. 8-10-98; DFW 99-1998, f. & cert. ef. 12-22-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 15-2011, f. & cert. ef. 2-15-11

635-056-0070

Controlled Wildlife Species

At the time the commission categorizes a species, subspecies or hybrid as Controlled, it shall also establish the controls necessary to protect native wildlife.

- (1) Controlled Mammals.
- (2) Controlled Birds.

(a) Mute swans (*Cygnus olor*): The possession, transport, sale, purchase, exchange and offer to sell, purchase or exchange is allowed provided that all males are neutered and all individuals are surgically pinioned. Importation of any mute swan is prohibited.

(b) Hawks and falcons (families Falconidae and Accipitridae): The capture, possession, propagation, transportation, release, sale, purchase, exchange and disposition of falcons is allowed only as per the requirements of OAR 635 division 44 (Holding, Propagating Protected Wildlife) and OAR 635 division 55 (Falconry Licenses, Permits and Requirements).

(c) Game birds: (Anatidae, Columbidae, Tetranidae, Phasianidae, Meleagrididae, Scolopacidae, Gruidae, Rallidae). The possession, propagation, sale, purchase and exchange of game birds is allowed only as per the requirements of OAR 635 division 44 (Holding, Propagating Protected Wildlife).

(d) Unless authorized by the Department, European starling (*Sturnus vulgaris*) or House Sparrows (*Passer domesticus*) may not be imported into Oregon or released into the wild. However, viable eggs, nestlings, fledglings, or adults may be captured from the wild, possessed, bought or sold for any other purpose (including damage control, wildlife rehabilitation or research). Except for wildlife rehabilitation, no permit is required for such capture and possession. Release of these species by licensed wildlife rehabilitators shall occur at a location designated by the Department.

- (3) Controlled Amphibians.

(a) Bullfrog (*Rana catesbeiana*) including viable eggs, hatchlings, tadpoles, juveniles and adults: No person may import, purchase, sell, barter or exchange, or offer to import, purchase, sell, barter or exchange live bullfrogs. Individual bullfrogs may be collected from the wild and held indoors

in an escape proof aquarium as per OAR 635-044-0035. Release is prohibited unless the person first obtains a permit from the Director.

(4) Controlled Reptiles. Order Crocodylia (Crocodyles, Alligators and Gavials) are considered exotic animals pursuant to ORS 609.305. Therefore, the keeping, breeding and sale of such animals is regulated by ORS 609.205 through 609.355 and OAR 603-011-0705 and 603-011-0706. Those statutes and rules govern the authority of local governments and the Department of Agriculture over those activities concerning these animals. However, the Fish and Wildlife Commission retains authority to regulate release and transport of these animals, and their management if they are released or escape into the wild. It is *unlawful* to release any member of the order Crocodylia.

Stat. Auth.: 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242
Stats. Implemented: 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242
Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; DFW 63-1998, f. & cert. ef. 8-10-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 53-2008(Temp), f. & cert. ef. 5-28-08 thru 9-19-08; DFW 114-2008, f. & cert. ef. 9-19-08; DFW 15-2011, f. & cert. ef. 2-15-11

635-056-0075

Controlled Fish Species

- (1) Controlled Fish

(a) Grass carp (*Ctenopharyngodon idella*): Grass carp may be released into water bodies within Oregon only pursuant to the issuance of a permit from the Department. Complete permit applications shall be submitted to Department headquarters at least 60 days before proposed stocking. A fee of \$100.00 (plus a \$2.00 license agent fee) shall be charged for each Grass carp permit issued. The following restrictions and standards will govern the issuance of grass carp permits:

- (A) Stocking will occur only in water bodies which are:

- (i) Completely within private land; or
- (ii) On land owned or controlled by irrigation districts or drainage districts.

- (B) Stocking will occur only in the following types of water bodies:

- (i) Lakes, ponds, or reservoirs less than 10 acres; or
- (ii) Ditches and canals.

(C) Public use of the water body must be restricted to prevent removal of grass carp (by angling or otherwise) by unauthorized persons. At a minimum, the water body must be closed to angling and other use by the general public.

(D) Stocking shall not detrimentally affect any population of species listed as threatened or endangered by the federal or state government.

(E) Stocking shall occur only in water bodies with fish screens approved by the Department. Such screens shall have screen openings 1 inch or less for fish 12–19 inches total length and screen openings 2 inches or less for fish over 19 inches total length. Screens shall be inspected and approved by the Department before a permit will be issued. The applicant must comply with fish passage requirements (OAR 635, division 412); given grass carp screening requirements, this entails applying for and receiving a waiver or exemption from passage requirements if grass carp will be stocked into waters where native migratory fish are or were historically present.

(F) Stocking will not be allowed in water bodies within 100-year floodplains (as delineated by the Federal Emergency Management Agency on federal Flood Insurance Rate Maps) during times of potential flood. Times of potential flood are January 1 through July 31 in watersheds east of the Cascades and October 15 through May 31 in watersheds west of the Cascades. Grass carp will be removed from water bodies in a 100-year floodplain and held or disposed of during times of potential flood. If grass carp will be held and not disposed of, they shall be held at a permitted site outside the 100-year floodplain. Applications for sites within a 100-year floodplain shall contain a detailed removal plan which shall receive Department approval.

(G) Grass carp may only be purchased and imported from approved suppliers outside Oregon. Grass carp may not be propagated or held for further distribution within Oregon. Department pathologists shall approve suppliers. Approval will be based on ability to provide grass carp free of Asian tapeworms and meet health and disease requirements according to OAR 635-007-0555 through 635-007-0585.

- (H) Grass carp imported into Oregon shall be:

(i) Sterile triploids. Documentation from the U.S. Fish and Wildlife Service that each fish is triploid must be submitted to the Department prior to release;

- (ii) At least 12 inches long;

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(iii) Tagged with a Passive Integrated Transponder (PIT) tag of frequency 134.2-kilohertz. Each tag shall be programmed with a unique identification number. A list of unique tag numbers shall be submitted to the Department prior to release; and

(iv) Stocked at a rate not exceeding 22 per affected acre.

(I) In addition to documentation relating to the restrictions above, each permit application shall include:

(i) Applicant's name, address and daytime telephone number. All property owners of the water body to which grass carp will have unrestricted access must be party to the application and permit;

(ii) Location of the water body, including township, range, section and quarter section, with map including written directions for access;

(iii) Map of the water body including, vegetation present in the water body, all inlets and outlets, and screen locations;

(iv) Description of emergency procedures for responding to fish escapes from approved sites;

(v) Description of how fish will be removed and disposed of at the end of the proposed project.

(J) An application becomes the management plan upon approval. Permits and management plans shall be specific to particular sites and particular stocking projects. Permittees shall not deviate from permit conditions and management plans without prior written approval from the Department. No person may remove grass carp from one site (as identified in a management plan) and transport them to any other site without prior written approval from the Department.

(K) An Oregon Department of Fish and Wildlife fish transport permit shall accompany grass carp imported into and transported within Oregon. If transport is required within the management plan and occurs entirely on the permittee's property, a transport permit is not needed. Any other permit or documentation required for fish import, transport, or stocking shall also be obtained prior to importation and stocking.

(L) Permittees shall, as a condition of the permit, allow employees of the Department or the Oregon State Police to inspect at reasonable times the permitted water body, permit, and associated records. Inspection may take place without warrant or notice, but, unless prompted by emergency or other exigent circumstances, shall be limited to regular and usual business hours, including weekends. Nothing in these rules is intended to authorize or allow the warrantless search or inspection of property other than the water bodies or fish holding facilities on the permittee's property.

(M) Permits are revocable at any time for violation of any wildlife statute or rule of the Department. Upon revocation, if stocking has already occurred, the permittee shall remove all grass carp within two weeks at her/his own cost.

(N) Grass carp which escape a permitted water body are subject to seizure or destruction by the Department at the expense of the permit holder. The permit holder shall be held liable for incidental kill of any other species due to or during destruction of escaped grass carp.

(O) The Commission may grant an exception to OAR 635-056-0075(2)(a)(B) or (2)(a)(F). Exception requests must be submitted in writing in addition to the normal application and must address the requirements in this section. Unless the Commission determines that an alternative provides equivalent protection to fish and wildlife resources and their habitats, exceptions shall have the following additional requirements:

(i) If the water body into which grass carp will be stocked is greater than or equal to 10 acres a professional topographic survey by a licensed surveyor must be provided for the entire perimeter of the water body showing all points of water movement in and out of the water body. A topographic survey completed by a state or federal agency within five years from the date of application for the water body may be used. The Department shall determine screening requirements from the survey;

(ii) Grass carp may remain in a water body within the 100-year floodplain year-round if a professional plan or drawing that is certified by a licensed engineer is provided which indicates that the entire perimeter of the water body is protected from 100-year floods. In order to prevent grass carp escape, screens, dikes, and devices protecting the water body must be able to remain structurally sound within 100-year floods and not be overtopped by a 100-year flood. The Department reserves the right to have a licensed engineer retained by the agency review and approve or deny the plan or drawing submitted by the applicant.

(b) Tilapia (Mozambique tilapia *Oreochromis mossambicus*, Nile tilapia *O. niloticus*, and hybrids thereof): The possession, propagation, transportation, sale, purchase, exchange and disposition of these tilapia is controlled according to the following restrictions and standards:

(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(B) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured fish by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No live tilapia or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live tilapia imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(2) Controlled Mollusks

(a) Suminoe oysters (*Crassostrea ariakensis*), Pacific oysters (*C. gigas*), Kumamoto oysters (*C. sikamea*), Eastern oysters (*C. virginica*), and European flat oysters (*Ostrea edulis*) may be purchased and imported from outside Oregon (or from other estuaries within Oregon) for release into estuaries in Oregon pursuant to the terms of a permit issued by the department. Complete permit applications must be submitted to the department's Marine Resources Program Headquarters (2040 SE Marine Science Drive, Newport, Oregon 97365) at least 15 days before proposed stocking. Oysters may be commercially harvested and sold pursuant to OAR 635-005-0001 through 635-005-0035.

(b) Softshell clam (*Mya arenaria*), Japanese varnish clam (*Nuttallia obscuratai*), and Japanese littleneck clam (*Venerupis philippinarum*) may be harvested, possessed and sold commercially pursuant to OAR 635-005-0001 through 635-005-0035 or harvested and possessed recreationally pursuant to OAR 635-039.

(3) Controlled Crustaceans:

(a) Green crabs (*Carcinus maenas*) may be harvested recreationally pursuant to OAR 635-039. Once harvested, it is unlawful to return green crab to state waters. It is unlawful to take green crab for commercial purposes.

(b) Whiteleg shrimp (*Litopenaeus vannamei*): The possession, propagation, transportation, sale, purchase, exchange and disposition of whiteleg shrimp is controlled according to the following restrictions and standards:

(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(B) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured shrimp by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No live whiteleg shrimp or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live whiteleg shrimp imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(c) Giant river prawns (*Macrobrachium rosenbergii*): The possession, propagation, transportation, sale, purchase, exchange and disposition of giant river prawns is controlled according to the following restrictions and standards:

(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(B) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured prawns by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

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(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No giant river prawns or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live giant river prawns imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

Stat. Auth.: ORS 496.012, 496.138 & 496.146
Stats. Implemented: ORS 497.308, 497.318, 498.022, 498.052 & 498.222
Hist.: DFW 63-1998, f. & cert. ef. 8-10-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 64-2003, f. & cert. ef. 7-17-03; DFW 53-2008(Temp), f. & cert. ef. 5-28-08 thru 9-19-08; DFW 114-2008, f. & cert. ef. 9-19-08; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 15-2011, f. & cert. ef. 2-15-11

635-056-0080 Sale of Wildlife

(1) Except as provided in these rules and other rules of the commission, no person shall sell, purchase, exchange or offer to sell, purchase or exchange any wildlife (including game fish in the aquaria trade).

(2) Except as otherwise provided in this section, kingsnakes (*Lampropeltis getula* and *L. zonata*) and gopher (bull) snakes (*Pituophis catenifer*) that are morphologically similar to native species may be possessed, transported, sold, purchased, exchanged or offered for sale, purchase or exchange if the animals were legally acquired and bred in captivity. However, nothing in these rules authorizes the:

(a) Capture, possession, transportation, sale, purchase, exchange, or offer of sale, purchase or exchange of any wild native kingsnake or its offspring; or

(b) Sale, purchase, exchange, or offer of sale, purchase or exchange of any wild gopher snake or its progeny.

(3) When any nonnative wildlife species is offered for sale, trade or barter, the person making the offer shall display (until the transaction is completed) both the species' common name(s) and scientific taxonomic name (genus, species and subspecies (if appropriate)), as listed in the reference material in 635-056-0000(2) of these rules. The common name(s) and scientific name shall be posted at or on the cage, tank, or pen where the wildlife are being held or displayed.

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
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
Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 41-1997(Temp), f. & cert. ef. 7-23-97; FWC 59-1997, f. & cert. ef. 9-3-97; DFW 96-1998, f. & cert. ef. 11-25-98; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 15-2011, f. & cert. ef. 2-15-11

635-056-0130 Classification Requests

(1) For species that are not listed in these rules, no person may possess, import, purchase, sell, exchange, or offer to purchase, sell or exchange the species in Oregon.

(2) Species may be classified as Prohibited, Controlled or Noncontrolled. The classification may vary by activity (e.g., possession allowed, but sale prohibited). If a specific nonnative species, subspecies or hybrid is not classified as either Prohibited, Controlled or Noncontrolled, or is classified but not for a particular activity (e.g., import, sale, possession, transport), any person may either:

(a) Petition the commission to classify the species or allow the particular activity pursuant to OAR 137-001-0070; or

(b) Request the director to classify the species as Noncontrolled, pursuant to OAR 635-056-0140.

(c) Any person petitioning or requesting classification shall provide information illustrating that the requested action will not harm, nor has the potential to harm, any native species or its habitat. The information should be scientific in nature, in written form and include an appropriate literature cited section.

(3) In evaluating a request to classify a species, subspecies or hybrid, the commission may consider the following factors, when appropriate:

(a) Potential to introduce disease or parasites to native wildlife populations;

(b) Potential for interbreeding or hybridizing with native wildlife;

(c) Possible competition with native wildlife for habitat, food, water, etc.;

(d) Impacts on the habitat of native wildlife;

(e) Potential predation on native wildlife;

(f) Feasibility and cost of capturing or eradicating escaped animals; or

(g) Any other factor or consideration the commission considers necessary to protect and maintain native wildlife.

(4) The director may appoint a Wildlife Integrity Review Panel to consider the information presented by the petitioner as appropriate. The director may, in appointing the panel, consider scientific expertise, professional background, and other qualifications needed to make sound decisions. The director may seek commission recommendations in making Wildlife Integrity Review Panel appointments. If convened, the panel shall make a recommendation to the commission on the classification of the species, subspecies or hybrid and what conditions, if any, should apply to the proposed activity (e.g., import, sale, possession, transfer).

(5) The director may call for scientific based studies or other verifiable information useful in placing the requested species in the appropriate classification category.

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
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
Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; DFW 99-1998, f. & cert. ef. 12-22-98; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 15-2011, f. & cert. ef. 2-15-11

635-057-0000 Definition of "Wild Birds" and "Wild Mammals"

This rule governs all Commission Rules using the terms "wild birds" or "wild mammals," pursuant to SB 804, (Oregon Laws 2007). The purpose of this rule is to clarify the scope of the term "wildlife," which according to statute includes (among other things) "wild mammals" and "wild birds." "Wildlife" is the term used in many statutes describing the regulatory authority of the Fish and Wildlife Commission. The intent of this rule is to include as "wild mammals" and "wild birds" all species which, if viewed globally, typically exist in a wild state. Note that other statutes governing the authority of other agencies may use terms that (in some circumstances) may overlap with the Commission's authority over "wildlife." For example, the Department of Agriculture has the authority to regulate the private holding of "exotic" animals, some of which otherwise qualify as "wildlife" (and which the Commission otherwise is in charge of regulating). Therefore, the reader is cautioned to note distinctions in how Oregon law uses different terms regarding wild animals.

(1) "Wild mammals" means all mammals except:

(a) Alpaca, Guanaco, Llama – *Lama glama*.

(b) Ass, Burro, Donkey – *Equus asinus*.

(c) Bison – *Bison bison*.

(d) Camel – *Camelus bactrianus* and *C. dromedarius*.

(e) Cat (all domestic breeds) – *Felis catus*.

(f) Cattle and Yak – *Bos species*.

(g) Chinchilla – *Chinchilla laniger*.

(h) Dog (all domestic breeds) – *Canis familiaris*.

(i) European Rabbit – *Oryctolagus cuniculus*.

(j) Ferret (European polecat) – *Mustela putorius*.

(k) Gerbil (Mongolian Jird) – *Meriones unguiculatus*.

(l) Goat – *Capra hircus*.

(m) Guinea pig – *Cavia porcellus*.

(n) Common Hamster – *Cricetus cricetus*.

(o) Horse – *Equus caballus*.

(p) Mouse (House mouse) – *Mus musculus*.

(q) Mule and Hinny – *Equus asinus* x *E. caballus*.

(r) Rat – *Rattus norvegicus* and *R. rattus*.

(s) Sheep – *Ovis aries* and hybrids of *O. aries* with *O. aries orientalis*, hybrids of *O. aries* with *Ammotragus lervia*, and hybrids of *O. aries* with *Pseudois nayaur*.

(t) Swine – *Sus scrofa domestica* (includes pot-bellied pigs)

(u) Vicuña – *Vicugna vicugna*.

(2) "Wild birds" means all birds except:

(a) Cassowary *Casuaris* species;

(b) Chicken *Gallus gallus*;

(c) Ducks and Geese (morphologically distinct from wild waterfowl; except (Egyptian geese and Mute swans);

(d) Emu – *Dromaius novaehollandiae*;

(e) Guinea fowl – *Numida meleagris*;

(f) Ostrich – *Struthio camelus*;

(g) Parrots, Parakeets, Lories, and Cockatoos Psittaciformes (All species);

(h) Peafowl – *Pavo cristatus*;

(i) Pigeon or Rock dove – *Columba livia*;

(j) Rhea – *Rhea americana* and *R. pennata*;

(k) Turkey (morphologically distinct from wild turkey) – *Meleagris gallopavo*.

Stat. Auth.: ORS: 496.004, 496.012, 496.138, 496.146, 496.162

ADMINISTRATIVE RULES

Stats Implemented: ORS 496.004(19), 496.004; 496.012, 496.138, 496.146, 496.162, SB 804 (OL 2007, ch. 523)
Hist.: DFW 122-2007, f. & cert. ef. 11-19-07; DFW 15-2011, f. & cert. ef. 2-15-11

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**Department of Human Services,
Children, Adults and Families Division:
Self-Sufficiency Programs
Chapter 461**

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 1-2011(Temp)

Filed with Sec. of State: 1-20-2011

Certified to be Effective: 1-20-11 thru 7-19-11

Notice Publication Date:

Rules Amended: 461-155-0180

Subject: OAR 461-155-0180 about poverty-related income standards is being amended to reflect the annual increase in the federal poverty guidelines.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0180

Poverty Related Income Standards; Not OSIP, OSIPM, QMB, TANF

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level.

(2) A monthly income standard set at 100 percent of the 2011 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(3) A monthly income standard set at 133 percent of the 2011 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(4) A monthly income standard set at 150 percent of the 2011 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(5) A monthly income standard set at 163 percent of the 2011 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(6) A monthly income standard set at 185 percent of the 2011 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(7) A monthly income standard set at 200 percent of the 2011 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(8) A monthly income standard set at 201 percent of the 2011 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.049

Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 1-2009, f. & cert. ef. 1-27-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 4-2010, f. & cert. ef. 3-31-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 1-2011(Temp), f. & cert. ef. 1-20-11 thru 7-19-11

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 2-2011

Filed with Sec. of State: 1-20-2011

Certified to be Effective: 1-20-11

Notice Publication Date: 11-1-2010

Rules Amended: 461-155-0235

Subject: OAR 461-155-0235 about the premium standards for the Oregon Health Plan Standard (OHP-OPU) is being amended to adjust these standards to reflect the annual federal poverty level adjustments as published by the federal government.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0235

OHP Premium Standards

In the OHP program, the following steps are followed to determine the amount of the monthly premium for the *filing group* (see OAR 461-110-0400):

(1) The number of persons in the OHP need group is determined in accordance with OAR 461-110-0630.

(2) The countable income of the financial group (see OAR 461-110-0530) is determined in accordance with OAR 461-150-0055 and 461-160-0700.

(3) Based on the number in the *need group* and the countable income, the monthly premium for each non exempt OHP-OPU client in the benefit group (see OAR 461-110-0750) is determined from the following table: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060, 411.598, 411.600

Stats. Implemented: ORS 411.060, 411.070, 411.598, 411.600

Hist.: AFS 35-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 22-1996, f. 5-30-96, cert. ef. 6-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 6-2003(Temp), f. 2-26-03, cert. ef. 3-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 5-2004(Temp), f. & cert. ef. 3-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 2-2005, f. & cert. ef. 2-18-05; SSP 1-2006, f. & cert. ef. 1-24-06; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 1-2009, f. & cert. ef. 1-27-09; SSP 2-2011, f. & cert. ef. 1-20-11

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 3-2011(Temp)

Filed with Sec. of State: 2-1-2011

Certified to be Effective: 2-1-11 thru 7-31-11

Notice Publication Date:

Rules Amended: 461-155-0528, 461-155-0693

Subject: OAR 461-155-0528 about emergency assistance payments in the Oregon Supplemental Income Program Medical (OSIPM) is being amended to restate which OSIPM program clients receiving Supplemental Security Income (SSI) payments are eligible for emergency assistance payments. This rule also is being amended to restate the amount of the authorized maximum emergency assistance payment.

OAR 461-155-0693 about transportation services payments in the Oregon Supplemental Income Program Medical (OSIPM) is being amended to restate the amount of the authorized maximum monthly payment.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0528

Special Need; Emergency Assistance; OSIPM

In the OSIPM program:

(1) The Department provides an emergency assistance payment for a client if the client meets the requirements of all of the following subsections:

(a) The client must:

(A) Receive SSI; or

(B) Have an adjusted income (see OAR 461-001-0000) less than the SSI standard, and the Department has determined the client meets the eligibility requirements under OAR 461-125-0370(1)(c).

(b) The client does not reside in a community-based care facility (see OAR 461-155-0630(1)) or nursing facility;

(c) The client experiences an unexpected cost or loss of income or resources (not including garnishments or other withholdings authorized by Section 207 of the Social Security Act) resulting from circumstances beyond the client's control; and

(d) The client lacks sufficient income for basic needs such as food, housing, and shelter.

(2) The Department makes emergency assistance payments in accordance with the following subsections:

(a) The Department may authorize an emergency assistance payment for a client only once in any 12-month period;

(b) An emergency assistance payment is limited to the lesser of the following amounts:

(A) The unexpected cost or loss of income or resources; or

(B) \$250.

(c) The Department must pay the total emergency assistance payment to the client over a two-month period.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706

Hist.: SSP 36-2010(Temp), f. & cert. ef. 10-13-10 thru 4-11-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 3-2011(Temp), f. & cert. ef. 2-1-11 thru 7-31-11

ADMINISTRATIVE RULES

461-155-0693

Special Need; Transportation Services Payment; OSIPM

In the OSIPM program:

(1) The following individuals may be eligible for a transportation services payment:

(a) A client who receives SSI; or

(b) A client who the Department determines meets the requirements of OAR 461-125-0370(1)(c) and has adjusted income less than the SSI standard.

(2) Services eligible for payment under this rule are for transportation to non-medical and non-waivered activities and resources approved by the Department. Examples of such transportation services include, but are not limited to: reimbursement for non-commercial transportation not available through natural supports (limited to mileage only at the full United States General Services Administration mileage reimbursement rate); transportation provided by common carriers, taxicab, or bus; and assistance with purchase of a pass for public transportation.

(3) The following items are not eligible for payment under this rule: purchase of a vehicle; vehicle maintenance or repair; compensation for non-commercial transportation providers (payment to non-commercial transportation providers is limited to mileage only); and transportation services that may be obtained through other means, such as the State Medicaid Plan, waiver, or other public or private resources available to the individual, including natural supports.

(4) Payment for services authorized by this rule may not exceed \$50 per month.

(5) Service costs must be verified annually or when questionable.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706

Hist.: SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 22-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 33-2010(Temp), f. & cert. ef. 10-1-10 thru 3-30-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 3-2011(Temp), f. & cert. ef. 2-1-11 thru 7-31-11

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 4-2011(Temp)

Filed with Sec. of State: 2-4-2011

Certified to be Effective: 2-4-11 thru 8-3-11

Notice Publication Date:

Rules Amended: 461-145-0530

Subject: OAR 461-145-0530 about how the Department treats tax refunds when determining a client's assets (income and resources) is being amended to revise how the Department treats federal income tax refunds to comply with recent federal legislation (Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Pub. Law 111-312)).

Rules Coordinator: Annette Tesch—(503) 945-6067

461-145-0530

Tax Refund

The following types of tax refunds are counted as a resource:

(1) Income tax refunds as follows:

(a) Effective December 17, 2010, a federal income tax refund received after December 31, 2009 and before January 1, 2013 is excluded from a client's resources for the 12 calendar months following receipt of the refund.

(b) Any other income tax refund is counted as a resource.

(2) Property tax refunds, including Elderly Rental Assistance (ERA).

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 9-2008(Temp), f. & cert. ef. 4-1-08 thru 9-26-08; Administrative correction 10-21-08; SSP 4-2011(Temp), f. & cert. ef. 2-4-11 thru 8-3-11

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 5-2011(Temp)

Filed with Sec. of State: 2-4-2011

Certified to be Effective: 2-4-11 thru 4-30-11

Notice Publication Date:

Rules Amended: 461-150-0055

Rules Suspended: 461-150-0055(T)

Subject: OAR 461-150-0055 which concerns eligibility and budgeting in the Healthy KidsConnect (HKC) and Oregon Health Plan (OHP) programs and was amended by temporary rule on January 1, 2011, is being amended further to state which month the Department uses as the budget month (the calendar month from which nonfinancial and financial information is used to determine eligibility and benefit level for the payment month) during an HKC program recertification. This rule also is being amended to restate how the Department determines the budget month when the Department initiates a redetermination of eligibility for an HKC or OHP program client.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-150-0055

Eligibility and Budgeting; HKC, OHP

In the HKC and OHP programs:

(1) The *budget month* (see OAR 461-001-0000) is:

(a) For a new applicant, the month of application.

(b) For a client reapplying at the end of an OHP *certification period* (see OAR 461-001-0000), no longer eligible for his or her current OHP program, or moving from the BCCM, EXT, GAM, MAA, MAF, OSIPM, REFM, or SAC programs to the OHP program: the last month of the current *eligibility* (see OAR 461-001-0000) period.

(c) For a client reapplying at the end of an HKC *certification period*, the tenth month of the HKC *certification period*.

(d) When the Department initiates a redetermination of *eligibility*:

(A) The last month of the current OHP program eligibility period if the Department initiates the redetermination by sending a DHS 945 form.

(B) For OHP program cases not covered by paragraph (A) of this subsection, the month the Department initiates a *date of request* (see OAR 461-115-0030).

(e) For an individual joining a *filing group* (see OAR 461-110-0400), the month in which the individual requests medical benefits.

(f) For a late reapplication, the month the Department receives the new application.

(g) For a new applicant or current recipient who is not eligible using the *budget month* described in subsections (1)(a) to (1)(d) of this rule, any month falling within 45 days after the date of request.

(2) *Countable* (see OAR 461-001-0000) income is determined as follows:

(a) Income is considered available during a month under OAR 461 140 0040.

(b) Income is not annualized, converted, or prorated.

(c) For a self-employed client, *countable* self-employment income is determined under OAR 461-145-0920 and 461-145-0930.

(3) Except as provided in section (5) of this rule, the Department calculates the *countable* income of the *financial group* (see OAR 461-110-0530) by adding together the income the *financial group* has already received in the *budget month* and the income that reasonably may be expected to be received in the *budget month*.

(4) A change in income or resources during a *certification period* (see OAR 461-001-0000) does not affect the *eligibility* of the benefit group (see OAR 461-110-0750) for that *certification period*.

(5) In the HKC, OHP-CHP, and OHP-OPC programs, when the Department uses a finding made during an ELE determination and the *child* meets all other HKC, OHP-CHP, or OHP-OPC program nonfinancial eligibility requirements, the standard for the number of eligibility group members determined by the ELA is used to determine eligibility regardless of the *need group* (see OAR 461-110-0630) size. The *countable* income of the *financial group* is the same as the income amount determined by the ELA.

(a) A *child* is deemed eligible for the HKC, OHP-CHP, or OHP-OPC program as follows:

(A) If the income of the *need group* is below 163 percent of the federal poverty level (FPL) as listed in OAR 461-155-0180, the Department deems the *child* eligible for OHP-OPC.

(B) If the income of the *need group* is at or above 163 percent of the FPL but under 201 percent of the FPL, the Department deems the *child* eligible for OHP-CHP.

(C) If the income of the *need group* is at or above 201 percent of the FPL, the Department deems the *child* eligible for HKC.

(b) If the income of the *need group* is above 301 percent of the FPL, the Department determines eligibility using the standard medical assistance eligibility determination processes.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 414.231

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 414.231

ADMINISTRATIVE RULES

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 38-2010(Temp), f. & cert. ef. 11-1-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 43-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 4-30-11; SSP 5-2011(Temp), f. & cert. ef. 2-4-11 thru 4-30-11

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 6-2011(Temp)

Filed with Sec. of State: 2-14-2011

Certified to be Effective: 2-14-11 thru 8-13-11

Notice Publication Date:

Rules Amended: 461-190-0416

Subject: OAR 461-190-0416 about how the Department determines eligibility for and calculates the amount of a Temporary Assistance for Needy Families (TANF) or Supplemental Nutrition Assistance Program (SNAP) program supplemental payment made to a client when the client's Job Opportunity and Basic Skills (JOBS) Plus income reduces the client's TANF or SNAP program benefits is being amended to restate how the Department determines a client's full benefit equivalency income and minimum benefit equivalency income (the income amounts used to determine eligibility for and the amount of the supplemental payment under this rule). This rule also is being amended in response to recently enacted federal legislation (The Education Jobs and Medicaid Assistance Act of 2010 (Pub. Law 111-226)) to state how, effective January 1, 2011, the Department determines eligibility for and calculates the amount of a supplemental payment under this rule.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-190-0416

Supplemental Payments; JOBS

In the *JOBS Plus program* (see OAR 461-001-0025):

(1) If the net monthly full-time wage paid to a participant is less than the amount of the TANF program and the SNAP program benefits the participant would otherwise receive, the Department will determine and pay to the participant a supplemental payment as provided in section (3) or (6) of this rule.

(2) Income Calculations prior to January 1, 2011:

(a) JOBS Plus income for sections (2) and (3) of this rule is calculated retrospectively as follows:

(A) For the full benefit equivalency income test, the applicable hourly wage is multiplied by the hours that were available for work, specifically the hours for which the participant was paid, including sick leave used and hours the participant was engaged in *job search* (see OAR 461-001-0025), and hours the participant missed work without being excused by the employer. From that product, a \$90 standard deduction and the amount of garnishments withheld are subtracted. To the remainder is added any child support received by the participant and \$102 to account for the participant's potential earned income credit. If the participant missed work referred to in this paragraph due to *good cause* (see OAR 461-130-0327), the hours are excluded from the calculation.

(B) For the minimum benefit equivalency income test, the applicable hourly wage is multiplied by the hours for which the participant was paid. From that product, a \$90 standard deduction and the amount of garnishments withheld are subtracted. To the remainder is added any child support received by the participant and \$102 to account for the participant's potential earned income credit.

(b) Full benefit equivalency income is the total of the TANF program and SNAP program benefits as determined for the *need group* (see OAR 461-110-0630).

(c) Minimum benefit equivalency income is determined by deducting from the full benefit equivalency income the difference between the TANF program payment standard under OAR 461-155-0030 for the *need group* with the participant included and the TANF program payment standard for the *need group* without the participant included.

(3) Wage supplements prior to January 1, 2011: A participant is entitled to a wage supplement payment for any month in which JOBS Plus income is exceeded by either the full benefit equivalency income or the

minimum benefit equivalency income. The supplement payment amount is determined by subtracting the JOBS Plus income calculated in accordance with paragraph (2)(a)(A) of this rule from the full benefit equivalency income and by subtracting the JOBS Plus income calculated in accordance with paragraph (2)(a)(B) of this rule from the minimum benefit equivalency income. The larger remainder, if greater than zero, is the wage supplement payment amount.

(4) SNAP program supplemental payment prior to January 1, 2011:

(a) To ensure that a SNAP program client does not incur a net loss of income because of her or his participation in the *JOBS Plus program*, the Department provides a supplemental payment equal to the amount by which the participant's JOBS Plus income is less than the Thrifty Food Stamp Plan benefit standard for the participant's *need group*.

(b) The JOBS Plus income for this section is calculated prospectively by subtracting \$90 from the sum of the gross JOBS Plus wages the participant already has received for the month and any that the participant reasonably can expect to receive during the month, and adding the remainder to any EIC payment the participant received or anticipates receiving during the month and any other prospective income, and then subtracting the amount scheduled to be garnished during the month.

(5) Effective January 1, 2011:

(a) JOBS Plus income for this section and section (6) of this rule is calculated retrospectively as follows:

(A) For the full benefit equivalency income test, the applicable hourly wage is multiplied by the hours that were available for work, specifically the hours for which the participant was paid, including hours of sick leave used, hours the participant was engaged in *job search* (see OAR 461-001-0025), and hours the participant missed work without being excused by the employer. From that product, a \$90 standard deduction and the amount of any garnishments withheld are subtracted. To the remainder is added any child support received by the participant. If the participant missed work referred to in this paragraph due to *good cause* (see OAR 461-130-0327), the hours are excluded from the calculation.

(B) For the minimum benefit equivalency income test, the applicable hourly wage is multiplied by the hours for which the participant was paid. From that product, a \$90 standard deduction and the amount of garnishments withheld are subtracted. To the remainder is added any child support received by the participant.

(b) Full benefit equivalency income is the total of the TANF program benefits and SNAP program benefits as determined for the participant's *need group* (see OAR 461-110-0630).

(c) Minimum benefit equivalency income is determined by deducting from the full benefit equivalency income the difference between the TANF payment standard under OAR 461-155-0030 for the *need group* with the participant included and the TANF payment standard for the *need group* without the participant included.

(6) Wage supplements effective January 1, 2011: A participant is entitled to a wage supplement payment for any month in which JOBS Plus income is exceeded by either the full benefit equivalency income or the minimum benefit equivalency income. The wage supplement payment amount is determined by subtracting the JOBS Plus income calculated in accordance with paragraph (5)(a)(A) of this rule from the full benefit equivalency income and by subtracting the JOBS Plus income calculated in accordance with paragraph (5)(a)(B) of this rule from the minimum benefit equivalency income. The larger remainder, if greater than zero, is the wage supplement payment amount.

(7) SNAP program supplemental payment effective January 1, 2011:

(a) To ensure that a SNAP program client does not incur a net loss of income because of their participation in the *JOBS Plus program*, the Department provides a supplemental payment equal to the amount by which the JOBS Plus income of the participant is less than the Thrifty Food Stamp Plan benefit standard for the *need group* of the participant.

(b) The JOBS Plus income for this section is calculated prospectively by subtracting \$90 from the sum of the gross JOBS Plus wages the participant has already received for the month and any the participant can reasonably expect to receive during the month plus any other prospective income, and then subtracting the amount scheduled to be garnished during the month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.408, 411.816, 411.877, 411.892, 412.006, 412.009, 412.014, 412.049, 412.124

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.408, 411.816, 411.877, 411.892, 412.006, 412.009, 412.014, 412.049, 412.124

Hist.: AFS 18-1998, f. & cert. ef. 10-2-98; SSP 6-2011(Temp), f. & cert. ef. 2-14-11 thru 8-13-11

ADMINISTRATIVE RULES

**Department of Human Services,
Children, Adults and Families Division:
Vocational Rehabilitation Services
Chapter 582**

Rule Caption: Amending standards for provision of program services, definitions, and rates of payment.

Adm. Order No.: VRS 1-2011(Temp)

Filed with Sec. of State: 2-15-2011

Certified to be Effective: 3-1-11 thru 8-28-11

Notice Publication Date:

Rules Amended: 582-001-0010, 582-030-0040, 582-050-0000, 582-050-0005, 582-050-0010, 582-050-0020, 582-050-0060, 582-060-0010, 582-060-0020, 582-070-0010, 582-070-0020, 582-070-0025, 582-070-0030, 582-070-0040, 582-070-0042, 582-070-0043, 582-070-0044

Subject: These proposed rules revise the Office of Vocational Rehabilitation Services (OVRs) provision of services and process for providing transportation, modifying vehicles, requirements for maintaining vehicle insurance, requirements for closing case files and updates definitions. The revisions more precisely describe the general purpose of these services, scope and nature of services, OVRs requirements and individual rights and responsibilities.

Rules Coordinator: Peter Fox—(503) 945-6695

582-001-0010

Definitions for Chapter 582

The following definitions apply to each division in chapter 582 of the Oregon Administrative Rules unless otherwise indicated:

(1) "Act" refers to the federal Rehabilitation Act of 1973, as amended (29 U.S.C. 701 et seq.).

(2) "Assistant Director" refers to the Assistant Director of the Office of Vocational Rehabilitation Services.

(3) "Applicant" refers to an individual who submits an application for vocational rehabilitation services in accordance with 34 CFR 361.41(b)(2).

(4) "Assessment for determining eligibility and vocational rehabilitation needs" refers to, as appropriate in each case:

(a) A review of existing data to determine if an individual is eligible for vocational rehabilitation services; and to assign priority for an order of selection if in effect; and

(b) To the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make the eligibility determination and assignment;

(c) To the extent additional data are necessary to make a determination of the employment outcomes and the nature and scope of vocational rehabilitation services to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual. This comprehensive assessment:

(A) Is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan of employment of the eligible individual;

(B) Uses as a primary source of information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements: Existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection for the individual; and Information that can be provided by the individual and, if appropriate, by the family of the individual;

(C) May include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual; and

(D) May include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

(d) Referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

(e) An exploration of the individual's abilities, capabilities, and capacity to perform in work situations, which must be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

(5) "Assistive technology device" refers to any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability.

(6) "Assistive technology service" refers to any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device, including:

(a) The evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in his or her customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition by an individual with a disability of an assistive technology device;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for an individual with a disability or, if appropriate, the family members, guardians, advocates, or authorized representatives of the individual; and

(f) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with a disability.

(7) "CFR" refers to the Code of Federal Regulations.

(8) "Client Assistance Program" or "CAP" refers to a federally-funded program authorized under 34 CFR 370 that is independent of OVRs and whose purpose is to provide information, advocacy, and legal representation to individuals seeking OVRs services.

(9) "Client's Representative" refers to any person identified by the client as being authorized to speak or act on behalf of the client or to assist the client in any matter pertaining to services of OVRs, unless a representative has been appointed by a court to represent the client, in which case the court-appointed representative is the client's representative.

(10) "Community Rehabilitation Program" or "CRP" refers to:

(a) A program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

(A) Medical, psychiatric, psychological, social, and vocational services that are provided under one management.

(B) Testing, fitting, or training in the use of prosthetic and orthotic devices.

(C) Recreational therapy.

(D) Physical and occupational therapy.

(E) Speech, language, and hearing therapy.

(F) Psychiatric, psychological, and social services, including positive behavior management.

(G) Assessment for determining eligibility and vocational rehabilitation needs, including technicians for assessment tests.

(H) Rehabilitation technology.

(I) Job development, placement, and retention services.

(J) Evaluation or control of specific disabilities.

(K) Orientation and mobility services for individuals who are blind.

(L) Extended employment.

(M) Psychosocial rehabilitation services.

(N) Supported employment services and extended services.

(O) Services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome.

(P) Personal assistance services.

(Q) Services similar to the services described in subsections (A) through (P) of this definition, including vendors who provide training, write resumes, consult on self-employment plans, assist with a self-employed business, or write PASS plans.

(b) For the purposes of this definition, the word program means an agency, organization, or institution, or unit of an agency, organization, or

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institution, that provides directly or facilitates the provision of vocational rehabilitation services as one of its major functions. It does not include the prospective employer of the client.

(11) "Comparable services and benefits" refers to:

(a) Services and benefits that are:

(A) Provided or paid for, in whole or in part, by other Federal, State, or local public agencies, by health insurance, or by employee benefits;

(B) Available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's individualized plan for employment in accordance with 34 CFR 361.53; and

(C) Commensurate to the services that the individual would otherwise receive from OVRs.

(b) For the purposes of this definition, comparable benefits do not include awards and scholarships based on merit.

(12) "Competitive employment" refers to work:

(a) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

(b) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

(13) "DHS" refers to the Department of Human Services.

(14) "Eligible individual" refers to an applicant for vocational rehabilitation services who meets the eligibility requirements of 34 CFR 361.42(a).

(15) "Employment outcome" refers to, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment, as defined in OAR 582-001-0010(12), in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(16) "Extended employment" refers to work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act.

(17) "Extended services" refers to ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this part and 34 CFR part 363 after an individual with a most significant disability has made the transition from support provided by OVRs.

(18) "Extreme medical risk" refers to a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.

(19) "Family member," for purposes of receiving vocational rehabilitation services in accordance with 34 CFR 361.48(i), refers to an individual:

(a) Who either:

(A) Is a relative or guardian of an applicant or eligible individual; or

(B) Lives in the same household as an applicant or eligible individual;

(b) Who has a substantial interest in the well-being of that individual; and

(c) Whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

(20) "Impartial hearing officer" refers to an individual who:

(a) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education) — an individual is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer;

(b) Is not a member of the State Rehabilitation Council for OVRs;

(c) Has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(d) Has knowledge of the delivery of vocational rehabilitation services, the State plan, and the Federal and State regulations governing the provision of services;

(e) Has received training with respect to the performance of official duties; and

(f) Has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual.

(21) "Individual with a disability" refers to an individual:

(a) Who has a physical or mental impairment; and

(b) Whose impairment constitutes or results in a substantial impediment to employment; and

(c) Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

(22) "Individual with a most significant disability" refers to an eligible individual who:

(a) Has a severe mental or physical impairment that seriously limits two or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

(b) Is expected to require two or more vocational rehabilitation services over an extended period of time to achieve or maintain a successful employment outcome.

(23) "Individual with a significant disability" refers to an eligible individual who does not qualify as an individual with a most significant disability as defined at OAR 582-001-0010(22); and

(a) The individual is currently receiving or eligible to receive Social Security Income or Social Security Disability Insurance payments; or

(b) The individual:

(A) Has a severe mental or physical impairment that seriously limits one functional capacity (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

(B) Is expected to require two or more vocational rehabilitation services over an extended period of time to achieve or maintain a successful employment outcome.

(24) "Integrated setting":

(a) With respect to the provision of services, refers to a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals;

(b) With respect to an employment outcome, refers to a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

(25) "Maintenance" refers to monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment.

(26) "Mediation" refers to the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies. Mediation under the program must be conducted in accordance with the requirements in 34 CFR 361.57(d) by a qualified and impartial mediator as defined in 34 CFR 361.5(b)(43).

(27) "OAR" refers to the Oregon Administrative Rules.

(28) "Ongoing support services," as used in the definition of "Supported employment"

(a) Refers to services that are:

(A) Needed to support and maintain an individual with a most significant disability in supported employment;

(B) Identified based on a determination by OVRs of the individual's need as specified in an individualized plan for employment; and

(C) Furnished by OVRs from the time of job placement until transition to extended services, unless post-employment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement or multiple placements if those placements are being provided under a program of transitional employment;

(b) Must include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability based on:

(A) At a minimum, twice-monthly monitoring at the worksite of each individual in supported employment; or

(B) If under specific circumstances, especially at the request of the individual, the individualized plan for employment provides for off-site monitoring, twice monthly meetings with the individual;

(c) Consist of:

(A) Any particularized assessment supplementary to the comprehensive assessment of rehabilitation needs;

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(B) The provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

(C) Job development and training;

(D) Social skills training;

(E) Regular observation or supervision of the individual;

(F) Follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

(G) Facilitation of natural supports at the worksite;

(H) Any other service identified in the scope of vocational rehabilitation services for individuals, described in 34 CFR 361.48; or

(I) Any service similar to the foregoing services.

(29) "ORS" refers to the Oregon Revised Statutes.

(30) "OVRs" refers to the Office of Vocational Rehabilitation Services.

(31) "Parent or Guardian" refers to a person or persons having legal responsibility for the overall welfare and well-being of a client under age 18 or a client who, if over age 18, is considered legally incompetent.

(32) "Personal assistance services" refers to a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability.

(33) "Qualified Personnel" means an individual licensed or certified by the state or an individual who maintains an equivalent licensure or certification from another state to make the diagnosis of an applicant's impairment.

(34) "Physical and mental restoration services" refers to:

(a) Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;

(b) Diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with State licensure laws;

(c) Dentistry;

(d) Nursing services;

(e) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

(f) Drugs and supplies;

(g) Prosthetic and orthotic devices;

(h) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with State licensure laws;

(i) Podiatry;

(j) Physical therapy;

(k) Occupational therapy;

(l) Speech or hearing therapy;

(m) Mental health services;

(n) Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services, or that are inherent in the condition under treatment;

(o) Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

(p) Other medical or medically related rehabilitation services.

(35) "Physical or mental impairment" refers to:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(b) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(36) "Post-employment services" refers to one or more of the services identified in 34 CFR 361.48 that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(37) "Provider of community rehabilitation services" refers to any CRP, business, or independent contractor that is paid by OVRs to provide any service listed in OAR 582-001-0010(10).

(38) "Qualified and impartial mediator" refers to an individual who:

(a) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, employee of a State office of mediators, or employee of an institution of higher education) — an individual serving as a mediator is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by a public agency to serve as a mediator;

(b) Is not a member of the State Rehabilitation Council for OVRs;

(c) Has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(d) Is knowledgeable of the vocational rehabilitation program and the applicable Federal and State laws, regulations, and policies governing the provision of vocational rehabilitation services;

(e) Has been trained in effective mediation techniques consistent with any State-approved or -recognized certification, licensing, registration, or other requirements; and

(f) Has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual during the mediation proceedings.

(39) "Rehabilitation engineering" refers to the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.

(40) "Rehabilitation technology" refers to the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(41) "Severe mental or physical impairment" refers to the use of this term in the federal Rehabilitation Act of 1973, as amended.

(42) "State plan" refers to the State plan for vocational rehabilitation services submitted by OVRs under 34 CFR 361.10.

(43) "Substantial impediment to employment" refers to a physical or mental impairment that (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities.

(44) "Supported employment" refers to:

(a) Competitive employment in an integrated setting, or employment in integrated work settings in which individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals with ongoing support services for individuals with the most significant disabilities:

(A) For whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

(B) Who, because of the nature and severity of their disabilities, need intensive supported employment services from OVRs and extended services after transition as described in OAR 582-001-0010(17) to perform this work; or

(b) Transitional employment, as defined OAR 582-001-0010(47), for individuals with the most significant disabilities due to mental illness.

(45) "Supported employment services" refers to ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment that are provided by OVRs:

(a) For a period of time not to exceed 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time to achieve the employment outcome identified in the individualized plan for employment; and

(b) Following transition, as post-employment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

(46) "Transition services" refers to a coordinated set of activities for a student designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported

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employment), continuing and adult education, adult services, independent living, or community participation.

(47) "Transitional employment," as used in the definition of "Supported employment," refers to a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most significant disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

(48) "Transportation" refers to travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems.

(49) "Vocational rehabilitation services":

(a) If provided to an individual, refers to those services listed in 34 CFR 361.48; and

(b) If provided for the benefit of groups of individuals, also refers to those services listed in 34 CFR 361.49.

(50) "Vocational rehabilitation training" means skill training in which the basis and focus of the training are individualized or customized. Vocational rehabilitation training may include focus on disability related issues as those issues impact the skills training. Vocational rehabilitation training can include, but is not limited to:

(a) Supported employment;

(b) Disability and related Skills training;

(c) On the job training;

(d) One-on-one specialized business training - training provided to individuals who are working to establish their own business;

(e) Customized training — training offered by an employer to a group of individuals for the purpose of training and possibly hiring the individuals.

(51) "Vocational training" means skills training for a specific occupation.

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

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.530, 344.550, 344.560, 344.570 & 344.590

Hist.: VRS 5-2004, f. & cert. ef. 8-5-04; VRS 2-2005, f. 4-20-05, cert. ef. 7-1-05; VRS 1-2008, f. & cert. ef. 2-4-08; VRS 2-2008, f. & cert. ef. 3-3-08; VRS 3-2008, f. & cert. ef. 4-10-08; VRS 4-2008(Temp), f. 12-18-08, cert. ef. 12-19-08 thru 6-16-09; VRS 2-2009, f. & cert. ef. 3-27-09; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-030-0040

Exceptions to Written Consent Requirements

(1) Required Reporting and Response to Investigations:

(a) OVRS employees must report to the appropriate authorities abuse of individuals age 65 and over, ORS 124.060, under the age of 18, ORS 419B.010, individuals 18 age or over with developmental disabilities or mental illness, ORS 430.765, and residents of long-term care facilities, ORS 441.640;

(b) OVRS must release client information if required by federal law or in response to investigations in connection with law enforcement, fraud or abuse (unless expressly prohibited by federal or state laws or regulations, such as OAR 410-014-0020(2)(j) which identifies limits on disclosures of protected health information to law enforcement) or in response to an order issued by a judge, magistrate or other authorized judicial officer.

(2) Response to Child Support Enforcement. A person authorized under federal law may access information for the Federal Parent Locator Service under ORS 25.265.

(3) OVRS may release client information to protect the individual or others when the individual poses a threat to his or her safety or to the safety of others.

(4) For Deceased Persons:

(a) Vital Statistics. These rules do not restrict the disclosure of OVRS client identifying information relating to the death of a client under laws requiring the collection of such vital statistics or permitting inquiry into the cause of death;

(b) Consent by Personal Representative. Other requirements of these rules notwithstanding, if written consent to such disclosure is required, that consent may be given by an executor, administrator or other personal representative appointed under applicable state law. If there is no such appointment, consent may be given by the spouse or other responsible member of the client's family.

(5) Participation in State Agency Information Exchange: OVRS will participate in the State Shared Information System (SIS) or Performance Reporting Information System (PRISM), and DHS information sharing to the extent allowed by and consistent with state and federal law and/or regulations. Where client authorization is required, OVRS may obtain

informed written consent using forms specific to these information exchanges.

(6) OVRS may disclose the minimum information necessary for internal OVRS administrative purposes to the Department of Human Services; federal Rehabilitation Services Administration; or other state or federal agencies with regulatory authority over OVRS or administrative responsibilities necessary for OVRS services.

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

Stat. Auth.: ORS 344.530 & 344.570

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 4-1991, f. & cert. ef. 12-13-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 3-2004, f. & cert. ef. 3-12-04; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-050-0000

Referrals and Applications

(1) Referrals to and applications for Vocational Rehabilitation Services provided by OVRS shall be handled promptly and equitably.

(2) OVRS shall establish timelines for making a good faith effort to inform individuals referred to or seeking services from OVRS of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services.

(3) Assessment to determine eligibility and priority for services shall commence as soon as an application for services is received and to the maximum extent possible will be expedited through use of existing information, including school, Social Security, medical, and family member records.

(4) An individual is considered to have submitted an application only when all the following conditions have been satisfied:

(a) The individual or the individual's representative, as appropriate, has completed and signed an agency application form or has otherwise requested services;

(b) The individual or the individual's representative, as appropriate, has provided the information necessary to initiate an assessment for eligibility; and

(c) The individual is available to complete the assessment process.

(5) Once OVRS has received an application for vocational rehabilitation services, including applications for vocational rehabilitation services made through common intake procedures in One-Stop centers established under section 121 of the federal Workforce Investment Act of 1998, an eligibility determination must be made within 60 days, unless:

(a) Exceptional and unforeseen circumstances beyond the control of OVRS preclude making an eligibility determination within 60 days and OVRS and the individual agree to a specific extension of time; or

(b) A trial work experience or exploration of the individual's abilities, capabilities, and capacity to perform in work situations is carried out in accordance with 34 CFR 361.42(e) or, if appropriate, an extended evaluation is carried out in accordance with 34 CFR 361.42(f).

(6) OVRS shall not make a determination of ineligibility on the basis that an individual with a significant disability is too severely impaired unless a trial work experience, community based assessment, or extended evaluation results in clear and convincing evidence that such individual is presently incapable of an employment outcome as result of the provision of further Vocational Rehabilitation Services.

(7) OVRS will not close an applicant's record of services prior to making an eligibility determination unless the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and OVRS has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative, to encourage the applicant's participation.

(8) The length of time between eligibility determination and the signing of the Individualized Plan for Employment (IPE) by the VR counselor and client or client's representative as appropriate will not exceed 180 days except under the circumstances listed in (8)(a)-(g). If the State invokes an Order of Selection, the length of time begins once the client is pulled from the waitlist. The counselor must obtain supervisor approval to extend the time beyond 180 days and document in the case record the reason for the extension and a time frame for when the IPE will be signed.

(a) Mutual agreement by the client and counselor to extend the time past 180 days taking into consideration the unique needs of the individual such as the cultural and linguistic needs of the individual.

(b) Unforeseen circumstances beyond the control of either the counselor or client, which results in extending the time needed beyond 180 days.

(c) Youth Transition program student will have their IPE signed prior to leaving the school setting.

(d) Client has requested an impartial hearing.

(e) Lack of cooperation by the client, which extends the length of time beyond 180 days.

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(f) Lack of agreement by either the client or counselor over the proposed IPE, which extends the length of time beyond 180 days.

(g) For clients planning to go into self-employment, the length of time between eligibility determination and signing of the IPE is 365 days.

(9) OVRS shall make information regarding application requirements and forms available statewide.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.570

Hist.: VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 2-2006, f. & cert. ef. 8-1-06; VRS 3-2009, f. & cert. ef. 3-27-09; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-050-0005

Trial Work Experiences and Extended Evaluations

(1) Trial work experiences for individuals with significant disabilities.

(a) Prior to any determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of that individual's disability, OVRS shall conduct an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support such a determination.

(b) OVRS shall develop a written plan to assess periodically the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences, which must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the individual.

(c) Trial work experiences include supported employment, on-the-job training, and other experiences using realistic work settings.

(d) Trial work experiences must be of sufficient variety and over a sufficient period of time for OVRS to determine that:

(A) There is sufficient evidence to conclude that the individual can benefit from the provision of vocational rehabilitation services in terms of an employment outcome; or

(B) There is clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome due to the severity of the individual's disability.

(e) OVRS shall provide appropriate supports, including assistive technology devices and services and personal assistance services, to accommodate the rehabilitation needs of the individual during the trial work experiences.

(2) Extended evaluation for certain individuals with significant disabilities.

(a) Under limited circumstances if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted before OVRS is able to make the determinations described in OAR 582-050-0005(1)(d), OVRS will conduct an extended evaluation to make these determinations.

(b) During the extended evaluation period, vocational rehabilitation services must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the individual.

(c) During the extended evaluation period, OVRS will develop a written plan for providing services necessary to make a determination under OAR 582-050-0005(1)(d).

(3) During the extended evaluation period, OVRS provides only those services that are necessary to make the determinations described in OAR 582-050-0005(1)(d) and terminates extended evaluation services when OVRS is able to make the determinations.

Stat. Auth.: ORS 344.530 & 344.570

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 3-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-050-0010

General Provisions

(1) Eligibility requirements are applied without regard to sex, handicap, race, age, creed, color, or national origin of the applicant. Unless otherwise stated in the context, the rules in OAR 582-050 pertain only to Vocational Rehabilitation Services.

(2) Except for individuals whose impairments fall within the definition of legal blindness, or are of a rapidly progressive nature leading to legal blindness, OVRS shall not exclude any group of individuals from eligibility for services solely on the basis of type of disability or impairment.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 3-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-050-0020

Criteria

Applicants must meet the following conditions before they may be "eligible" for Vocational Rehabilitation Services:

(1) A determination by qualified personnel that the applicant has a physical or mental impairment.

(2) A determination by qualified personnel that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant.

(3) A determination by a qualified vocational rehabilitation counselor employed by OVRS that the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(4) A presumption, in accordance with OAR 582-050-0020(5), that the applicant can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

(5) Presumption of benefit. OVRS presumes that an applicant who meets the eligibility requirements OAR 582-050-0020(1) and (2) can benefit in terms of an employment outcome unless OVRS demonstrates, based on clear and convincing evidence, that the applicant is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the applicant's disability.

(6) Presumption of eligibility for Social Security recipients and beneficiaries. Any applicant who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act is:

(a) Presumed eligible for vocational rehabilitation services under OAR 582-050-0020(1) and (2); and

(b) Considered an individual with a significant disability as defined in 34 CFR 361.5(b)(31).

(7) If an applicant for vocational rehabilitation services asserts that he or she is eligible for Social Security benefits under Title II or Title XVI of the Social Security Act (and, therefore, is presumed eligible for vocational rehabilitation services under OAR 582-050-0020(6)), but is unable to provide appropriate evidence, such as an award letter, to support that assertion, OVRS must verify the applicant's eligibility under Title II or Title XVI of the Social Security Act by contacting the Social Security Administration. This verification must be made within a reasonable period of time that enables OVRS to determine the applicant's eligibility for vocational rehabilitation services within 60 days of the individual submitting an application for services in accordance with 34 CFR 361.41(b)(2).

(8) Any applicant who is presumed eligible under OAR 582-050-0020(6) must require vocational rehabilitation services and intend to achieve an employment outcome that is consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(9) OVRS may close the file any applicant who is presumed eligible under OAR 582-050-0020(6) if a community-based assessment, trial work experience, or extended evaluation — consistent with the standards of OAR 582-050-0005 results in clear and convincing evidence that the applicant is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the applicant's disability.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 3-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-050-0060

Residency

(1) There is no requirement for duration of residence in Oregon as part of the determination of eligibility.

(2) OVRS may provide services to an otherwise eligible individual, available and able to participate in services leading to an employment outcome, if the individual is:

(a) Currently living in the State of Oregon, regardless of duration; or

(b) Currently employed in the State of Oregon and seeking services to retain or advance in employment with the same employer; or

(c) All of the following apply:

(A) The individual is currently living in a state not in an Order of Selection;

(B) The individual is currently at a site for which the closest OVRS office is the closest vocational rehabilitation office from the residence of the individual; and

(C) The individual is not in the state for the sole purpose of receiving vocational rehabilitation services.

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(3) OVRS may, through mutual agreement, cooperate with another state's Vocational Rehabilitation Agency in the implementation or supervision of planned services of an Individualized Plan for Employment.

(4) Reasonable effort is made to assure that duplicate services are not provided concurrently in more than one state VR Agency nor shall more than one file per client be open and active within OVRS.

(5) When an Oregon client in open plan status establishes residence in another state and is no longer available to participate actively with the Oregon case-carrying counselor in the provision of services, the counselor may:

(a) Negotiate with the Vocational Rehabilitation Agency of the new state-of-residence to obtain assistance in supervision of the OVRS Services needed to complete the plan and obtain employment; or

(b) Close the case file as "ineligible" for further services due to the client's unavailability and, if requested by the client, provide copies of appropriate in-file data to the Vocational Rehabilitation Agency of the new state-of-residence.

(6) OVRS may close the case file of a client who relocates outside of Oregon if the client is not in open plan status and is not eligible under OAR 582-050-0060(2).

(7) OVRS may retain the case file of a client who relocates outside of Oregon if the client is in open plan status at the time of relocation and remains available to participate actively with the Oregon case-carrying counselor.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 4-1981, f. & ef. 12-1-81; VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2005, f. & cert. ef. 1-11-05; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-060-0010

Termination of Services Because of Ineligibility

(1) When the applicant does not meet one or more of the criteria for eligibility, a statement certifying the ineligibility shall be recorded in the case file and the case closed.

(2) Certification of ineligibility following an application for services:

(a) Can be made only after full participation with the individual or, as appropriate, the parent, guardian, or other representative, or after offering a clear opportunity for such consultation; and

(b) If inability to benefit from services in terms of an employment outcome is due to the severity of the disability, may be made only after providing a trial work experience or extended evaluation as set out in OAR 582-050-0005.

(3) Notification of Ineligibility: All applicants found ineligible for Vocational Rehabilitation Services shall be so notified in writing at the time of case closure (unless closure is due to death of the applicant or inability to locate or contact). The written notification will include:

(a) Notification that the case is being closed;

(b) Reasons for ineligibility;

(c) Instructions regarding availability of the Client Assistance Program, procedures for mediation and/or a hearing by an impartial hearing officer, should the applicant disagree with the disposition of his/her case as provided in OAR 582-020-0020.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 2-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-060-0020

Termination of Services After Eligibility

(1) Termination of Services — Not Rehabilitated:

(a) An eligible client can be closed when reasonable alternatives no longer exist to initiate or complete a Rehabilitation Program for the client, or suitable progress is not made to achieve or complete identified intermediate objectives leading to employment;

(b) The decision to close such a case can be made only with the full participation of the client, or as appropriate, the parent, guardian, or other representative. Exceptions to this procedure will be made when the client refuses to participate, is no longer present in the state or his or her whereabouts becomes unknown, or the client's medical condition is rapidly progressive or terminal;

(c) At the time of closure it is required that the client be informed in writing of the reason(s) for termination, of services, availability of the Client Assistance Program, and procedures for requesting mediation and/or a hearing by an impartial hearing officer as provided in OAR 582-020-0020.

(2) Termination of Services — Rehabilitated:

(a) An eligible client may be closed as rehabilitated only if all of the following requirements are met:

(A) The client achieved the employment outcome that is described in the individual's IPE consistent with the client's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(B) The client has maintained the employment outcome for an appropriate period of time, but not less than 90 days, necessary to ensure the stability of the employment outcome, and the client no longer needs vocational rehabilitation services.

(C) The client and counselor consider the employment outcome to be satisfactory and agree that the client is performing well in the employment.

(D) The client is informed through appropriate modes of communication of the availability of post-employment services.

(b) Clients closed rehabilitated must be advised in writing that their file has been closed and the basis on which this determination has been made;

(c) Clients closed rehabilitated must be informed at time of closure that they may, if dissatisfied with this decision, request mediation and/or a hearing by an impartial hearing officer and of availability of the Client Assistance Program as provided in OAR 582-020-0020.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 2-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1991, f. & cert. ef. 9-11-91; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-070-0010

General Policy

NOTE: For community rehabilitation programs and medical or related services refer also to OAR 582-010, 582-075 and 582-080.

It is the policy of the OVRS to reimburse vendors who provide previously-authorized services and/or supplies to persons who qualify for such services.

(1) Vendors shall be paid in accordance with the lesser of:

(a) The vendor's usual charge for such service, i.e., that fee for service which the vendor under ordinary circumstances charges to the general public for such services; or

(b) A pre-determined charge that has been negotiated between the vendor and an agency person authorized to consummate agreements between this agency and the vendor.

(2) In addition to any such general contracts or agreements, actual services to individuals must be specifically prior authorized and are not considered approved or billable until the vendor receives a completed Agency Authorization for Purchase (AFP) form or its equivalent, listing specific prior authorized services and estimated billable amounts, signed by the appropriate agency representative(s):

(a) Only in extreme emergencies may services be prior authorized verbally and any such verbal authorization must be documented promptly and followed with a written AFP within 72 hours;

(b) Apparent fraud, misrepresentation or substantial discrepancies between services rendered and billed amounts shall be investigated and, as appropriate, legal steps taken to prevent or recover overpayments.

(3) Except as specified in OAR 582-070-0010(4), Rehabilitation Services funds will not be expended before OVRS determines that "comparable benefits and services" are not available to meet, in whole or in part, the cost of such services, unless such a determination would interrupt or delay:

(a) The progress of the individual toward achieving the employment outcome identified in the Individualized Plan for Employment;

(b) An immediate job placement; or

(c) The provision of vocational rehabilitation services to any individual who is determined to be at extreme medical risk, based on medical evidence provided by appropriate qualified medical personnel. Further, except for student loans, for training provided in institutions of higher education (any training institutions where such grant assistance may likely be available) OVRS assures that maximum effort has been made by OVRS and the client to obtain and use any "comparable benefits or services" before expending Rehabilitation Services funds.

(4) The following vocational rehabilitation services are exempt from a determination of the availability of comparable services and benefits:

(a) Assessment for determining eligibility and vocational rehabilitation needs;

(b) Counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(c) Referral and other services to secure needed services from other agencies, including other components of the statewide workforce investment system, if those services are not available from OVRS;

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(d) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(e) Rehabilitation Technology, including telecommunications, sensory, and other technological aids and devices.

(f) Post-employment services consisting of any of the services in OAR 580-070-0010(4)(a)-(e); and

(5) Purchases shall be of the most reasonable and satisfactory quality at the lowest available cost, subject to supervisory and/or administrative review and/or approval prior to authorization; accordingly, OVRS reserves the right to establish upper limits on the utilization of existing services, subject to an exception process.

(6) Preliminary diagnostic assessment is limited to a review of existing data and such additional data as is necessary to determine eligibility or, for Rehabilitation Services, to assign priority for order of selection for service (when appropriate). Comprehensive assessment and/or extended evaluation services may be provided only until eligibility/ineligibility or extent and scope of needed Rehabilitation Services can be determined. Additionally, other services are available (including the use of Rehabilitation Technology services, as appropriate) to determine the nature, scope and types of services needed to attain a specific vocational rehabilitation objective of the eligible client. Continued eligibility is contingent upon reasonable progress by the client toward attainment of measurable intermediate objectives within time-lines arrived at and agreed to through joint counselor/client development of the plan and any amendments thereto.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRS 2-2004, f. & cert. ef. 3-9-04; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2009(Temp), f. & cert. ef. 2-11-09 thru 8-9-09; Administrative correction 8-21-09; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-070-0020

Specific Policies

Specific rules pertain to the provision of the following services:

(1) On-the-Job Training:

(a) Payment to on-the-job trainers/employers for training services will be negotiated at the lowest reasonable level and will always be considered as reimbursement for actual expenses and/or trainer time; the trainer/employer cannot expect to make a profit from such payments;

(b) Offset against client wages will be negotiated with the trainer/employer on a mutual sharing basis at the lowest reasonable level to adequately pay the client for his/her productive work efforts with the trainer/employer ultimately paying the entire wage. Total length of the training program and length of OVRS involvement in payments will be negotiated on the basis of the complexity of the training and the amount of relevant skill and knowledge the client possesses prior to entering training.

(2) Training: Educational and training services, except on-the-job training, must be purchased from public educational organizations in Oregon. Exceptions are authorized only when:

(a) No publicly-supported school provides the courses necessary for the client's needs in order to reach the vocational objective; or

(b) A client cannot utilize publicly-supported schools because of his or her disability; or

(c) OVRS's financial participation in the plan is no greater than if the client had enrolled at the nearest appropriate publicly-supported school; or

(d) The net cost to Oregon governmental agencies is significantly less; or

(e) The training services for the client will be significantly delayed.

(3) Vocational training: Referrals for vocational training may be made only to the following schools or programs:

(a) A school that has accreditation recognized by the United States Department of Education;

(b) A school has been approved by the Oregon Student Assistance Commission through the Office of Degree Authorization to offer and confer degrees in Oregon;

(c) A community college;

(d) A state institution of higher education within the Oregon University System;

(e) The Oregon Health and Science University.

(f) A career school licensed under ORS 345.010 to 345.450

(g) An apprenticeship program that is registered with the State Apprenticeship and Training Council

(4) Client Maintenance: OVRS will only pay or provide for maintenance expenses consistent with the definition of this term at OAR 582-001-0010(25) and 34 CFR 361.5(b)(35).

(5) Clothing Purchases: Clothing purchases may be authorized if the need is a result of participation by the client in a rehabilitation program and the client does not possess sufficient financial resources to provide for these expenses. These must be appropriate in type and in a price range, comparable to clothing items normally used by persons engaged in similar rehabilitation, training or employment settings.

(6) Client/Applicant Transportation: Travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a required vocational rehabilitation service. Assistance by the Office of Vocational Rehabilitation Services (OVRS) with transportation services will be subject to the following:

(a) Where local public transportation is available and can be used by the client, any reimbursement will not exceed the public transportation rate. Use of transportation costing in excess of the least expensive mode available to the client requires written justification, by the counselor, prior to authorization (e.g., disability prevents using the least costly mode);

(b) Where public transportation is not available or cannot be used by the client due to his/her disability, reimbursement may be authorized by the counselor for use of private vehicle or other appropriate forms of transportation;

(c) Only when determined by OVRS to be the most feasible means of providing for necessary client transportation for rehabilitation services may vehicle modification be authorized. Any vehicle modification must be prior approved by the local OVRS Field Services Manager, Field Operations Manager, or Administrator (or designee), depending on the expenditure level. Administrative level approval is obtained prior to authorizing any such costs in excess of \$5,000.00 per service; vehicle modifications are subject to OVRS established policies for purchasing authorization;

(d) The field counselor will inform the client that costs associated with insurance, repair and replacement are to be managed by the client after a modification is complete;

(e) It is the policy of OVRS to not purchase vehicles; however, the Administrator of the Office of Vocational Rehabilitation Services, or the Administrator's designee, may grant an exception and furnish payment of all or part of the purchase of a motor vehicle where the conditions in OAR 582-070-0025(2) are applicable.

(f) Whenever an exception is made by OVRS allowing payment toward the cost of a motor vehicle, OVRS will require that OVRS be shown as the primary lien holder until successful case closure has been achieved. Ownership is transferred to the client only if the vehicle is needed to participate in employment, and there is a successful case closure. When client ownership is not justified based on these two criteria, the vehicle shall be repossessed and reassigned or otherwise disposed of by OVRS.

(g) When an applicant's or client's travel requires lodging and meals, payment for lodging and meals will be based on the definition of maintenance under 582-001-0010(25) and will not exceed the current federal GSA domestic per diem rates for the state in which the lodging occurred.

(A) The per diem rate used will be based on the rate for the city in which the client or applicant lodges, or the rate for the city closest to where the client or applicant lodges.

(B) Unless the client or applicant uses a personal vehicle for the needed transportation, reservations will be made through the state travel agency.

(C) If the applicant or client utilizes a service animal, OVRS may provide payment for the lodging of the service animal.

(D) In those instances in which the federal per diem rate is insufficient to cover the cost of lodging, or the applicant or client has a legitimate need for more costly lodging, payment may exceed the federal per diem rate.

(7) Community Rehabilitation Programs' Services.

NOTE: Refer also to OAR 582-010.

(a) State-wide rates are intended to pay only the anticipated cost of standard rehabilitation services. This fee schedule may be adjusted for a specific CRP to reflect non-standard types or levels of service, or statewide for standard service, if a significant increase or decrease in the actual cost of serving clients occurs;

(b) For Community Rehabilitation Programs operated under private auspices, fees may be negotiated taking into consideration costs such as buildings, staffing and equipment. For publicly owned and operated Community Rehabilitation Programs (e.g., state or county owned or operated) fees, if any, must be based upon and not exceed actual costs.

(8) Extended Evaluation: OVRS will provide only those services authorized under OAR 582-050-0005.

(9) Personal Care Assistance (PCA): Is provided only when necessary to allow client to benefit from other rehabilitation services, including evaluation, and when the client is not entitled to PCA services from another source:

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(a) Client as Employer: The client, in most cases, as the employer of the PCA may be reimbursed for necessary PCA services required to participate in rehabilitation services;

(b) Third Party Vendor: Direct payment to the PCA vendor by OVRS requires prior approval by the Field Services Manager in addition to the requirements of Oregon Administrative Rules chapter 582, division 10;

(c) Written Contract: In most instances the client is to be the employer of his/her own personal care assistant. OVRS may assist the client to establish an appropriate written contract with the provider.

(10) Interpreter Service: Is provided only when necessary to assist the client to derive full benefit from other rehabilitation services:

(a) Limitation: To be provided by OVRS only when "comparable benefits" are not available;

(b) For the Deaf and Hearing Impaired: OVRS gives preference to using interpreters certified by the National Registry of Interpreters for the Deaf and/or one who is on the approved vendor list of the State Association of the Deaf. When deemed mutually acceptable by the client and the counselor, another interpreter may be utilized;

(c) Regional Resources: The Deaf and Hearing Impaired Access Program may be used as a resource to both clients and staff for securing interpreters.

(11) Other Support Services Providers: May be selected for specific skills needed. Where provider licenses, insurance, certificates and state or local codes are indicated OVRS reasonably attempts to assure that appropriate levels are met before authorizing services from the provider. (See OAR 582-080 for additional rules on vendor selection.)

(12) Insurance: Providers shall obtain and maintain insurance as required by law for that provider; additionally, where OVRS is providing for services, appropriate levels of personal, automobile, professional and general liability insurance may be required, depending on the type of service.

(13) Occupational Licenses, Tools and Equipment for Training and/or Employment:

(a) May be provided when required for either extended evaluation or in other plan statuses, including post employment. OVRS accepts no responsibility for client lease/rental agreements or the leased/rented items other than to reimburse the client for such prior authorized expenditures;

(b) Repossessed items will be used whenever appropriate and available;

(c) Except for personally prescribed items, title/ownership of an OVRS purchased (or jointly purchased) item is held by OVRS (or jointly with OVRS) until case closure when ownership may be transferred to the client for non-expendable items deemed by OVRS to be needed for continued success in the client's program.

(14) Land and/or Stationary Buildings: Are never purchased by OVRS as a service to an individual client. Existing buildings may be modified when necessary to enable an eligible client to attain a vocational plan goal. No permanent additions or weight bearing partitions are to be erected as services to individuals.

(15) Moving Expenses: May be provided for training or employment only when it has been determined by OVRS that it is less costly and/or more beneficial than having the client commute. OVRS retains the right to deny reimbursement for client opted commuting/moving costs in excess of the least costly alternative.

(16) Rehabilitation Technology Services (RTS): May be applied at any time during rehabilitation services to address barriers to the client's participation in evaluation, training, and employment:

(a) Approved Vendors: OVRS ensures that providers used by OVRS are qualified in the areas of engineering skills and/or technology required for a given service. Selected Community Rehabilitation Programs' Approvals may include RTS, when State Standards for Approvals are met for RTS;

(b) Authorization of: RTS is not conditioned upon unavailability of Comparable Benefits or Services, but all reasonably available comparable services shall be used before authorizing expenditure by OVRS. Personal services contracts for RTS require Field Services Manager approval prior to implementation.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRD 1-1996(Temp), f. 2-26-96, cert. ef. 3-1-96; VRS 1-2003, f. & cert. ef. 9-23-03; VRS 2-2003, f. & cert. ef. 12-31-03; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2008, f. & cert. ef. 2-4-08; VRS 2-2008, f. & cert. ef. 3-3-08; VRS 3-2008, f. & cert. ef. 4-10-08; VRS 1-2009(Temp), f. & cert. ef. 2-11-09 thru 8-9-09; Administrative correction 8-21-09; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-070-0025

Vehicle Purchase/Vehicle Modification

(1) The following definitions apply to this rule:

(a) "Approved Vendor" means a dealer who is recognized by OVRS as an approved installer/retailer of specified devices;

(b) "Qualified Mechanic" means American Standard Automotive/American Standard Engineering certified;

(c) "Qualified Vehicle Modification Evaluation" means an evaluation performed by a licensed occupational therapist;

(d) "Reasonable transportation alternatives" include, but are not limited to, car repairs to an already owned vehicle; use of mass transit or other community transportation options; a move to another area which allows access to employment, mass transit and community transportation options; family members, volunteers, paid driver/attendants, car pool or other public transportation options; or reasonable accommodations by the client's employer;

(e) "Vehicle Modification" means services involving the purchase and installation of adaptations or devices in a vehicle.

(2) It is not the policy of the Office of Vocational Rehabilitation Services (OVRS) to provide funds for individuals to lease or purchase motor vehicles that require a license to operate; however, the Administrator of the Office of Vocational Rehabilitation Services, or the Administrator's designee, may grant an exception and furnish payment of all or part of the purchase of a motor vehicle when no other options are available to support the employment goal if:

(a) The exception is not prohibited by state or federal statute, rule or regulation; and

(b) The exception is granted only after OVRS and the client have explored all reasonable transportation alternatives; and

(c) OVRS has also made the following determinations:

(A) Purchase of a motor vehicle eliminates a barrier to the employment plan goal and OVRS has determined that no other reasonable alternative is available because any available alternatives would delay the employment plan or place the client at extreme medical risk.

(B) Available financial resources, which include, but are not limited to comparable services and benefits, Plans for Achieving Self-Support, grants, or other resources, do not meet the minimum cost of the motor vehicle sufficient to eliminate a barrier to the employment plan;

(C) The client will have sufficient income and resources after successful client file closure in order to meet his/her daily living expenses and the cost of motor vehicle operation and replacement.

(3) Scope of Vehicle Modifications:

(a) As Rehabilitation Technology, defined as necessary to address vocational barriers confronted by individuals with disabilities in the area of transportation, OVRS may not purchase the following:

(A) Modifications to a van if it would be possible to modify a sedan style automobile to meet the individual's need for transportation;

(B) Modifications to a vehicle if the individual owns or has use of another vehicle that would meet the individual's transportation needs; or

(C) Modifications to a vehicle for an individual to drive if the result of a qualified vehicle modification evaluation indicates that the individual is not capable of driving due to the individual's disability.

(b) However, the Administrator of the Office of Vocational Rehabilitation Services, or the Administrator's designee, may grant an exception and furnish payment of all or part of the modification of a motor vehicle when no other options are available to support the employment goal if:

(A) The exception is not prohibited by state or federal statute, rule or regulation;

(B) Modification of a motor vehicle eliminates a barrier to the employment plan goal and OVRS has determined that no other reasonable transportation alternative is available because any other reasonable alternative would delay the employment plan or place the client at extreme medical risk;

(C) Available financial resources, which include, but are not limited to comparable services and benefits, plans for Achieving Self-Support, grants, or other resources, do not meet the cost of the modification of the motor vehicle sufficient to eliminate a barrier to the employment plan;

(D) The client will have sufficient income and resources after successful client file closure in order to meet his/her daily living expenses and the cost of motor vehicle operation and replacement.

(c) Conditions for OVRS participation in costs associated with vehicle modification include the following:

(A) The client does not own another vehicle, which would meet their transportation needs;

ADMINISTRATIVE RULES

(B) The client has or is able to obtain a valid driver's license, if modifications for driving are made;

(C) It is planned that the client will be the primary driver of the modified vehicle, if modifications for driving are made;

(D) The vehicle must be registered in the name of the client and/or the client's parents or guardian;

(E) The proposed modification has been determined to be needed as the result of a qualified vehicle modification evaluation;

(F) Individuals who are provided motor vehicle modification/adaptation services by OVRS shall obtain, at their own cost, insurance on such modifications, since OVRS will not correct or replace motor vehicle modifications damaged in an accident.

(d) Vehicle requirements for OVRS participation in the cost of modifications are as follows:

(A) It has been determined that other alternatives for meeting transportation needs are not available, and transportation as afforded by the affected vehicle is essential to the achievement of the Individualized Plan for Employment goal;

(B) The vehicle to be modified has been judged safe and is in reasonably good condition, as determined by a qualified mechanic;

(C) All proposed modifications are consistent with applicable vehicle safety laws;

(D) OVRS will not provide modifications for a vehicle that OVRS has previously modified except as provided in OAR 582-070-0025(5);

(E) OVRS will not provide such optional equipment as may generally be purchased through an automobile dealer at the time the vehicle is purchased - including radio, air conditioning, automatic transmission, power brakes, and power windows unless such equipment is required as a result of the client's disability and is categorized in the Occupational Therapists driver's evaluation as necessary to the modification of the vehicle;

(F) OVRS assumes no responsibility for general maintenance or repair of modified vehicles;

(G) OVRS assumes no warranty responsibility for modifications, equipment, or parts. The installer or supplier may warrant them.

(e) OVRS conditions for vendor selection are as follows:

(A) Vehicle modifications shall be purchased from vendors or dealers who are listed and on file with OVRS as an approved vendor of the devices;

(B) Such purchases will be made in accordance with State procurement regulations and OVRS purchase policy and procedures.

(4) If the client will be the motor vehicle driver, OVRS will require a qualified professional Occupational Therapist evaluation, and the Occupational Therapist evaluation must conclude that the client can get or maintain a Driver License through the State Department of Motor Vehicles.

(5) Second or subsequent modifications are limited to those needed to accommodate changes in the individual's medical condition, except that a second or subsequent motor vehicle modification or purchase may be authorized after a determination by the vocational rehabilitation counselor that confirms the client's failure to comply with the prior agreement to maintain, repair and replace the previous modifications or motor vehicle was for good cause based on:

(a) Disability-related expenses exceeding the individual's financial ability to provide for the necessary maintenance, repair or replacement of the previous modification or motor vehicle; or

(b) Employment status changed which resulted in the individual's inability to maintain, repair or replace the previous modification or vehicle; or

(c) Other unavoidable financial obligations, as documented by the OVRS field counselor, that impaired the individual's ability to maintain, repair or replace the previous modification or vehicle.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 2-1996, f. & cert. ef. 8-28-96; VRS 1-2003, f. & cert. ef. 9-23-03; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2008, f. & cert. ef. 2-4-08; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-070-0030

Limitations of Payments

NOTE: For medical and related services refer also to OAR 582-075 and 582-080; and, for providers of community rehabilitation services refer also to OAR 582-010.

(1) Payment in Full: Vendors providing any services authorized by OVRS shall not make any charge to or accept any payment from the client/applicant or his/her family for such services unless the amount of the service charge or payment to be borne by the client is previously agreed to by the individual or his/her family, known to and, where applicable, approved by OVRS.

(2) Client Financial Participation and the Financial Needs Test: Except as expressly exempted, services funded by OVRS are subject to

Client Financial Participation. Clients will be allowed or required to contribute financially as set forth in OAR 582-070-0030. The contribution requirements apply starting July 1, 2004 for clients submitting applications for services, requests for post-employment services, and for annual IPE reviews.

(a) The purpose of client participation in service costs is to encourage the commitment of the client to their vocational rehabilitation goal, create a cooperative relationship with the client, and conserve limited OVRS resources.

(b) Except as provided in OAR 582-070-0030(2)(j) and (k), the following individuals are exempted from the Financial Needs Test and Client Financial Participation:

(A) Any individual who has been determined eligible for and is currently the recipient/beneficiary of Social Security Benefits under Title II (Social Security Disability Insurance, SSDI) or Title XVI (Supplemental Security Income, SSI) of the Social Security Act;

(B) Recipients of qualifying needs-based public assistance programs, including Self Sufficiency Cash Benefits, Oregon Health Plan, Temporary Assistance for Needy Families, and Food Stamps, and excluding financial aid for post-secondary education;

(C) Homeless or transient individuals.

(c) Except as provided in OAR 582-070-0030(2)(j) and (k), the following services are exempt from Client Financial Participation:

(A) Assessment for determining eligibility, vocational rehabilitation needs, or priority for services, including assessment by personnel skilled in rehabilitation technology;

(B) Vocational rehabilitation counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(C) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce investment system and to advise those individuals about client assistance programs;

(D) Job related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(E) Personal assistance services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability;

(F) Auxiliary aids or services required to participate in the vocational rehabilitation program, such as interpreter services including sign language and oral interpreter services for individuals who are deaf or hard of hearing; or tactile interpreting services for individuals who are deaf-blind.

(d) Under the Financial Needs Test, clients with annual family income of less than either 250 percent of the federal poverty guidelines or \$60,000 are not subject to Client Financial Participation and are exempt from the guidelines set out in OAR 582-070-0030(2)(e).

(e) Client Financial Participation will be determined on an annual basis, not to exceed the annual cost of non-exempt services to OVRS, applying the following contribution schedule:

(A) Clients with family income between \$60,000 and \$69,999 are subject to a mandatory financial contribution of \$700.

(B) Clients with family income between \$70,000 and \$79,999 are subject to a mandatory financial contribution of \$900.

(C) Clients with family income between \$80,000 and \$89,999 are subject to a mandatory financial contribution of \$1300.

(D) Clients with family income between \$90,000 and \$99,999 are subject to a mandatory financial contribution of \$1700.

(E) Clients with family income between \$100,000 and \$109,999 are subject to a mandatory financial contribution of \$2100.

(F) Clients with family income between \$110,000 and \$119,999 are subject to a mandatory financial contribution of \$2900.

(G) Clients with family income between \$120,000 and \$129,999 are subject to a mandatory financial contribution of \$3700.

(H) Clients with family income at \$130,000 or higher are subject to a mandatory financial contribution of \$3700 plus ten percent of their family income in excess of \$130,000.

(f) OVRS will use the following definitions to calculate Client Financial Participation:

(A) "Income" is determined by the adjusted gross income from the most recent federal tax return, unless unusual circumstances merit other documentation.

(B) "Family income" consists of income from the client, the spouse of the client if residing with the client, and includes parents if the client is under 18 and living with parents, or the parents claim the client as a depend-

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ent on federal taxes, or the client maintains dependent status for financial aid reasons.

(C) "Federal poverty guidelines" are the current poverty guidelines of the United States Department of Health and Human Services.

(D) "Size of the family unit" for purposes of selecting the appropriate federal poverty guideline includes those family members residing with the client or claimed on federal taxes as dependents; but if the client is under 18 and living with parents, or the parents claim the client as a dependent on federal taxes, or the client maintains dependent status for financial aid reasons, the family unit may include those family members residing with the parents or claimed on the federal taxes of the parents as dependents

(g) If the client or their family choose not to share information about their income as part of the calculation of the financial needs test, an annual, mandatory client contribution of \$3700 shall be established, not to exceed the annual cost of non-exempt services to OVRs, unless OVRs concludes that the annual family income of a client may exceed \$130,000 in which case the client contribution shall be established at 100 percent for items and services subject to Client Financial Participation.

(h) Subsequent Financial Needs Tests will be conducted with the annual review of the Individualized Plan for Employment, and may also be conducted if there is a change in the financial situation of either the client or the family unit.

(i) "Extenuating Circumstances" will be considered when the counselor identifies other information related to the individual's financial situation that negatively affects the individual's ability to participate in the cost of the rehabilitation program or if requiring the expected financial contribution will result in undue delay in the rehabilitation program. In determining whether to make an adjustment for extenuating circumstances, OVRs may consider the client's current income and the reasons for the request. If there are extenuating circumstances that justify an exception, OVRs may delay or waive all or part of the client's financial contribution. In such cases the counselor will:

- (A) Obtain written approval of their supervisor;
- (B) Provide documentation of the reasons for the exception;
- (C) Maintain both the signed exception and the documentation of circumstances in the client file record.

(j) If a client prefers an upgrade, enhancement, optional feature, or more expensive vendor of essentially the same equipment or item available from a less expensive vendor, and this preference is not required to satisfy the vocational rehabilitation goals that justify the expenditure, OVRs and the client may agree that the client will pay the difference in cost between the service or item purchased and the service or item available that would have satisfied the vocational rehabilitation goals that justify the expenditure. In this situation, client payment is required regardless of whether the financial needs test authorizes client payments; and any client payments in this situation do not count toward the client's mandated financial contribution.

(k) An Individualized Plan for Employment (IPE) may include voluntary client contributions. A client agreement in an IPE to make a voluntary contribution is not enforceable.

(3) Student Financial Aid: OVRs assures that "maximum" effort is made by Rehabilitation Services clients to secure student financial aid for any approved training in institutions of higher education. "Maximum" effort includes making timely application for such grant assistance on a consistent basis and utilizing such benefits as are available in lieu of Vocational Rehabilitation funding:

(a) Coverage: All clients, including graduate students, must apply for all financial aid benefits each academic year. All need based grants, including Pell Grants and Student Employment Opportunity Grants, must be used to pay for educational costs, including tuition and books, before a client may utilize VR funds for this purpose. This requirement does not apply to merit based grants, including scholarships or loans. However, a client may voluntarily elect to use these funds, as well as work study and loans for this purpose.

(b) Other Comparable Benefits or Services: If a third party (e.g., employer, insurance company, WCD) is required to or agrees to pay or reimburse to OVRs all of the case service rehabilitation costs of the client, the financial aid grant offer need not be applied against the plan costs nor treated as a "comparable benefit;"

(c) Late Applications: Pending determination of student aid by the financial aid officer, Division funds can be expended for education-related expenses between the date of application and determination of the client's eligibility for assistance provided that such expenditures are reduced by any amounts of comparable benefits subsequently received, excepting student loans;

(d) Duplicate Payments: When student financial aid is approved arrangements must be made promptly to reduce projected OVRs payments and/or recover duplicate payments;

(e) Parent Non-Participation: With the Field Services Manager's approval, the counselor may fund the parental contribution portion of the student's budget (as prepared by the college or university FAO) if the parents refuse or are unable to contribute.

(4) For Industrially-Injured Workers: OVRs will provide only for the cost of those rehabilitation services which are not the responsibility of the employer, insurer or the Oregon Worker's Compensation Division.

(5) Increased Cost Maintenance: OVRs will not provide client maintenance except for additional costs incurred while participating in authorized services, such as when the client must maintain a second residence away from the regular household in order to achieve a rehabilitation goal. Such maintenance will be provided according to the provisions under OAR 582-070-0020(3), 582-001-0010(25), and 34 CFR 361.5(b)(35).

(6) Physical and Mental Restoration Services: Are provided only to ameliorate a diagnosed physical or mental condition that presents a substantial impediment to employment for the eligible individual. The services must be essential for the individual's achievement of a vocational goal:

(a) Drugs:

(A) When a physician (MD or OD) or dentist recommends prescription medication, if practical, the lowest price (e.g., generic) will be obtained prior to issuing an authorization;

(B) Controlled substances require a prescription; an attending physician's statement under ORS 475.309(2)(a) does not qualify as a prescription.

(b) Dental Services: Dental care may be provided by OVRs when the condition of teeth or gums imposes a major impediment to employment (e.g., endangers health, emergency needs, or serious cosmetic needs). Dentures may be purchased from licensed dentists or certified denturists;

(c) Eye Glasses: Eye glasses may be purchased when determined essential for evaluation of eligibility or the achievement of the vocational goal, limited to basic frames and lenses unless other features are medically required (e.g., sun glasses, tints, contact lenses);

(d) Wheelchairs: A wheelchair may be purchased when it is essential to a vocational living plan. Wheelchairs must be prescribed by a physiatrist or, if one is not available, physical therapist or other qualified medical specialist;

(e) Hearing Aids: Hearing aids may be provided only when essential to evaluation, vocational services or the individual's ability to obtain or retain employment. In order to purchase hearing aids for a client, the following are required:

(A) An evaluation by a physician skilled in diseases of the ear or an otologist; and

(B) An evaluation by a speech and hearing center or by a private audiologist.

(f) Other Prosthetic Devices: Prosthetic devices may be purchased only upon the authorization of the counselor and with a written prescription by a specialist;

(g) Psychotherapy: Group or individual psychotherapy may be provided in those instances when required for a person to reach a vocational goal and when an immediate and positive goal related impact is anticipated. A specific number of sessions or a specified time limit is required. OVRs may limit these services to those recommended by an OVRs psychological or psychiatric consultant;

(h) Physical or mental restoration services will not be provided by OVRs for the treatment of an acute or chronic medical complication or emergency unless these are associated with or arise out of the provision of physical or mental restoration services in the IPE, or are inherent in the condition under treatment as described in the IPE.

(i) Corrective surgery or therapeutic treatment will not be provided or funded by OVRs if it is not likely within a reasonable period of time to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment.

(j) OVRs will not provide or fund transsexual surgery;

(7) Services not Provided: The following services cannot be provided or authorized at any time by OVRs:

(a) Any client-incurred debt;

(b) Any services obtained by the client prior to the date of application;

(c) Purchase of land or stationary buildings;

(d) Fines or penalties, such as traffic violations, parking tickets, library fines, etc.;

(e) Breakage fees and other refundable deposits;

(f) Contributions and donations;

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- (g) Entertainment costs;
- (h) Payments to credit card companies;
- (i) Authorization to supermarkets or grocery stores for food items;
- (j) Basic Client Maintenance;
- (k) Except for eye glasses or hearing aids essential to completing diagnostic/evaluation services (to determine Rehabilitation Services eligibility) in applicant status, or occupational tools or licenses essential to Extended Evaluation Services, the following may never be authorized for an individual who has applied but has not yet been found eligible for rehabilitation services:

- (A) Prosthetic devices;
- (B) Occupational tools and licenses;
- (C) Placement services.

(8) OVRS will not contract with OVRS' clients, except in the following circumstances:

(a) The client is a current OVRS vendor and is receiving services from or through OVRS; or,

(b) The client's Individualized Plan for Employment provides for the development of a business where there is no known competition in the region of the state in which the business will be or is located; and the client's case has been reviewed by a branch manager concurs there is no known competition to the business or proposed business.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1981, f. & ef. 12-1-81; VRD 2-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRS 2-2004, f. & cert. ef. 3-9-04; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2008, f. & cert. ef. 2-4-08; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-070-0040

Repossession/Disposition of Non-Expendable Property

(1) For tools, supplies, equipment, vehicles, etc., funded by OVRS and needed by the client for employment at time of closure as employed (from Individualized Plan for Employment or post-employment services), ownership or title is transferred to the client.

(2) If a client is closed as other than rehabilitated, or if tools, supplies, equipment, vehicles, etc., are not needed while a client is receiving plan services or not needed by a client employed at the time of a successful closure, where practical and appropriate, such property shall be repossessed and reassigned or otherwise disposed of by OVRS if this property was funded by OVRS and has a current aggregate value of \$1000 or more:

(a) For such property with a current aggregate value under \$1000, the counselor may agree to transfer the property to the ownership of the client. Such agreements are only valid if the agreement is written. If there is no such agreement, the counselor shall make a reasonable effort to repossess the property through voluntary cooperation by the involved client, client's family or other individual who may be in current possession of said property, including small claims court; and

(b) For property with current values estimated to be \$1000 or more in the aggregate, OVRS may pursue, if necessary, other available legal means to regaining such property, or its equivalent value, including obtaining advice or assistance from the Office or the Attorney General.

(3) Any property funded by OVRS that has been purchased via prescription (such as glasses, hearing aids, wheelchairs) may be retained by the client, with justification at closure documented in the client record.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 2-1992, f. & cert. ef. 4-20-92; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2005, f. & cert. ef. 1-11-05; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-070-0042

Definitions

The following definitions apply to Rules 582-070-0041 through 582-070-0044:

(1) "Business plan" means a document that describes the organization and operation of the proposed business. It is prepared by the client, with assistance, as needed, from the counselor and/or Small Business Development Center at a local community college, a micro-enterprise organization, private business consultant, consultant from the Service Corps of Retired Executives (SCORE) or other similar source(s). The business plan will be used by the counselor and client, in consultation with a qualified expert, to evaluate the viability of the business, as well as provide the client with a blue print for the business. The business plan will outline the financial projections of the business, the business marketing plan, and the method and schedule of ongoing record keeping and analysis that will be used to evaluate the progress of the business. If the plan is viable, it can also be used to apply for any needed funding.

(2) "Self-employment" means working for oneself, in a business that sells goods or services. Self-employment may be a sole proprietorship, partnership, or corporation. If the business plan includes a partnership or corporation, and OVRS funding is requested, the client must be the controlling partner or controlling shareholder of the corporation.

(3) "Start-up costs" mean those costs as described in the business plan required in order for a business to begin operation. Start up costs that are considered reasonable and necessary will only be considered for funding by OVRS after all comparable services and benefits have been applied. Reasonable and necessary start-up costs required to establish the business may be provided by the OVRS in accordance with applicable purchasing rules and regulations.

(4) "Viable" when used with "business plan" means a business plan that has a reasonable chance of success leading to self sufficiency, based upon a market feasibility study; financial review of projected revenue, expenditures and assets; and the demonstrated technical and business management skills and abilities of the client. An analysis of the ongoing costs required for the operation of the business and the resources that will cover those expenses will also be necessary to determine whether the projected resources will be sufficient to cover ongoing operational costs of the business. In order to be "viable" the demonstrated client technical skills must be commensurate with those required of the self-employment venture. A business plan, to be viable, has been reviewed, in consultation with the client and the OVRS Counselor, by an individual or organization with a credible background in business planning. Although OVRS does not require that a client utilize loan funds as a comparable benefit, a business plan may require loan funding or additional funding sources other than OVRS (e.g., family, friends) in order to be considered viable.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-2000, f. & cert. ef. 7-24-00; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

582-070-0043

Nature and Scope of OVRS Services/Role of the Vocational Rehabilitation Counselor and the Individualized Plan for Employment

(1) The primary role of the Vocational Rehabilitation Counselor when assisting the client in obtaining self-employment is to address the client's barriers to employment. The Vocational Rehabilitation Counselor will ensure the client's business plan and the Individualized Plan for Employment (IPE) incorporates the strengths, resources, priorities, concerns, abilities, capabilities, and interests identified in a comprehensive assessment. In order to ensure the client is provided full opportunity to exercise informed choice, OVRS may:

(a) Help the client evaluate his or her abilities, and interest in managing a business, including both formal evaluation, as well as observation and assessment of the client's planning skills, ability to formulate a marketing and business plan, aptitudes to perform skills intrinsic in the operation of the business, initiative, commitment, and follow-through on tasks;

(b) Help the client develop a viable business plan;

(c) Help the client research and obtain the resources necessary for the business plan;

(d) Identify, in full consultation with the client, the measurements that will be used to determine progress toward the planned outcome.

(e) Work with the client to understand the risks and responsibilities of owning and operating a business, especially when funds are borrowed to capitalize and support ongoing business needs; and

(f) Assist with reasonable and necessary start-up costs of viable business plans when appropriate.

(2) If the client's formal business plan is determined to be viable, the counselor and client will complete the client's Individualized Plan for Employment (IPE). The IPE must:

(a) Specify needed services and costs, including training in specific skill areas in starting and owning a business, if the client lacks skills necessary for successful business management;

(b) Identify Assistive Technology and any other accommodations required;

(c) Identify all resources available to fund the business plan, as described in OAR 582-070-0044(2).

(d) Include a plan to monitor and evaluate the success of the business through scheduled reviews with the client, and client-provided financial and marketing activity reports, as defined in the business plan.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-2000, f. & cert. ef. 7-24-00; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

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582-070-0044

Funding Requirements for a Viable Business Plan

(1) Under most circumstances, OVRS should not be considered a primary resource for the capital required for a self-employment venture. When no comparable benefits and services are available, OVRS may fund reasonable and necessary start up costs for a business as part of a client's Individualized Plan for Employment. In order for a plan to be viable, other funding sources may be necessary to cover costs identified in the business plan that would not be covered by OVRS.

(2) Funding for the business plan may include, but is not limited to, the client's own resources; comparable services and benefits; loans from banks, finance companies or venture capitalists; grants; foundations; loans or loan guarantees from the Small Business Administration; local and state economic development funds; help from family or friends; a Social Security Plan for Achieving Self Support (PASS); or other such sources.

(3) The client is not required to accept a loan or utilize a PASS plan to fund the business plan. However, to be viable, a business plan may require additional funding such as that in a subsection (2) to cover the cost of the business venture.

(4) Except for reasonable and necessary initial start-up costs, OVRS will not pay for ongoing functions intrinsic to the operations of the business. Any request for initial start-up costs must include:

(a) The determination that OVRS and the client have explored all reasonable self-employment funding options, as identified in subsection (2); and

(b) The determination that available financial resources, as identified in subsection (2), will not meet the reasonable and necessary start-up costs for the business.

(c) Verification from the qualified expert approving the business plan that the requested start up costs are reasonable, necessary, and representative of what would be required for a start up business to begin operations.

(5) OVRS will assume no financial liability for debts, including existing debt. Any loss will not be reimbursed by OVRS.

(6) If additional funding such as that in subsection (2) is required to cover the cost of the business venture, the client shall decide, based upon informed choice about the funding options available, whether to proceed with the business plan. This may include deciding to accept a loan for capitalization and ongoing business expenses.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-2000, f. & cert. ef. 7-24-00; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2011(Temp), f. 2-15-11, cert. ef. 3-1-11 thru 8-28-11

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

Rule Caption: Individual Support Plan for Individuals with Developmental Disabilities.

Adm. Order No.: SPD 1-2011

Filed with Sec. of State: 2-1-2011

Certified to be Effective: 2-1-11

Notice Publication Date:

Rules Renumbered: 309-041-1300 to 411-341-1300, 309-041-1310 to 411-341-1310, 309-041-1320 to 411-341-1320, 309-041-1330 to 411-341-1330, 309-041-1340 to 411-341-1340, 309-041-1350 to 411-341-1350, 309-041-1360 to 411-341-1360, 309-041-1370 to 411-341-1370

Subject: The Department of Human Services, Seniors and People with Disabilities Division is renumbering the rules relating to individual support plans for individuals with developmental disabilities in OAR chapter 309, division 041 to OAR chapter 411, division 341.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-341-1300

Statement of Purpose, Mission Statement and Statutory Authority

(1) Purpose. These rules prescribe standards for the development and implementation of an Individual Support Plan for individuals with developmental disabilities.

(2) Mission statement. The overall mission of the State of Oregon Mental Health and Developmental Disability Services Division, Office of Developmental Disability Services, is to provide support services that will enhance the quality of life of persons with developmental disabilities.

(a) While the service system reflects the value of family member(s) participation in the ISP process, the Division also recognizes the rights of

adults to make informed choices about the level of participation by family members. It is the intent of this rule to fully support the provision of education about personal control and decision-making to individuals who are receiving services.

(b) The ISP process is critical in determining the individual's and the family's preferences for services and supports. The preferences of the individual and family shall serve to guide the team. The individual's active participation and input shall be facilitated throughout the planning process.

(c) The ISP process is designed to identify the types of services and supports necessary to achieve the individual's and family's preferences, identify the barriers to providing those preferred services and develop strategies for reducing the barriers.

(d) The ISP process should also identify strategies to assist the individual in the exercise of his or her rights. This may create tensions between the freedom of choice and interventions necessary to protect the individual from harm. The ISP team must carefully nurture the individual's exercise of rights while being equally sensitive to protecting the individual's health and safety.

(e) The ISP team assigns responsibility for obtaining or providing services to meet those needs.

(3) Statutory authority. These rules are authorized by ORS 430.041 and carry out the provisions of 430.610 to 430.670 and 427.005 to 427.007.

Stat. Auth.: ORS 430.041

Stats. Implemented: ORS 430.610 - 430.670 & 427.005 - 427.007

Hist.: MHD 9-1997, f. & cert. ef. 10-9-97; Renumbered from 309-041-1300, SPD 1-2011, f. & cert. ef. 2-1-11

411-341-1310

Definitions

As used in these rules:

(1) "Abuse investigation and protective services" means an investigation as required by OAR 309-040-0240 and any subsequent services or supports necessary to prevent further abuse.

(2) "Abuse of an Adult" means:

(a) Any death caused by other than accidental or natural means, or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or service provider or other staff and the adult. Sexual exploitation also includes failure of staff to discourage sexual advances towards staff by adults served. For situations other than those involving an employee, service provider, or other staff and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical behavior directed toward the adult;

(e) Failure to act/neglect that leads to or is in imminent danger of causing physical injury, through negligent omission, treatment, or maltreatment of an adult, including but not limited to the failure of a service provider or staff to provide an adult with adequate food, clothing, shelter, medical care, supervision, or through condoning or permitting abuse of an adult by any other person. However, no person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment through prayer alone in lieu of medical treatment;

(f) Verbal mistreatment by subjecting an adult to the use of derogatory names, phrases, profanity, ridicule, harassment, coercion or intimidation and threatening injury or withholding of services or supports. However, it is not considered verbal mistreatment in situations where the consequences of non-compliance may result in termination of services if agreed upon by the ISP team, including implied or direct threat of termination of services;

(g) Placing restrictions on an individual's freedom of movement by seclusion in a locked room under any condition, restriction to an area of the residence or from access to ordinarily accessible areas of the residence, unless arranged for and agreed to on the Individual's Support Plan;

(h) Using restraints without written physician's order, or unless an individual's actions present an imminent danger to himself/herself or others and in such circumstances only until other appropriate action is taken by medical, emergency or police personnel or unless arranged for and agreed to on the ISP;

(i) Financial exploitation which may include, but is not limited to, unauthorized rate increases, staff borrowing from or loaning money to individuals, witnessing wills in which the program is beneficiary, adding program's name to individual's bank accounts or other personal property without approval of the individual, his/her legal guardian, and the ISP team; and

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(j) Inappropriately expending the individual's personal funds, theft of an individual's personal funds, using an individual's personal funds for staff's own benefit, commingling the individual's funds with program and/or other individuals' funds, or the program becoming guardian or conservator.

(3) "Adult" means an individual 18 years or older with developmental disabilities for whom services are planned and provided.

(4) "Advocate" means a person other than paid staff who has been selected by the individual or by the individual's legal representative to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated.

(5) "Annual ISP Meeting" means an annual meeting which is attended by the individual served, agency representatives who provide service to the individual, case manager, the guardian, if any, relatives of the individual and/or other persons, such as an advocate, as appropriate. The purpose of the meeting is to determine needs, coordinate services and training, and develop an Individual Support Plan.

(6) "Case Management" means an organized service to assist individuals to select, obtain and utilize resources and services.

(7) "Case Manager" means an employee of the community mental health program or other agency which contracts with the County or Division, who is selected to plan, procure, coordinate, and monitor individual support plan services and to act as a proponent for persons with developmental disabilities.

(8) "Choice" means the individual's expression of preferences of activities and services through verbal, sign language or other communication method.

(9) "Community Mental Health Program" or "CMHP" means the organization of all services for individuals with mental or emotional disturbances, developmental disabilities, or chemical dependency, 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 Mental Health and Developmental Disability Services Division.

(10) "Crisis Services" means case management services provided in response to any event that substantially threatens the individual's health, safety or the stability of his/her support system.

(11) "Developmental Disability (DD)" means a disability attributable to mental retardation, autism, cerebral palsy, epilepsy, or other neurological handicapping condition which requires training or support similar to that required by individuals with mental retardation, and the disability:

(a) Originates before the individual attains the age of 22 years, except that in the case of mental retardation the condition must be manifested before the age of 18; and

(b) Has continued, or can be expected to continue, indefinitely; and

(c) Constitutes a substantial handicap to the ability of the person to function in society; or

(d) Results in significant sub-average general intellectual functioning with concurrent deficits in adaptive behavior which are manifested during the developmental period. Individuals of borderline intelligence may be considered to have mental retardation if there is also serious impairment of adaptive behavior. Definitions and classifications shall be consistent with the "Manual of Terminology and Classification in Mental Retardation" by the American Association on Mental Deficiency, 1977 Revision. Mental retardation is synonymous with mental deficiency.

(12) "Developmental Disability Program Manager" means an employee of the community mental health program, or other agency which contracts with the county or Division, who is responsible for DD programs within the county.

(13) "Division" means the Mental Health and Developmental Disability Services Division.

(14) "Entry" means admission to a Division-funded service.

(15) "Exit" means either termination or transfer from one Division-funded program to another. Exit from a program does not include transfer within a service provider's program.

(16) "Generic Services" means community resources that are provided to the citizenry at large.

(17) "Incident Report" means a written report of any injury, accident, act of physical aggression or unusual incident involving an individual.

(18) "Independence" is defined as the extent to which persons with mental retardation or developmental disabilities, with or without staff assistance, exert control and choice over their own lives.

(19) "Individual" means a person with developmental disabilities for whom services are planned and provided.

(20) "Individual Support Plan" or "ISP" means a written plan of support and training services for an individual covering a 12-month period which addresses an individual's support needs and each service provider's program plan.

(21) "Individual Support Plan Team" or "ISP Team" means a team composed of the individual, representatives of all current service providers, case manager, the individual's legal guardian if any, advocate, and others determined appropriate by the individual receiving services. If the individual is unable or does not express a preference, other appropriate team membership shall be determined by the ISP team members.

(22) "Integration" means the use by persons with mental retardation or other developmental disabilities of the same community resources that are used by and available to other persons in the community and participation in the same community activities in which persons without a disability participate, together with regular contact with persons without a disability.

(23) "Legal Representative" means the parent if the individual is under age 18, unless the court appoints another individual or agency to act as guardian. For those individuals over the age of 18, a legal representative means an attorney at law who has been retained by or for the adult, or a person who is authorized by a court to make decisions about services for the individual.

(24) "Local Mental Health Authority" or "LMHA" means the county court or board of county commissioners of one or more counties who chose to operate a CMHP; or, if the county declines to operate or contract for all or part of a CMHP, the board of directors of a public or private corporation which contracts with MHDDSD to operate a CMHP for that county.

(25) "Monitoring" means the periodic review of the implementation of services identified in the ISP and the quality of services delivered by other organizations.

(26) "Office of Developmental Disability Services" or "DD Office" means the Office of Developmental Disability Services of the Mental Health and Developmental Disability Services Division.

(27) "Priority Population" means individuals possessing one or more of the following characteristics:

(a) The individual has a medical condition that is serious and could be life threatening. Examples include but are not limited to:

(A) Brittle diabetes or diabetes not controlled through medical or physical interventions;

(B) Aspiration or significant risk of choking;

(C) Physical, intellectual, or mental limitations that render the individual totally dependent on others for access to food or fluids;

(D) Mental health or alcohol or drug problems that are not responsive to treatment interventions;

(E) A terminal illness requiring hospice care; and

(F) Condition(s) permitting appointment of a health care representative authorized under OAR 309-041-1500 through 309-041-1610, Health Care Representative.

(b) The individual exhibits behavior that poses a significant danger to the individual. Examples include but are not limited to:

(A) Acts or history of acts which have caused injury to self or others requiring medical attention;

(B) Use of fire or items to threaten injury to persons or damage to property;

(C) Acts that cause significant damage to homes, vehicles, or other property;

(D) Actively searching for opportunities to act out thoughts that involve harm to others.

(c) The ISP team determines that implementation of the Individual's Support Plan developed to address conditions such as those described in (a) or (b) above shall be monitored monthly by the case manager to assure protection of the individual's health and safety. If monthly monitoring by the case manager is not necessary, an individual is not considered part of the priority population.

(28) "Productivity" means engagement in income-producing work by a person with mental retardation or other developmental disabilities which is measured through improvements in income level, employment status or job advancement or engagement by a person with mental retardation or other developmental disabilities in work contributing to a household or community.

(29) "Service Provider" means a public or private community agency or organization that provides a recognized mental health or developmental disability services and is approved by the Division or other appropriate agency to provide the service.

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(30) "Support" means those services that assist an individual in maintaining or increasing his or her functional independence, achieving community presence and participation, enhancing productivity, and enjoying a satisfying lifestyle. Support services can include training, i.e. the systematic, planned maintenance, development and enhancement of self-care, social or independent living skills; or the planned sequence of systematic interactions, activities, structured learning situations, or educational experiences designed to meet each individual's specified needs in the areas of integration and independence.

(31) "Transfer" means movement of an individual from one site to another site administered by the same service provider.

(32) "Transition Plan" means a written plan for the period of time between an individual's entry into a particular service and the time when the individual's ISP is developed and approved by the ISP team. The plan shall include a summary of the services necessary to facilitate adjustment to the services offered, the supports necessary to ensure health and safety, and the assessments and/or consultations necessary for the ISP development.

(33) "Unusual Incident" means those incidents involving serious illness or accidents, death of an individual, injury or illness of an individual requiring inpatient or emergency hospitalization, suicide attempts, a fire requiring the services of a fire department, or any incident requiring an abuse investigation.

Stat. Auth.: ORS 430.041

Stats. Implemented: ORS 430.610 - 430.670 & 427.005 - 427.007

Hist.: MHD 9-1997, f. & cert. ef. 10-9-97; Renumbered from 309-041-1310, SPD 1-2011, f. & cert. ef. 2-1-11

411-341-1320

Community Mental Health Program Responsibilities for Individual Support Plan, Entry/Exit/Transfer Plans

(1) Individuals in Division-funded residential and/or employment services. The CMHP shall assure that all individuals in Division-funded residential and/or employment services have an annual Individual Support Plan (ISP). An Individual Support Plan shall be developed and reviewed in accordance with OAR 309-041-1330 and 309-041-1360. The case manager shall participate in the development of an Individual Support Plan for individuals who fall within the priority population. The case manager shall, to the extent resources are available and within the priorities established in 309-041-0400 through 309-041-0500, Case Management Services for Individuals with Developmental Disabilities and Their Families, participate in the development of Individual Support Plans for other individuals.

(2) Individuals not in Division-funded residential or employment services. Individuals not in Division-funded residential or employment services are not required to have an ISP. These individuals shall have an Annual Contact and Summary of Support Needs developed and reviewed in accordance with OAR 309-041-0410, Case Management Services for Individuals with Developmental Disabilities and Their Families.

(3) Entry/exit/transfer plans for individuals in Division-funded residential or employment services.

(a) Entry to program services shall be authorized in accordance with OAR 309-041-0445, Case Management Services for Individuals with Developmental Disabilities and Their Families.

(b) Exit from program services shall be in accordance with OAR 309-041-0445, Case Management Services for Individuals with Developmental Disabilities and Their Families.

(c) Transfer between program services shall be in accordance with OAR 309-041-0445, Case Management Services for Individuals with Developmental Disabilities and Their Families.

(4) Crisis services for all individuals. Crisis services shall be assessed, identified, planned, monitored and evaluated by the case manager in accordance with OAR 309-041-0300, Diversion/Crisis Services.

(5) Monitoring of individual support plans.

(a) Services identified in the ISP shall be monitored for individuals receiving Division-funded residential and/or employment services in accordance with OAR 309-041-0445, Case Management Services for Individuals with Developmental Disabilities and Their Families.

(b) The case manager shall monitor the ISP for individuals who fall within the priority population. The case manager shall, to the extent resources are available and within the priorities established in the Case Management Rule, monitor the ISP for other individuals.

Stat. Auth.: ORS 430.041

Stats. Implemented: ORS 430.610 - 430.670 & 427.005 - 427.007

Hist.: MHD 9-1997, f. & cert. ef. 10-9-97; Renumbered from 309-041-1320, SPD 1-2011, f. & cert. ef. 2-1-11

411-341-1330

Standards for the Development of the Individual Support Plan (ISP)

(1) Priority population determination. The ISP team shall make an initial determination whether or not an individual falls within the priority population using the definition in OAR 309-041-0130 and notify the case manager. The case manager shall confirm that the individual falls within the priority population.

(2) ISP team membership. The ISP shall be developed through a team approach and the membership of the team may vary, depending on the unique needs of the individual and the services being provided. Each member shall have equal participation in discussion and decision making. No one member shall have the authority to make decisions for the team. Representatives from service provider(s), families, the CMHP, or advocacy agencies shall be considered as one member for the purpose of reaching majority agreement.

(a) The ISP team shall at a minimum, include the individual, individual's legal guardian, and service provider representatives. The case manager shall be part of the ISP team for individuals who fall within the priority population. The case manager may participate in the ISP meeting for other individuals to the extent case management resources are available and within the priorities set forth for case management services in OAR 309-041-0410, Case Management Services for Individuals with Developmental Disabilities and Their Families.

(b) The individual may suggest additional participants. Typically, family members, advocates or other professionals involved in providing service to the individual are appropriate ISP team members.

(c) The individual may raise objection to participation by a particular person. When an individual raises objections to participation by a particular individual, the team shall attempt to accommodate the individual's objection while allowing participation by team members.

(3) Initial and annual ISP timelines.

(a) An ISP shall be completed within 60 calendar days following entry into Division-funded residential or employment services and at least annually thereafter. All ISPs shall be sent to the CMHP for placement in the individual's file. If the individual has not been identified as a member of the priority population and a case manager believes otherwise, the case manager may reconvene the ISP team. If the case manager does not believe the ISP meets the requirements specified in these rules, the case manager may reconvene the ISP team.

(b) When a service provider's individual planning process (including the outcome system) requires more than annual team meetings, a copy of the plan shall be sent to the CMHP within 30 days of completion for placement in the individual's file. The case manager shall review the plan and provide any comments to the ISP team.

(4) Changes in the ISP. If significant needs or changes or crisis situations arise between scheduled ISP meetings, such as the necessity to develop a new behavior intervention program, reports indicating changes in the health status or functioning level, new evaluations containing substantial recommendations or changes, the report of an unusual incident or any other significant situation which may require prompt action, the case manager or ISP team leader shall be contacted to facilitate a discussion between the ISP team members regarding the ISP changes proposed and assess the need to reconvene as a team. Any ISP team member may contact the case manager regarding changes in the ISP. The case manager or facilitator shall document the team discussion and any subsequent recommendations and distribute to these team members.

Stat. Auth.: ORS 430.041

Stats. Implemented: ORS 430.610 - 430.670 & 427.005 - 427.007

Hist.: MHD 9-1997, f. & cert. ef. 10-9-97; Renumbered from 309-041-1330, SPD 1-2011, f. & cert. ef. 2-1-11

411-341-1340

ISP Meeting Process

(1) ISP Meetings. The case manager shall initiate the ISP meeting for individuals who fall within the priority population. For other individuals, when the case manager is not present, the ISP team shall select a team leader for the meeting. The team leader shall be responsible for assuring that the ISP meeting is scheduled and participants notified.

(2) Case manager or team leader role in the development of the ISP. At the ISP meeting, the case manager or designated team leader shall:

(a) Initiate the discussion of the individual, individual's legal representative's, family's, or other team member's preferences;

(b) Initiate a discussion that the individual and/or legal representative have the right to request that information not be shared across service providers unless the preference is likely to create the situation detrimental to the individual's health and safety as determined by the ISP team.

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(c) Initiate discussion of and document the need for evaluations in the areas of medical, dental, vision, hearing; and any other evaluations based on the specialized needs of the individual (such as, but not limited to, neurological evaluations for individuals with seizure disorders, augmentative communication evaluations for individuals with limited speech, physical therapy and equipment evaluations for individuals in wheelchairs, psychiatric or psychological evaluations for individuals who are dually-diagnosed or nutritional evaluations for individuals with metabolic disorders);

(d) Initiate and document discussion of specialized health care needs and health maintenance services (such as, but not limited to, required periodic lab work), including what services are needed and the individual or provider who is responsible for assuring that they are provided;

(e) Determine with the ISP team whether home visits, vacations and other community or family-based activities are considered to be community-based experiences preferred by the individual. If so, then these activities must be considered part of the individual's overall ISP and shall be documented as such through the ISP process;

(f) Initiate the review of and discussion regarding outcome of any previous plan;

(g) Initiate discussion of proposed service provider plans and assist the team to make any needed modifications emphasizing health, safety, and rights;

(h) Determine the extent to which the ISP reflects the individual's choice and preferences in his/her daily activities which are defined in the ISP;

(i) Make efforts to build consensus among the members regarding services and supports included in the ISP, giving the most weight to the preference of the individual receiving services, unless the individual's preference is likely to create a situation detrimental to his/her health and safety as determined by the ISP team;

(j) ISP team decisions shall be made by majority agreement.

(3) ISP document. The ISP document shall include:

(a) Each service provider's program plan, with team modifications;

(b) Documentation of the need for additional evaluations or other services to be obtained and the person or provider responsible for assuring that these evaluations or services are obtained;

(c) Documentation of the specialized health care needs, health maintenance services and the person or provider responsible for assuring that these services are provided;

(d) Documentation of the individual's safety skills including the level of support necessary for the individual to evacuate a building (when warned by a signal device), the individual's ability to adjust water temperature, and the amount of time an individual can be without supervision before the missing notification protocol is implemented;

(e) Documentation of the reason(s) any preferences of the individual, legal representative and/or family members cannot be honored; and

(f) Documentation of the role and responsibilities of each participant in implementing the ISP plan, with specific ISP team member concerns, if any, noted.

(4) Distribution of the ISP document. The case manager or the team leader shall assure the distribution of a copy of the Individual Support Plan to all ISP team members within 30 calendar days of the ISP team meeting.

Stat. Auth.: ORS 430.041

Stats. Implemented: ORS 430.610 - 430.670 & 427.005 - 427.007

Hist.: MHD 9-1997, f. & cert. ef. 10-9-97; Renumbered from 309-041-1340, SPD 1-2011, f. & cert. ef. 2-1-11

411-341-1350

ISP Team Responsibilities for Entry/Exit/Transfer

(1) Entry staffing. Prior to an individual's date of entry into a Division-funded program, the ISP team shall meet to review referral material in order to determine appropriateness of placement. For purposes of entry staffings, a case manager must attend the staffing and authorize the placement. The team shall determine date of entry and develop a transition plan. The transition plan shall include:

(a) The name of the individual considered for entry;

(b) The date of the meeting;

(c) Documentation of the participants included in the meeting;

(d) Documentation of the circumstances leading to the proposed entry;

(e) Documentation of the alternatives considered instead of entry;

(f) Documentation of the reason(s) any preferences of the individual, the individual's legal representative, family or other team member cannot be honored;

(g) Documentation of majority agreement of the participants in the meeting with the decision;

(h) The written plan for services to the individual;

(i) Documentation of decisions regarding the proposed placement; and

(j) Findings of the ISP team and the signatures of all participants.

(2) Crisis services. For a period not to exceed 30 days, subsection (3)(b) of OAR 309-041-0445 does not apply if an individual is temporarily admitted to a program for crisis services.

(3) Exit from Division-funded programs. All exits from Division-funded programs shall be authorized by the CMHP. Prior to an individual's exit date, the ISP team shall meet to review the appropriateness of the move and to coordinate any services necessary during or following the transition. For purposes of exit staffings, a case manager must attend the staffing and authorize the exit.

(4) Exit staffing. Findings of the exit meeting shall be distributed to all ISP team members. The exit plan shall include:

(a) The name of the individual considered for exit;

(b) The date of the meeting;

(c) Documentation of the participants included in the meeting;

(d) Documentation of the circumstances leading to the proposed exit;

(e) Documentation of the alternatives considered instead of exit;

(f) Documentation of the reason(s) any preferences of the individual, the individual's legal representative, family or other team member cannot be honored;

(g) Documentation of majority agreement of the participants in the meeting with the decision; and

(h) The written plan for services to the individual.

(5) Transfer meeting. All transfers must be authorized by the CMHP. Transfer of an individual shall be preceded by a meeting of the ISP team before any decision to transfer is made. This meeting may occur by phone with all ISP team participants to expedite the transfer if so warranted. Findings of such a meeting shall be recorded in the individual's file and include, at a minimum:

(a) The name of the individual considered for transfer;

(b) The date of the meeting;

(c) Documentation of the participants included in the meeting;

(d) Documentation of the circumstances leading to the proposed transfer;

(e) Documentation of the alternatives considered instead of transfer;

(f) Documentation of the reason(s) any preferences of the individual, individual's legal representative and/or family members cannot be honored;

(g) Documentation of majority agreement of the participants with the decision; and

(h) The written plan for services to the individual after transfer.

Stat. Auth.: ORS 430.041

Stats. Implemented: ORS 430.610 - 430.670 & 427.005 - 427.007

Hist.: MHD 9-1997, f. & cert. ef. 10-9-97; Renumbered from 309-041-1350, SPD 1-2011, f. & cert. ef. 2-1-11

411-341-1360

Standards for Monitoring Individual Support Plans for Individuals

(1) Case manager responsibility for monitoring services for individuals. The case manager shall determine whether services are being provided in accordance with the ISP; that personal, civil, and legal rights of the individual are protected in accordance with this rule; that the satisfaction and desires of the individual, the individual's legal representative or family are addressed; that the services provided continue to meet the needs of the individual; and that the services result in the individual's achievement of goals and objectives identified in the ISP. The case manager shall monitor the ISP for individuals who fall within the priority population. The case manager shall, to the extent resources are available, monitor the ISP of other individuals.

(2) Frequency of monitoring. The frequency of the monitoring will be determined by the needs of the individual. However, the case manager shall meet at least monthly, in addition to the annual ISP meeting, with an individual who falls within the priority population. Arrangements shall be made to meet with the individual in a mutually acceptable location. Communication for the purpose of monitoring may also be done with provider(s) and family members. Should an individual refuse, after being duly informed as to the purpose and nature of the visit, to have the case manager visit, then such a refusal shall be documented in the individual's case record.

(3) Purpose of monitoring. The purpose of the visit is to assure that supports are being provided as defined in the ISP. Monitoring shall include:

(a) Review and documentation of the individual's outcome data, if applicable.

(b) Review of any incident and unusual incident reports.

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(c) Review of the process by which an individual accesses and utilizes funds according to standards specified in OAR 309-049-0175.

(d) Review of the ISP document to determine if the goals and objectives or actions to be taken by the case manager or others have been implemented:

(A) Address the individual's participation in activities that will increase integration, independence, and/or productivity;

(B) Address the anticipated outcomes which reflect the preferences and needs of the individual to the extent possible, while at the same time reflect similar interests and activities of persons without disabilities of a similar age; and

(C) Define the behavior, conditions and criterion for achieving the objectives and are consistent with the residential or employment outcome system as set forth in the Interagency Agreement between the Division and the CMHP.

(4) Monitoring follow-up. If the case manager determines that services are not being delivered as agreed, or that an individual's service needs have changed since the last review, the CMHP shall determine the need for technical assistance and/or referral to the DD program manager for consultation or corrective action.

Stat. Auth.: ORS 430.041

Stats. Implemented: ORS 430.610 - 430.670 & 427.005 - 427.007

Hist.: MHD 9-1997, f. & cert. ef. 10-9-97; Renumbered from 309-041-1360, SPD 1-2011, f. & cert. ef. 2-1-11

411-341-1370

Grievance Procedures

(1) Grievances.

(a) Mediation of grievances. Individuals, their legal representatives, family members or advocates may file a grievance concerning a determination regarding the appropriateness of services proposed or provided as set forth in these rules.

(b) Grievances shall be submitted in writing to the CMHP. The CMHP upon request shall assist individuals requiring assistance in preparing a written grievance.

(c) Informal procedures. Grievances concerning the appropriateness of services should, if possible, be resolved through the use of informal procedures. However, the grievant may elect not to utilize informal procedures, and to proceed directly to the county formal mediation committee.

(A) Informal procedures may include one or more of the following:

(i) Meeting with the individual, legal representative, family member(s) and/or advocates;

(ii) Meeting with the CMHP administrative staff;

(iii) Meeting with the ISP team;

(iv) Meeting with program administrative staff; and

(v) Meeting with local agency(ies); and

(vi) Voluntary mediation with a neutral mediator mutually agreed upon by the parties.

(B) Informal procedures shall result in a decision on the grievance no later than 30 days from the date the grievance is filed.

(C) The 30 day period for informal resolution of grievances may be extended by mutual agreement of the grievant and the CMHP to extend the informal process. Such agreement shall be in writing and must extend the process for a specified duration. A copy of the agreement to extend the time for informal resolution shall be sent to the CMHP and the Division within five working days of its signing by the parties involved.

(D) The grievant shall receive written notice of the grievance decision or outcome. The CMHP shall send a copy of this notice to the Division within five working days of issuance of notice to the grievant.

(d) CMHP formal mediation. When informal procedures cannot resolve the dispute, the interested party(ies) may submit to the CMHP a written request for a formal mediation of the disagreement using the CMHP's mediation procedures. The CMHP Director or designee shall make a decision within 30 working days of receipt of the request and notify the appellant of the decision in writing.

(e) Division review process. If the CMHP formal mediation decision is not acceptable to all the parties, decisions can be reviewed using the following formal procedure:

(A) The party requesting review shall submit in writing a request for a formal review to the Mental Health and Developmental Disability Services Division within five working days of receipt of the CMHP's decision:

(i) A grievance review committee shall be appointed by the Administrator of the Division or designee, in the Office of Developmental Disability Services of the Division, every two years, and shall be composed of Division representative, a local service provider program representative,

a case management representative, and a representative of the Division's Office of Client Rights;

(ii) In case of a conflict of interest, as determined by the Administrator or designee, alternative representatives will temporarily be appointed to the committee by the Administrator or designee.

(B) Upon receipt of the request for formal review, the Division shall:

(i) Schedule a grievance committee review meeting within 30 days of written request by the requesting party for a formal review of the decision; and

(ii) Notify in writing, each party involved in the disagreement of the date, time, and location of the committee review meeting, allowing at least 15 days from the meeting notification to the scheduled meeting time; and

(iii) Record the review committee meeting.

(C) Individual rights. The grievance review committee shall afford individuals the following rights:

(i) The opportunity to review documents and other evidence relied upon in reaching the decision being appealed; and

(ii) The opportunity to be heard in person and to be represented; and

(iii) The opportunity to present witnesses or documents to support their position and to question witnesses presented by other parties.

(D) Within 15 days after the conclusion of the meeting, the grievance review committee shall provide written recommendations to the Administrator or designee. The Administrator or designee shall make a decision and send written notification of the recommendations and implementation process to all grievance review committee meeting participants within 15 days of receipt of the recommendations.

(E) The decision of the Administrator or designee shall be final.

(2) Appeals.

(a) Appeals of entry, exit or transfer decisions within residential services may only be initiated according to the "24-Hour Residential Services" (OAR 309-049-0030), and the "Supported Living Services" (309-041-0550) and "Semi-Independent Living Services" (309-041-0015) rules;

(b) Appeals of entry, exit or transfer decisions within employment services may only be initiated according to the "Employment and Alternatives to Employment Services" (OAR 309-047-0000) rule.

Stat. Auth.: ORS 430.041

Stats. Implemented: ORS 430.610 - 430.670 & 427.005 - 427.007

Hist.: MHD 9-1997, f. & cert. ef. 10-9-97; Renumbered from 309-041-1370, SPD 1-2011, f. & cert. ef. 2-1-11

Rule Caption: Residential Programs.

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Rules Renumbered: 309-049-0000 to 411-349-0000, 309-049-0005 to 411-349-0005, 309-049-0010 to 411-349-0010, 309-049-0015 to 411-349-0015, 309-049-0020 to 411-349-0020

Subject: The Department of Human Services, Seniors and People with Disabilities Division is renumbering the residential program rules in OAR chapter 309, division 049 to OAR chapter 411, division 349.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-349-0000

Purpose and Statutory Authority

(1) Purpose. These rules require providers of residential services to persons under 21 years of age with developmental disabilities to notify the public school system prior to establishing, expanding, or changing the program.

(2) Statutory Authority. These rules are authorized by ORS 430.041 and carry out the provisions of ORS 339.175.

Stat. Auth.: ORS 339, 430

Stats. Implemented:

Hist.: MHD 1-1987, f. & cf. 1-12-87; Renumbered from 309-049-0000, SPD 2-2011, f. & cert. ef. 2-1-11

411-349-0005

Definitions

(1) "Developmental Disability (DD)" means a person with a disability which is attributed to mental retardation, cerebral palsy, epilepsy or other neurological handicapping condition which requires training similar to that required by persons with mental retardation. Characteristics of the developmental disability are that it:

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(a) Originates before the person attains the age of 22 years, except that in case of mental retardation the condition must be manifested before the age of 18;

(b) Has continued, or can be expected to continue indefinitely;

(c) Constitutes a substantial handicap to the person's ability to function in society; and

(d) In the case of mental retardation, means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Persons of borderline intelligence may be considered to have mental retardation if there is also serious impairment of adaptive behavior. Definitions and classifications shall be consistent with the "Manual on Terminology and Classification in Mental Retardation" of the American Association on Mental Deficiency, 1977 Revision. Mental retardation is synonymous with mental deficiency. For community case management purposes, mental retardation includes those persons of borderline intelligence who have a history of residence in a state training center:

(A) "Adaptive Behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for age and cultural group;

(B) "Developmental Period" means the period of time between birth and the 18th birthday;

(C) "Intellectual Functioning" means functioning as assessed by one or more of the individually administered general intelligence tests developed for that purpose;

(D) "Significantly Subaverage" means a score on a test of intellectual functioning that is two or more standard deviations below the mean for the test.

(2) "Disability Characteristics" means handicapping conditions such as mental retardation, seizures, motor dysfunction, cerebral palsy, behavior problems, communication disorders, visual and auditory dysfunction and other health impairments.

(3) "DD Residential Program" means DD residential homes and DD small residential homes serving residents with developmental disabilities who are under the age of 21. This rule does not apply to DD foster homes.

(4) "Resident" means a person served by and residing in a DD residential program.

(5) "Superintendent" means the highest ranking administrative officer in a school district or an educational institution, or in the absence of the superintendent, the person designated to fulfill the functions.

Stat. Auth.: ORS 339 & ORS 430

Stats. Implemented:

Hist.: MHD 1-1987, f. & ef. 1-12-87; Renumbered from 309-049-0005, SPD 2-2011, f. & cert. ef. 2-1-11

411-349-0010

Notice and Consultation With School Districts

The Administrator or Board of Directors of any DD residential program intending to establish or expand services to persons under the age of 21, or intending to change the category of residents being served, shall provide written notification to the superintendent of any affected local school district. To assist local school districts in planning special education services for additional or different students with developmental disabilities, the written notification shall include information about the characteristics and needs of residents including but not limited to:

(1) Age ranges;

(2) Abilities to ambulate; and

(3) Expectations of residents' disability characteristics.

Stat. Auth.: ORS 339, 430

Stats. Implemented:

Hist.: MHD 1-1987, f. & ef. 1-12-87; Renumbered from 309-049-0010, SPD 2-2011, f. & cert. ef. 2-1-11

411-349-0015

Three-Month Notification Requirement

(1) The written notification required by this rule shall occur not less than three months prior to events described in OAR 309-049-0010.

(2) The three-month period, or any part of it, may be waived by agreement of the DD residential program and the affected school district.

(3) Copies of the written notification shall be forwarded to the Director of the Community Mental Health Program, the Associate Superintendent of Special Education at the Oregon Department of Education, and to the Assistant Administrator of the Oregon Mental Health and Developmental Disability Services Division for DD Programs.

Stat. Auth.: ORS 339, 430

Stats. Implemented:

Hist.: MHD 1-1987, f. & ef. 1-12-87; Renumbered from 309-049-0015, SPD 2-2011, f. & cert. ef. 2-1-11

411-349-0020

Exclusion

This rule does not apply to changes in, or expansion of, DD residential programs for less than 30 days duration.

Stat. Auth.: ORS 339, 430

Stats. Implemented:

Hist.: MHD 1-1987, f. & ef. 1-12-87; Renumbered from 309-049-0020, SPD 2-2011, f. & cert. ef. 2-1-11

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Rule Caption: Long Term Care Tax.

Adm. Order No.: SPD 3-2011

Filed with Sec. of State: 2-1-2011

Certified to be Effective: 2-1-11

Notice Publication Date:

Rules Renumbered: 410-050-0401 to 411-069-0000, 410-050-0411 to 411-069-0010, 410-050-0421 to 411-069-0020, 410-050-0431 to 411-069-0030, 410-050-0451 to 411-069-0040, 410-050-0461 to 411-069-0050, 410-050-0471 to 411-069-0060, 410-050-0481 to 411-069-0070, 410-050-0491 to 411-069-0080, 410-050-0501 to 411-069-0090, 410-050-0511 to 411-069-0100, 410-050-0521 to 411-069-0110, 410-050-0531 to 411-069-0120, 410-050-0541 to 411-069-0130, 410-050-0551 to 411-069-0140, 410-050-0561 to 411-069-0150, 410-050-0591 to 411-069-0160, 410-050-0601 to 411-069-0170

Subject: The Department of Human Services, Seniors and People with Disabilities Division is renumbering the long term care tax rules to move them from OAR chapter 410, division 050 to OAR chapter 411, division 069.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-069-0000

Definitions

The following definitions apply to OAR 410-050-0401 through 410-050-0601:

(1) "Assessment Rate" means the rate established by the Director of the Department of Human Services.

(2) "Assessment Year" means a 12-month period, beginning July 1 and ending the following June 30, for which the assessment rate being determined is to apply.

(3) "Deficiency" means the amount by which the tax as correctly computed exceeds the tax, if any, reported by the facility. If, after the original deficiency has been assessed, subsequent information shows the correct amount of tax to be greater than previously determined, an additional deficiency arises.

(4) "Delinquency" means the facility failed to pay the tax as correctly computed when the tax was due.

(5) "Department" means the Department of Human Services.

(6) "Director" means the Director of the Department of Human Services.

(7) "Gross Revenue" means the revenue paid to a long term care facility for patient care, room, board, and services, less contractual adjustments. It does not include:

(a) Revenue derived from sources other than long term care facility operations, including but not limited to donations, interest, guest meals, or any other revenue not attributable to patient care; and

(b) Hospital revenue derived from hospital operations.

(8) "Long Term Care Facility" means a facility with permanent facilities that includes inpatient beds and provides medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director. A long term care facility provides treatment for two or more unrelated patients and includes licensed skilled nursing facilities and licensed intermediate care facilities, but does not include facilities licensed and operated pursuant to ORS 443.400 to 443.455. A long term care facility does not include any intermediate care facility for the mentally retarded.

(9) "Medicaid Patient Days" means patient days attributable to patients who receive medical assistance under a plan described in 42 U.S.C. 1396a et seq.

(10) "Patient Days" means the total number of patients occupying beds in a long term care facility for all days in the calendar period for which an assessment is being reported and paid. For purposes of this subsection, if a long term care facility patient is admitted and discharged on the same day, the patient shall be deemed to occupy a bed for one day.

(11) "Waivered Long Term Care Facility" means:

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(a) A long term care facility operated by a Continuing Care Retirement Community (CCRC) that is registered under ORS 101.030 and that admits:

- (A) Residents of the CCRC; or
- (B) Residents of the CCRC and nonresidents; or

(b) A long term care facility that is annually identified by the Department as having a Medicaid recipient census that exceeds the census level established by the Department for the year for which the facility is identified.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §15
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0401, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0010

General Administration

(1) The purpose of these rules is to implement the long term care facility tax imposed on long term care facilities in Oregon.

(2) The Department will administer, enforce, and collect the long term care facility tax.

(3) The Department may assign employees, auditors, and other agents as designated by the Director to assist in the administration, enforcement, and collection of the taxes.

(4) The Department may establish rules and regulations, not inconsistent with legislative enactments, that it considers necessary to administer, enforce, and collect the taxes.

(5) The Department may prescribe forms and reporting requirements and change the forms and reporting requirements, as necessary, to administer, enforce, and collect the taxes.

Stat. Auth.: ORS 409.050, 410.070, 411.0601
Stats. Implemented: ORS 409.750, OL 2003 & ORS 736 §§ 15-31
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0411, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0020

Disclosure of Information

(1) Except as otherwise provided by law, the Department must not publicly divulge or disclose the amount of income, expense, or other particulars set forth or disclosed in any report or return required in the administration of the taxes. Particulars include but are not limited to social security numbers, employer numbers, or other facility identification numbers, and any business records required to be submitted to or inspected by the Department or its designee to allow it to determine the amounts of any assessments, delinquencies, deficiencies, penalties, or interest payable or paid, or otherwise administer, enforce, or collect a health care assessment to the extent that such information would be exempt from disclosure under ORS 192.501(5).

(2) The Department may:

(a) Furnish any facility, or its authorized representative, upon request of the facility or representative, with a copy of the facility's report filed with the Department for any quarter, or with a copy of any report filed by the facility in connection with the report, or with a copy with any other information the Department considers necessary;

(b) Publish information or statistics so classified as to prevent the identification of income or any particulars contained in any report or return; and

(c) Disclose and give access to an officer or employee of the Department or its designee, or to the authorized representatives of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Controller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice, the Oregon Department of Justice Medicaid Fraud Control Unit, and other employees of the state or federal government to the extent the Department deems disclosure or access necessary or appropriate for the performance of official duties in the Department's administration, enforcement, or collection of these taxes.

Stat. Auth.: ORS 409.050, 410.070, 411.0601
Stats. Implemented: ORS 409.225, 409.230, 410.140, 410.150, 411.300, 411.320
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0421, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0030

Entities Subject to the Long Term Care Facility Tax

(1) Each long term care facility in Oregon is subject to the long term care facility tax except the Oregon Veterans' Home and long term care facilities that have received written notice from the Department that they are exempt under the terms of a waiver. For these facilities, the exemption from

the long term care facility tax only applies for the specific period of time described in the notice from the Department.

(2) The Director will determine on or before April 1 of each year those long term care facilities that meet the criteria of a waived long term care facility as defined by OAR 410-050-0401 that are exempt from the long term care facility tax for the assessment year commencing July 1 of that year.

(3) A long term care facility that believes it meets the criteria of a waived long term care facility that has not received notice of exempt status or disagrees with the Department's decision, may request an administrative review from the Department.

(a) A request for an administrative review must be sent to: Administrator DHS Finance and Policy Analysis 500 Summer Street NE Salem, OR 97301

(b) A request for administrative review must be received by the Department by April 15 prior to the assessment year.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 & ORS 736 sec.18, sec.33
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; OMAP 31-2006(Temp), f. & cert. ef. 8-7-06 thru 2-2-07; Administrative correction, 2-16-07; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0431, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0040

The Long Term Care Facility Tax: Calculation, Report, Due Date

(1) The tax is assessed upon each patient day, including Medicaid patient day, at a long term care facility. The amount of the tax equals the assessment rate times the number of patient days, including Medicaid patient days, at the long term care facility for the calendar quarter. The current rate of the assessment will be determined in accordance with these rules.

(2) The facility must pay the tax and file the report on a form approved by the Department on or before the last day of the month following the end of the calendar quarter for which the tax is being reported, unless the Department permits a later payment date. If a facility requests an extension, the Department, in its sole discretion, will determine whether to grant an extension.

(3) Each long term care facility must submit a revenue report on a form prescribed by the Department by September 30 of each year and pay any tax amount due. Long term care facilities with a Medicaid contract with the Department that provide more than 1,000 Medicaid patient days must submit the nursing facility financial statement (cost report) annually as required by OAR 411-070-0300 which contains the revenue report. Long term care facilities that are not required to submit the annual cost report must submit the revenue report. Either a revenue report or a nursing facility financial statement, where applicable, must be filed by September 30 of each year regardless of whether any additional tax is owed as a result of that filing.

(4) A one-month extension may be obtained for the nursing facility financial statement as set forth in OAR 411-070-0300. A one-month extension may be obtained for the revenue report if a written request to the Department for an extension is postmarked prior to September 30. The Department will respond in writing to these requests.

(5) Revenue reports submitted late are subject to penalty as set forth in OAR 410-050-0491. Nursing facility financial statements submitted late are subject to a penalty as set forth in OAR 411-070-0300(2)(c), where applicable.

(6) Any tax amount due based on the cost report or revenue report as a reconciliation of the previously filed quarterly reports must be paid by the due date specified. Payments submitted late are subject to penalty as set forth in OAR 410-050-0491.

(7) Any refund due to the provider based on the cost report or revenue report can be requested in writing with the submission of the report.

(8) Any report, statement, or other document required to be filed under any provision of these rules shall be certified by the chief financial officer of the facility or an individual with delegated authority to sign for the facility's chief financial officer. The certification must attest, based on best knowledge, information, and belief, to the accuracy, completeness, and truthfulness of the document.

(9) Payments may be made electronically and the accompanying report may either be faxed to the Department at the fax number provided on the report form or mailed to the Department at the address provided on the report form.

(10) The Department may charge the facility a fee of \$100 if, for any reason, the check, draft, order, or electronic funds transfer request is dishonored. This charge is in addition to any penalty for nonpayment of the taxes that may also be due.

Stat. Auth.: ORS 409.050, 410.070, 411.060

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Stats. Implemented: ORS 409.750, OL 2003 & ORS 736 §16
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0451, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0050

Filing an Amended Report

(1) Claims for refunds or payments for additional tax must be submitted by the facility on a form approved by the Department. The facility must provide all information required on the report. The Department may audit the facility, request additional information, or request an informal conference prior to granting a refund or as part of its review of a payment of a deficiency.

(2) Claim for refund.

(a) If the amount of the tax due is less than the amount paid by the facility and the facility does not then owe a tax for any other calendar period, the overpayment may be refunded by the Department to the facility. The facility can request a refund by amending their quarterly report and submitting a written request for refund to the Department, or the facility can request a refund when filing their nursing facility financial report or revenue report.

(b) If there is an amount due from the facility for any past due taxes or penalties, the refund otherwise allowable will be applied to the unpaid taxes and penalties and the facility so notified.

(3) Payment of deficiency.

(a) If the amount of the tax is more than the amount paid by the facility, the facility may file a corrected report on a form approved by the Department and pay the deficiency at any time. The penalty under OAR 410-050-0491 will stop accruing after the Department receives payment of the total deficiency for the calendar quarter; and

(b) If there is an error in the determination of the tax due, the facility may describe the circumstances of the late additional payment with the late filing of the amended report. The Department, at its sole discretion, may determine that a late additional payment does not constitute a failure to file a report or pay an assessment giving rise to the imposition of a penalty. In making this determination, the Department will consider the circumstances, including but not limited to: nature and extent of error, facility explanation of the error, evidence of prior errors, and evidence of prior penalties (including evidence of informal dispositions or settlement agreements). This provision only applies if the facility has filed a timely original return and paid the assessment identified in the return.

(4) If the Department discovers or identifies information in the administration of these tax rules that it determines could give rise to the issuance of a notice of proposed action or the issuance of a refund, the Department will issue notification pursuant to OAR 410-050-0511.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003 736 §16

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0461, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0060

Determining the Date Filed

For the purpose of these rules, any reports, requests, appeals, payments, or other response by the facility must be either received by the Department before the close of business on the date due, or if mailed, post-marked before midnight of the due date. When the due date falls on a Saturday, Sunday, or legal holiday, the return is due on the next business day following the Saturday, Sunday, or legal holiday.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003 736 §§ 16

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0471, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0070

Assessing Tax on Failure to File

In the case of a failure by the facility to file a report or to maintain necessary and adequate records, the Department will determine the tax liability of the facility according to the best of its information and belief. Best of its information and belief means the Department will use evidence on which a reasonable person would rely in determining the tax, including but not limited to estimating the days of patient days based upon the number of licensed beds in the facility. The Department's determination of tax liability will be the basis for the assessment due in a notice of proposed action.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003 736 §§ 16

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0481, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0080

Consequence of Failure to File a Report or Failure to Pay Tax When Due

(1) A long term care facility that fails to file a quarterly report or pay a quarterly tax when due under OAR 410-050-0451 is subject to a penalty of \$500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(2) A long term care facility that is exempt from paying provider taxes is not required to file a quarterly report, but is required to file an annual cost or revenue report. Even if exempt, a long term care facility that fails to file annual cost or revenue reports when due under OAR 410-050-0451 is subject to a penalty of up to \$500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(3) A long term care facility that fails to file an annual cost report or revenue report when due under OAR 410-050-0451 is subject to a penalty of up to \$500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(4) A long term care facility that files a cost report or annual revenue report, but fails to pay a fiscal year reconciliation tax payment when due under OAR 410-050-0451 is subject to a penalty of up to \$500 per day of delinquency up to a maximum of five percent of the amount due. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(5) The total amount of penalty imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which the penalty is being imposed.

(6) Penalties imposed under this section will be collected by the Department and deposited in the Department's account established under ORS 409.060.

(7) Penalties paid under this section are in addition to the long term care facility tax.

(8) If the Department determines that a facility is subject to a penalty under this section, it will issue a notice of proposed action as described in OAR 410-050-0511.

(9) If a facility requests a contested case hearing pursuant to OAR 410-050-0531, the Director, at the Director's sole discretion, may waive or reduce the amount of penalty assessed.

(10) If a facility fails to report or pay the provider tax after the Department issues a final order described in OAR 410-050-0541, then the Department will pursue remedies described in 410-050-0551 that may include a final order leading to collection activities; nursing facility license denial, suspension, or revocation; admission restrictions; and terminating provider contracts.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736 Sec. 19

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; Renumbered from 410-050-0491, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0090

Departmental Authority to Audit Records

(1) The facility must maintain clinical and financial records sufficient to determine the actual number of patient days for any calendar period for which a tax may be due.

(2) The Department or its designee may audit the facility's records at any time for a period of three years following the date the tax is due to verify or determine the number of patient days at the facility.

(3) The Department may issue a notice of proposed action or issue a refund based upon its findings during the audit.

(4) Any audit, finding, or position may be reopened if there is evidence of fraud, malfeasance, concealment, misrepresentation of material fact, omission of income, or collusion either by the facility or by the facility and a representative of the Department.

(5) The Department may issue a refund and otherwise take such actions as it deems appropriate based upon the audit findings.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003, 736 § 21

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; Renumbered from 410-050-0501, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0100

Notice of Proposed Action

(1) Prior to issuing a notice of proposed action, the Department will notify the facility of a potential deficiency or failure to report that could give rise to the imposition of a penalty. The Department shall issue a 30 day notification letter within 30 calendar days of the report or payment due

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date. The facility shall have 30 calendar days from the date of the notice to respond to the notification. The Department may consider the response, if any, and any amended report under OAR 410-050-0461 in its notice of proposed action. In all cases that the Department has determined that a facility has a deficiency or failure to report, the Department shall issue a notice of proposed action. The Department will not issue a notice of proposed action if the issue is resolved satisfactorily within 59 days from the date of mailing the 30 day notification letter.

(2) The Department shall issue a notice of proposed action within 60 calendar days from the date of mailing the 30 day notification letter.

(3) Contents of the notice of proposed action must include:

(a) The applicable calendar quarter;
(b) The basis for determining the corrected amount of tax for the quarter;

(c) The corrected tax due for the quarter as determined by the Department;

(d) The amount of tax paid for the quarter by the facility;

(e) The resulting deficiency, which is the difference between the amount received by the Department for the calendar quarter and the corrected amount due as determined by the Department;

(f) Statutory basis for the penalty;

(g) Amount of penalty per day of delinquency;

(h) Date upon which the penalty began to accrue;

(i) Date the penalty stopped accruing or circumstances under which the penalty will stop accruing;

(j) The total penalty accrued up to the date of the notice;

(k) Instructions for responding to the notice; and

(l) A statement of the facility's right to a hearing.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750, OL 2003 Ch. 736 Sec. 20

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; Renumbered from 410-050-0511, SDP 3-2011, f. & cert. ef. 2-1-11

411-069-0110

Required Notice

(1) Any notice required to be sent to the facility will be sent to the current licensee and any former licensee who was occupying the property during the time period to which the notice relates.

(2) Any notice required to be sent from the facility to the Department under these rules will be sent to the point of contact identified on the communication from the Department to the facility.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003 736 § 20

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0511, SDP 3-2021, f. & cert. ef. 2-1-11

411-069-0120

Hearing Process

(1) Any facility that receives a notice of proposed action may request a contested case hearing as provided under ORS chapter 183.

(2) The written request must be received by the Department within 20 days of the date of the notice.

(3) Prior to the hearing, the facility shall meet with the Department for an informal conference.

(a) The informal conference may be used to negotiate a written settlement agreement.

(b) If the settlement agreement includes a reduction or waiver of penalties, the agreement must be approved and signed by the Director.

(4) Nothing in this section will preclude the Department and the facility from agreeing to an informal disposition of the contested case at any time, consistent with ORS 183.415(5).

(5) If the case proceeds to a hearing, the administrative law judge will issue a proposed order with respect to the notice of proposed action.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003 736 § 20

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0551, SDP 3-2021, f. & cert. ef. 2-1-11

411-069-0130

Final Order of Payment

The Department will issue a Final Order of Payment for deficiencies and/or penalties when:

(1) Any part of the deficiency or penalty is upheld after a hearing;

(2) The facility did not make a timely request for a hearing; or

(3) Upon the stipulation of the facility and the Department.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003 736 § 20

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0541, SDP 3-2021, f. & cert. ef. 2-1-11

411-069-0140

Remedies Available after Final Order of Payment

(1) Any amounts due and owing under the final order of payment and any interest thereon may be recovered by Oregon as a debt to the state, using any available legal and equitable remedies. These remedies include, but are not limited to:

(a) Collection activities including but not limited to deducting the amount of the final deficiency and penalty from any sum then or later owed to the facility or its owners or operators by the Department, CMS, or their designees to the extent allowed by law;

(b) Nursing facility license denial, suspension, or revocation under OAR 411-089-0040;

(c) Restrictions of admissions to the facility under OAR 411-089-0050; and

(d) Terminating the provider contract with the owners or operators of the facility under OAR 411-070-0015.

(2) Every payment obligation shall bear interest at the statutory rate of interest in ORS 82.010 accruing from the date of the final order of payment and continuing until the payment obligation, including interest, has been discharged.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003 736 § 20

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0551, SDP 3-2021, f. & cert. ef. 2-1-11

411-069-0150

Calculation of Long Term Care Facility Tax

(1) The amount of the tax is based on the assessment rate determined by the Director multiplied by the number of patient days at the long term care facility for a calendar quarter.

(2) The Director must establish an annual assessment rate for long term care facilities that applies for each 12-month period beginning July 1. The Director must establish the assessment rate on or before June 15 preceding the 12-month period for which the rate applies.

(3) On or before October 31, the Department will refund any overages from the prior fiscal year. For example, by October 31, 2007, the Department will refund any overages from fiscal year 2006. Overages are defined as any amount of provider tax that exceeds the federal maximum provider tax limit in effect for the fiscal year.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003 736 §§ 17

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0561, SDP 3-2021, f. & cert. ef. 2-1-11

411-069-0160

Limitations On The Imposition of the Long Term Care Facility Tax

The long term care facility tax may be imposed only in a calendar quarter for which the long term care facility reimbursement rate that is part of the Oregon Medicaid reimbursement system was calculated according to the methodology described in Oregon Laws 2003, chapter 736, section 24.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003, 736 § 29

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0591, SDP 3-2021, f. & cert. ef. 2-1-11

411-069-0170

Sunset Provision

The long term care tax applies to long term care facility gross revenue received on or after June 2003 and before July 1, 2014.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003, 736 § 15-31

Hist.: DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0601, SDP 3-2021, f. & cert. ef. 2-1-11

Rule Caption: Long-Term Support for Children with Developmental Disabilities.

Adm. Order No.: SPD 4-2011(Temp)

Filed with Sec. of State: 2-1-2011

Certified to be Effective: 2-1-11 thru 7-31-11

Notice Publication Date:

Rules Amended: 411-308-0020, 411-308-0050, 411-308-0060, 411-308-0070, 411-308-0080, 411-308-0090, 411-308-0120

Subject: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is temporarily amending the

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long-term support for children with developmental disabilities rules in OAR chapter 411, division 308 to:

- Implement a limitation on the maximum amount of support available to each child;
- Clarify the requirement to fully utilize all appropriate alternate resources, prior to and during enrollment, to reduce per case costs; and
- Clarify that the eight hours of unpaid support the child's family is expected to provide excludes sleeping hours.

The temporary rulemaking allows SPD to continue to provide long-term support through the end of the current biennium. Long-term support allows children to remain in their family homes and prevents out of home placement.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-308-0020

Definitions

- (1) "Abuse" means abuse of a child as defined in ORS 419B.005.
- (2) "Activities of Daily Living (ADL)" mean activities usually performed in the course of a normal day in the child's life such as eating, dressing and grooming, bathing and personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition and behavior (play and social development).
- (3) "Annual Support Plan" means the written details of the supports, activities, costs, and resources required for a child to be supported by the family in the family home. The child's Annual Support Plan articulates decisions and agreements made through a child- and family-centered process of planning and information-gathering conducted or arranged for by the child's services coordinator that involves the child (to the extent normal and appropriate for the child's age) and other persons who have been identified and invited to participate by the child's parent or guardian. The child's Annual Support Plan is the only plan of care required by the Division for a child receiving long-term support.
- (4) "Assistant Director" means the assistant director of the Division, or that person's designee.
- (5) "Child" means an individual under the age of 18 and eligible for long-term support.
- (6) "Children's Intensive In-Home Services" means, for the purpose of these rules, the services described in:
 - (a) OAR chapter 411, division 300, Children's Intensive In-Home Services, Behavior Program;
 - (b) OAR chapter 411, division 350, Medically Fragile Children Services; or
 - (c) OAR chapter 411, division 355, Medically Involved Children's Program.
- (7) "Community Developmental Disability Program (CDDP)" means an entity that is responsible for planning and delivery of services for individuals with developmental disabilities in a specific geographic service area of the state operated by or under contract with the Division or a local mental health authority.
- (8) "Cost Effective" means that a specific service or support meets the child's service needs and costs less than, or is comparable to, other service options considered.
- (9) "CPMS" means the Client Processing Monitoring System.
- (10) "Crisis" means the risk factors described in OAR 411-320-0160(2) are present for which no appropriate alternative resources are available and the child meets the eligibility requirements for crisis diversion services in OAR 411-320-0160(3).
- (11) "Department" means the Department of Human Services (DHS).
- (12) "Developmental Disability" means a disability that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional. Developmental disabilities include mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with mental retardation, and the disability:
 - (a) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the condition must be manifested before the age of 18;
 - (b) Originates and directly affects the brain and has continued, or must be expected to continue, indefinitely;
 - (c) Constitutes a significant impairment in adaptive behavior; and
 - (d) Is not primarily attributed to other conditions, including but not limited to mental or emotional disorder, sensory impairment, substance

abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder.

(13) "Division" means the Department of Human Services, Seniors and People with Disabilities Division (SPD).

(14) "Employer-Related Supports" mean activities that assist a family with directing and supervising provision of services described in a child's Annual Support Plan. Supports to a family assuming the role of employer include but are not limited to:

- (a) Education about employer responsibilities;
- (b) Orientation to basic wage and hour issues;
- (c) Use of common employer-related tools such as job descriptions; and
- (d) Fiscal intermediary services.

(15) "Family" for determining a child's eligibility for long-term support as a resident in the family home, for identifying persons who may apply, plan, and arrange for a child's supports, and for determining who may receive family training, means a unit of two or more persons that includes at least one child with developmental disabilities where the primary caregiver is:

- (a) Related to the child by blood, marriage, or legal adoption; or
- (b) In a domestic relationship where partners share:
 - (A) A permanent residence;
 - (B) Joint responsibility for the household in general (e.g. child-rearing, maintenance of the residence, basic living expenses); and
 - (C) Joint responsibility for supporting a child in the household with developmental disabilities and the child is related to one of the partners by blood, marriage, or legal adoption.

(16) "Family Home" means a child's primary residence that is not licensed, certified by, and under contract with the Department as a foster home, residential care facility, assisted living facility, nursing facility, or other residential support program site.

(17) "Fiscal Intermediary" means a person or entity that receives and distributes long-term support funds on behalf of the family of an eligible child according to the child's Annual Support Plan.

(18) "Founded Reports" means the Department's Children, Adults, and Families Division or Law Enforcement Authority (LEA) determination, based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

(19) "General Business Provider" means an organization or entity selected by the parent or guardian of an eligible child, and paid with long-term support funds that:

- (a) Is primarily in business to provide the service chosen by the child's parent or guardian to the general public;
- (b) Provides services for the child through employees, contractors, or volunteers; and
- (c) Receives compensation to recruit, supervise, and pay the persons who actually provide support for the child.

(20) "Guardian" means a person or agency appointed and authorized by the courts to make decisions about services for the child.

(21) "Incident Report" means a written report of any injury, accident, act of physical aggression, or unusual incident involving a child.

(22) "Independent Provider" means a person selected by a child's parent or guardian and paid with long-term support funds that personally provide services to the child.

(23) "Individual" means a person with developmental disabilities for whom services are planned and provided.

(24) "Long-Term Support" means individualized planning and service coordination, arranging for services to be provided in accordance with Annual Support Plans, and purchase of supports that are not available through other resources that are required for children with developmental disabilities who are eligible for crisis diversion services to live in the family home. Long-term supports are designed to:

- (a) Prevent unwanted out-of-home placement and maintain family unity; and
- (b) Whenever possible, reunite families with children with developmental disabilities who have been placed out of the home.

(25) "Long-Term Support Funds" mean public funds contracted by the Department to the community developmental disability program and managed by the community developmental disability program to assist families with the purchase of supports for children with developmental disabilities according to each child's Annual Support Plan. Long-term support funds are available only to children for whom the Department designates funds to the community developmental disability program by written contracts that specify the children by name.

ADMINISTRATIVE RULES

(26) "Mandatory Reporter" means any public or private official who comes in contact with and has reasonable cause to believe a child has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused a child, regardless of whether or not the knowledge of the abuse was gained in the reporter's official capacity. Nothing contained in ORS 40.225 to 40.295 shall affect the duty to report imposed by this section, except that a psychiatrist, psychologist, clergyman, attorney, or guardian ad litem appointed under ORS 419B.231 shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

(27) "Nurse" means a person who holds a current license from the Oregon Board of Nursing as a registered nurse or licensed practical nurse pursuant to ORS chapter 678.

(28) "Nursing Care Plan" means a plan of care developed by a nurse that describes the medical, nursing, psychosocial, and other needs of a child and how those needs shall be met. The Nursing Care Plan includes which tasks shall be taught, assigned, or delegated to the qualified provider or family.

(29) "OHP" means the Oregon Health Plan.

(30) "Oregon Intervention System (OIS)" means a system of providing training to people who work with designated individuals to intervene physically or non-physically to keep individuals from harming self or others. The Oregon Intervention System is based on a positive approach that includes methods of effective evasion, deflection, and escape from holding.

(31) "Plan Year" means twelve consecutive months used to calculate what long-term support funds may be made available annually to support an eligible child.

(32) "Positive Behavioral Theory and Practice" means a proactive approach to individual behavior and behavior interventions that:

- (a) Emphasizes the development of functional alternative behavior and positive behavior intervention;
- (b) Uses the least intervention possible;
- (c) Ensures that abusive or demeaning interventions are never used; and

(d) Evaluates the effectiveness of behavior interventions based on objective data.

(33) "Provider Organization" means an entity selected by a child's parent or guardian, and paid with long-term support funds that:

- (a) Is primarily in business to provide supports for individuals with developmental disabilities;
- (b) Provides supports for the individual through employees, contractors, or volunteers; and
- (c) Receives compensation to recruit, supervise, and pay the persons who actually provide support for the individual.

(34) "Quality Assurance" means a systematic procedure for assessing the effectiveness, efficiency, and appropriateness of services.

(35) "Regional Process" means a standardized set of procedures through which a child's Annual Support Plan and funding to implement the Annual Support Plan are reviewed for approval. The process includes review of the potential risk of out-of-home placement, the appropriateness of the proposed supports, and cost effectiveness of the Annual Support Plan.

(36) "Services Coordinator" means an employee of the community developmental disability program or other agency that contracts with the county or Division, who plans, procures, coordinates, and monitors long-term support, and acts as a proponent for children with developmental disabilities and their families.

(37) "Substantiated" means an abuse investigation has been completed by the Department or the Department's designee and the preponderance of the evidence establishes the abuse occurred.

(38) "Support" means assistance eligible children and their families require, solely because of the effects of developmental disability on the child, to maintain the child in the family home.

(39) "These Rules" mean the rules in OAR chapter 411, division 308.

(40) "Volunteer" means any person providing services without pay to a child receiving long term supports.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, 430.610 - 430.670

Hist.: SPD 7-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 20-2009, f. 12-23-09, cert. ef. 12-28-09; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 4-2011(Temp), f. & cert. ef. 2-1-11 thru 7-31-11

411-308-0050

Financial Limits of Long-Term Support

(1) In any plan year, long-term support funds used to purchase supports for a child must be limited to the amount of long-term support funds specified in the child's Annual Support Plan. The amount of long-term sup-

port funds specified in the child's Annual Support Plan may not exceed the maximum allowable monthly plan amount published in the Division's rate guidelines in any month during the plan year.

(2) Payment rates used to establish the limits of financial assistance for specific service in the child's Annual Support Plan must be based on the Division's rate guidelines for costs of frequently-used services. Division rate guidelines notwithstanding, final costs may not exceed local usual and customary charges for these services as evidenced by the CDDP's own documentation.

Stat. Auth.: ORS 409.050, 410.070

Stats. Implemented: ORS 427.005, 427.007, 430.610 - 430.670

Hist.: SPD 7-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 20-2009, f. 12-23-09, cert. ef. 12-28-09; SPD 4-2011(Temp), f. & cert. ef. 2-1-11 thru 7-31-11

411-308-0060

Eligibility for Long-Term Support

(1) ELIGIBILITY. The CDDP of a child's county of residence may find a child eligible for long-term support when the child:

(a) Is determined eligible for developmental disability services by the CDDP;

(b) Is under the age of 18;

(c) Is experiencing a crisis as defined in OAR 411-308-0020 and may be safely served in the family home;

(d) Has exhausted all appropriate alternative resources, including but not limited to natural supports and children's intensive in-home services as defined in OAR 411-308-0020;

(e) Does not receive or will stop receiving other Department-paid in-home or community living services other than state Medicaid plan services, adoption assistance, or short-term assistance, including crisis services provided to prevent out-of-home placement; and

(f) Is at risk of out-of-home placement and requires long-term support to be maintained in the family home; or

(g) Requires long-term support to return to the family home and resides in a Department-paid residential service.

(2) CONCURRENT ELIGIBILITY. Children are not eligible for long-term support from more than one CDDP unless the concurrent service:

(a) Is necessary to affect transition from one county to another with a change of residence;

(b) Is part of a collaborative plan developed by both CDDPs; and

(c) Does not duplicate services and expenditures.

Stat. Auth.: ORS 409.050, 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 - 430.670

Hist.: SPD 7-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 20-2009, f. 12-23-09, cert. ef. 12-28-09; SPD 4-2011(Temp), f. & cert. ef. 2-1-11 thru 7-31-11

411-308-0070

Long-Term Support Entry, Duration, and Exit

(1) ENTRY. An eligible child may enter long-term support only when long-term support needs are authorized through a regional process specifically to provide supports required to prevent out-of-home placement of the eligible child, or to provide supports required for an eligible child to return to the family home from a community placement. Long-term support funding must be reauthorized on an annual basis, prior to the beginning of a new Annual Support Plan.

(2) DURATION OF SERVICES. Once a child has entered long-term support, the child and family may continue receiving services from that CDDP through the last day of the month during which the child turns 18, as long as the supports continue to be necessary to prevent out-of-home placement, the child remains eligible for long-term support, and long-term support funds are available at the CDDP and authorized by the Division to continue services. The child's Annual Support Plan must be developed each year and kept current.

(3) CHANGE IN SUPPORTS. All increases in the child's Annual Support Plan, excluding statewide cost of living increases, must be approved through a regional process. Redirection of more than 25 percent of the long-term support funds in the child's Annual Support Plan to purchase different supports than those originally authorized must be approved through a regional process.

(4) CHANGE OF COUNTY OF RESIDENCE. If a child and family move outside the CDDP's area of service, the originating CDDP must arrange for services purchased with long-term support funds to continue, to the extent possible, in the new county of residence. The originating CDDP must:

(a) Provide information about the need to apply for services in the new CDDP and assist the family with application for services if necessary; and

ADMINISTRATIVE RULES

(b) Contact the new CDDP to negotiate the date on which the long-term support, including responsibility for payments, shall transfer to the new CDDP.

(5) EXIT. A child must leave a CDDP's long-term support:

(a) When the child no longer resides in the family home;

(b) At the written request of the child's parent or guardian to end the long-term supports;

(c) When the long-term supports are no longer necessary to prevent out-of-home placement due to either;

(A) The risk of out of home placement no longer exists due to changes in either the child's support needs or the family's ability to provide the support; or

(B) Appropriate alternative resources become available, including but not limited to supports through children's intensive in-home services as defined in OAR 411-308-0020.

(d) At the end of the last day of the month during which the child turns 18;

(e) When the child and family moves to a county outside the CDDP's area of service, unless transition services have been previously arranged and authorized by the CDDP as required in section (4) of this rule; or

(f) No less than 30 days after the CDDP has served written notice, in the language used by the family, of intent to terminate services because:

(A) The child's family either cannot be located or has not responded to repeated attempts by CDDP staff to complete the child's Annual Support Plan development and monitoring activities and does not respond to the notice of intent to terminate; or

(B) The CDDP has sufficient evidence that the family has engaged in fraud or misrepresentation, failed to use resources as agreed upon in the child's Annual Support Plan, refused to cooperate with documenting expenses, or otherwise knowingly misused public funds associated with long-term support.

Stat. Auth.: ORS 409.050, 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 - 430.670

Hist.: SPD 7-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 20-2009, f. 12-23-09, cert. ef. 12-28-09; SPD 4-2011(Temp), f. & cert. ef. 2-1-11 thru 7-31-11

411-308-0080

Annual Support Plan

(1) The CDDP must provide or arrange for an annual planning process to assist families in establishing outcomes, determining needs, planning for supports, and reviewing and redesigning support strategies for all children eligible for long-term support. The planning process must occur in a manner that:

(a) Identifies and applies existing abilities, relationships, and resources while strengthening naturally occurring opportunities for support at home and in the community; and

(b) Is consistent in both style and setting with the child's and family's needs and preferences, including but not limited to informal interviews, informal observations in home and community settings, or formally structured meetings.

(2) The CDDP, the child (as appropriate), and the child's family must develop a written Annual Support Plan for the child as a result of the planning process prior to purchasing supports with long-term support funds and annually thereafter. The child's Annual Support Plan must include but not be limited to:

(a) The eligible child's legal name and the name of the child's parent (if different than the child's last name), or the name of the child's guardian;

(b) A description of the supports and the reason the support is necessary to prevent out-of-home placement or to return the child from a community placement outside the family home;

(c) Beginning and end dates of the plan year as well as when specific activities and supports are to begin and end;

(d) The type of provider, quantity, frequency, and per unit cost of supports to be purchased with long-term support funds;

(e) Total annual cost of supports;

(f) The schedule of the child's Annual Support Plan reviews; and

(g) Signatures of the child's services coordinator, the child's parent or guardian, and the child (as appropriate).

(3) The child's Annual Support Plan or records supporting development of each child's Annual Support Plan must include evidence that:

(a) Long-term support funds are used only to purchase goods or services necessary to prevent the child from out-of-home placement, or to return the child from a community placement to the family home;

(b) The services coordinator has assessed the availability of other means for providing the supports before using long-term support funds, and other public, private, formal, and informal resources available to the child

have been applied and new resources have been developed whenever possible;

(c) Basic health and safety needs and supports have been addressed including but not limited to identification of risks including risk of serious neglect, intimidation, and exploitation;

(d) Informed decisions by the child's parent or guardian regarding the nature of supports or other steps taken to ameliorate any identified risks; and

(e) Education and support for the child and the child's family to recognize and report abuse.

(4) The services coordinator must obtain and attach a Nursing Care Plan to the child's written Annual Support Plan when long-term support funds are used to purchase care and services requiring the education and training of a nurse.

(5) The services coordinator must obtain and attach a Behavior Support Plan to the child's written Annual Support Plan when the Behavior Support Plan shall be implemented by the child's family or providers during the plan year.

(6) Long-term supports may only be provided after the child's Annual Support Plan is developed in accordance with sections (1), (2), (3), (4), and (5) of this rule, authorized by the CDDP, and signed by the child's parent or guardian.

(7) The services coordinator must review and reconcile receipts and records of purchased supports authorized by the child's Annual Support Plan and subsequent Annual Support Plan documents, at least quarterly during the plan year.

(8) At least annually or more frequently if required by the region, the services coordinator must conduct and document reviews of the child's Annual Support Plan and resources with the child's family as follows:

(a) Evaluate progress toward achieving the purposes of the child's Annual Support Plan;

(b) Record actual long-term support fund costs;

(c) Note effectiveness of purchases based on services coordinator observation as well as family satisfaction; and

(d) Determine whether changing needs or availability of other resources have altered the need for specific supports or continued use of long-term support funds to purchase supports. This must include a review of the child's continued risk for out-of-home placement and the availability of alternate resources, including eligibility for children's intensive in-home services as defined in OAR 411-308-0020.

(9) When the family and eligible child move to a county outside its area of service, the originating CDDP must assist long-term support recipients by:

(a) Continuing long-term support fund payments authorized by the child's Annual Support Plan which is current at the time of the move, if the support is available, until the transfer date agreed upon according to OAR 411-308-0070(4)(b); and

(b) Transferring the unexpended portion of the child's long-term support funds to the new CDDP of residence.

Stat. Auth.: ORS 409.050, 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 - 430.670

Hist.: SPD 7-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 20-2009, f. 12-23-09, cert. ef. 12-28-09; SPD 4-2011(Temp), f. & cert. ef. 2-1-11 thru 7-31-11

411-308-0090

Managing and Accessing Long-Term Support Funds

(1) Funds contracted to a CDDP by the Division to serve a specifically-named child must only be used to support that specified child. Services must be provided according to each child's approved Annual Support Plan. The funds may only be used to purchase supports described in OAR 411-308-0120. Continuing need for services must be regularly reviewed according to the Division's procedures described in these rules.

(2) No child receiving long-term support may concurrently receive services through:

(a) Children's intensive in home services as defined in OAR 411-308-0020;

(b) Direct assistance or immediate access funds under family support; or

(c) Long-term support from another CDDP unless short-term concurrent services are necessary when a child moves from one CDDP to another and the concurrent supports are arranged in accordance with OAR 411-308-0060(2).

(3) Children receiving long-term support may receive short-term crisis diversion services provided through the CDDP or region. Children receiving long-term support may utilize family support information and referral services, other than direct assistance or immediate access funds,

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while receiving long-term support. The CDDP must clearly document the services and demonstrate that the services are arranged in a manner that does not allow duplication of funding.

Stat. Auth.: ORS 409.050, 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 - 430.670

Hist.: SPD 7-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 20-2009, f. 12-23-09, cert. ef. 12-28-09; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 4-2011(Temp), f. & cert. ef. 2-1-11 thru 7-31-11

411-308-0120

Supports Purchased with Long-Term Support Funds

(1) When conditions of purchase are met and provided purchases are not prohibited under OAR 411-308-0110, long-term support funds may be used to purchase a combination of the following supports based upon the needs of the child consistent with the child's Annual Support Plan and available funding:

(a) Specialized consultation including behavior consultation and nursing delegation;

(b) Environmental accessibility adaptations;

(c) Family caregiver supports;

(d) Family training;

(e) In-home daily care;

(f) Respite; and

(g) Specialized equipment and supplies.

(2) SPECIALIZED CONSULTATION – BEHAVIOR CONSULTATION. Behavior consultation is the purchase of individualized consultation provided only as needed in the family home to respond to a specific problem or behavior identified by the child's parent or guardian and the services coordinator. Behavior consultation services must be documented in a Behavior Support Plan prior to final payment for the services.

(a) Behavior consultation shall only be authorized to support a primary caregiver in their caregiving role, not as a replacement for an educational service offered through the school.

(b) Behavior consultation must include:

(A) Working with the family to identify:

(i) Areas of a child's family home life that are of most concern for the family and child;

(ii) The formal or informal responses the family or provider has used in those areas; and

(iii) The unique characteristics of the family that could influence the responses that would work with the child.

(B) ASSESSING THE CHILD. The behavior consultant utilized by the family must conduct an assessment and interact with the child in the family home and community setting in which the child spends most of their time. The assessment must include:

(i) Specific identification of the behaviors or areas of concern;

(ii) Identification of the settings or events likely to be associated with or to trigger the behavior;

(iii) Identification of early warning signs of the behavior;

(iv) Identification of the probable reasons that are causing the behavior and the needs of the child that are being met by the behavior, including the possibility that the behavior is:

(I) An effort to communicate;

(II) The result of a medical condition;

(III) The result of an environmental cause; or

(IV) The symptom of an emotional or psychiatric disorder.

(v) Evaluation and identification of the impact of disabilities (i.e. autism, blindness, deafness, etc.) that impact the development of strategies and affect the child and the area of concern;

(vi) An assessment of current communication strategies; and

(vii) Identification of possible alternative or replacement behaviors.

(C) Developing a variety of positive strategies that assist the family and provider to help the child use acceptable, alternative actions to meet the child's needs in the most cost effective manner. These strategies may include changes in the physical and social environment, developing effective communication, and appropriate responses by a family and provider to the early warning signs.

(i) Positive, preventive interventions must be emphasized.

(ii) The least intrusive intervention possible must be used.

(iii) Abusive or demeaning interventions must never be used.

(iv) The strategies must be adapted to the specific disabilities of the child and the style or culture of the family.

(D) Developing emergency and crisis procedures to be used to keep the child, family, and provider safe. When interventions in the behavior of the child are necessary, positive, preventative, non-aversive interventions that conform to OIS must be utilized. The Division does not pay a provider to use physical restraints on a child receiving long-term support.

(E) Developing a written Behavior Support Plan consistent with OIS that includes the following:

(i) Use of clear, concrete language and in a manner that is understandable to the family and provider; and

(ii) Describes the assessment, recommendations, strategies, and procedures to be used.

(F) Teaching the provider and family the recommended strategies and procedures to be used in the child's natural environment.

(G) Monitoring, assessing, and revising the Behavior Support Plan as needed based on the effectiveness of implemented strategies. If protective physical intervention techniques are included in the Behavior Support Plan for use by the family, monthly practice of the technique must be observed by an OIS approved trainer.

(c) Behavior consultation does not include:

(A) Mental health therapy or counseling;

(B) Health or mental health plan coverage; or

(C) Educational services including but not limited to consultation and training for classroom staff, adaptations to meet the needs of the child at school, assessment in the school setting for the purposes of an Individualized Education Program, or any service identified by the school as required to carry out the child's Individualized Education Program.

(3) SPECIALIZED CONSULTATION – NURSING DELEGATION.

(a) Nursing delegation is the purchase of individualized consultation from a nurse in order to delegate tasks of nursing services in select situations. Tasks of nursing care are those procedures that require nursing education and licensure of a nurse to perform as described in OAR chapter 851, division 047.

(b) The Division requires nursing delegation for unlicensed providers paid with long-term support funds when a child requires tasks of nursing care.

(4) ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS.

(a) Environmental accessibility adaptations include:

(A) Physical adaptations to a family home that are necessary to ensure the health, welfare, and safety of the child in the family home due to the child's developmental disability or that are necessary to enable the child to function with greater independence around the family home and in family activities;

(B) Environmental modification consultation to determine the appropriate type of adaptation to ensure the health, welfare, and safety of the child; and

(C) Motor vehicle adaptations for the primary vehicle used by the child that are necessary to meet the unique needs of the child and ensure the health, welfare, and safety of the child.

(b) Environmental accessibility adaptations exclude:

(A) Adaptations or improvements to the family home that are of general utility and are not for the direct safety, remedial, or long term benefit to the child;

(B) Adaptations that add to the total square footage of the family home; and

(C) General repair or maintenance and upkeep required for the family home or motor vehicle, including repair of damage caused by the child.

(c) Funding for environmental accessibility adaptations is one time funding that is not continued in subsequent plan years. Funding for each environmental accessibility adaptation must be specifically approved through a regional process to ensure the specific adaptation is necessary to prevent out-of-home placement or to return the child to the family home, and to ensure that the proposed adaptation is cost effective. Environmental accessibility adaptations may only be included in a child's Annual Support Plan when all other public and private resources for the environmental accessibility adaptation have been exhausted.

(d) The CDDP must ensure that projects for environmental accessibility adaptations involving building renovation or new construction in or around a child's home costing \$5,000 or more per single instance or cumulatively over several modifications:

(A) Are approved by the Division before work begins and before final payment is made;

(B) Are completed or supervised by a contractor licensed and bonded in the State of Oregon; and

(C) That steps are taken as prescribed by the Division for protection of the Division's interest through liens or other legally available means.

(e) The CDDP must obtain written authorization from the owner of a rental structure before any environmental accessibility adaptations are made to that structure. This does not preclude any reasonable accommodation required under the Americans with Disabilities Act.

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(5) FAMILY CAREGIVER SUPPORTS. Family caregiver services assist families with unusual responsibilities of planning and managing provider services for their children.

(a) Family caregiver supports include:

(A) Child and family-centered planning facilitation and follow-up;

(B) Fiscal intermediary services to pay vendors and to carry out payroll and reporting functions when providers are domestic employees of the family; and

(C) Assistance with development of tools such as job descriptions, contracts, and employment agreements.

(b) Family caregiver supports exclude application fees and the cost of fingerprinting or other background check processing fee requirements.

(6) FAMILY TRAINING. Family training services include the purchase of training, coaching, counseling, and support that increase the family's ability to care for and maintain the child in the family home.

(a) Family training services include:

(A) Counseling services that assist the family with the stresses of having a child with a developmental disability.

(i) To be authorized, the counseling services must:

(I) Be provided by licensed providers including but not limited to psychologists licensed under ORS 675.030, professionals licensed to practice medicine under ORS 677.100, social workers licensed under ORS 675.530, and counselors licensed under ORS 675.715;

(II) Directly relate to the child's developmental disability and the ability of the family to care for the child; and

(III) Be short-term.

(ii) Counseling services are excluded for:

(I) Therapy that could be obtained through OHP or other payment mechanisms;

(II) General marriage counseling;

(III) Therapy to address family members' psychopathology;

(IV) Counseling that addresses stressors not directly attributed to the child;

(V) Legal consultation;

(VI) Vocational training for family members; and

(VII) Training for families to carry out educational activities in lieu of school.

(B) Registration fees for organized conferences, workshops, and group trainings that offer information, education, training, and materials about the child's developmental disability, medical, and health conditions.

(i) Conferences, workshops, or group trainings must be prior authorized and include those that:

(I) Directly relate to the child's developmental disability; and

(II) Increase the knowledge and skills of the family to care for and maintain the child in the family home.

(ii) Conference, workshop, or group trainings costs exclude:

(I) Registration fees in excess of \$500 per family for an individual event;

(II) Travel, food, and lodging expenses;

(III) Services otherwise provided under OHP or available through other resources; or

(IV) Costs for individual family members who are employed to care for the child.

(b) Funding for family training is one time funding that is not continued in subsequent plan years. Funding for each family training event must be specifically approved through a regional process to ensure the family training event is necessary to prevent out-of-home placement or to return the child to the family home, and to ensure the family training event is cost effective. Family training may only be included in a child's Annual Support Plan when all other public and private resources for the event have been exhausted.

(7) IN-HOME DAILY CARE. In-home daily care services include the purchase of direct provider support provided to the child in the family home or community by qualified individual providers and agencies. Provider assistance provided through in-home daily care must support the child to live as independently as appropriate for the child's age and must be based on the identified needs of the child, supporting the family in their primary caregiving role. Primary caregivers are expected to be present or immediately available during the provision of in-home daily care.

(a) In-home daily care services provided by qualified providers or agencies include:

(A) Basic personal hygiene - Assistance with bathing and grooming;

(B) Toileting, bowel, and bladder care - Assistance in the bathroom, diapering, external cleansing of perineal area, and care of catheters;

(C) Mobility - Transfers, comfort, positioning, and assistance with range of motion exercises;

(D) Nutrition - feeding and monitoring intake and output;

(E) Skin care - Dressing changes;

(F) Physical healthcare including delegated nursing tasks;

(G) Supervision - Providing an environment that is safe and meaningful for the child and interacting with the child to prevent danger to the child and others, and maintain skills and behaviors required to live in the home and community;

(H) Assisting the child with appropriate leisure activities to enhance development in and around the family home and provide training and support in personal environmental skills;

(I) Communication - Assisting the child in communicating, using any means used by the child;

(J) Neurological - Monitoring of seizures, administering medication, and observing status; and

(K) Accompanying the child and family to health related appointments.

(b) In-home daily care services must:

(A) Be previously authorized by the CDDP before services begin;

(B) Be necessary to resolve the crisis and documented in the child's Annual Support Plan;

(C) Be delivered through the most cost effective method as determined by the services coordinator; and

(D) Only be provided when the child is present to receive services.

(c) In-home daily care services exclude:

(A) Hours that supplant the natural supports and services available from family, community, other government or public services, insurance plans, schools, philanthropic organizations, friends, or relatives;

(B) Hours to allow a primary caregiver to work or attend school;

(C) Hours that exceed what is necessary to resolve the crisis;

(D) Support generally provided at the child's age by parents or other family members;

(E) Educational and supportive services provided by schools as part of a free and appropriate education for children and young adults under the Individuals with Disabilities Education Act;

(F) Services provided by the family; and

(G) Home schooling.

(d) In-home daily care services may not be provided on a 24-hour shift-staffing basis. The child's primary caregiver is expected to provide at least eight hours of care and supervision for the child each day with the exception of overnight respite. The eight hours of care and supervision may not include hours when the child's primary caregiver is sleeping.

(8) RESPITE. Respite services are provided to a child on a periodic or intermittent basis furnished because of the temporary absence of, or need for relief of, the primary caregiver.

(a) Respite may include both day and overnight services that may be provided in:

(A) The family home;

(B) A licensed, certified, or otherwise regulated setting;

(C) A qualified provider's home. If overnight respite is provided in a qualified provider's home, the CDDP and the child's parent or guardian must document that the home is a safe setting for the child; or

(D) Disability-related or therapeutic recreational camp.

(b) The CDDP shall not authorize respite services:

(A) To allow primary caregivers to attend school or work;

(B) That are ongoing and occur on more than a periodic schedule, such as eight hours a day, five days a week;

(C) On more than 14 consecutive overnight stays in a calendar month;

(D) For more than 10 days per individual plan year when provided at a specialized camp;

(E) For vacation travel and lodging expenses; or

(F) To pay for room and board if provided at a licensed site or specialized camp.

(9) SPECIALIZED EQUIPMENT AND SUPPLIES. Specialized equipment and supplies include the purchase of devices, aids, controls, supplies, or appliances that are necessary to enable a child to increase their abilities to perform and support activities of daily living, or to perceive, control, or communicate with the environment in which they live.

(a) The purchase of specialized equipment and supplies may include the cost of a professional consultation, if required, to assess, identify, adapt, or fit specialized equipment. The cost of professional consultation may be included in the purchase price of the equipment.

(b) To be authorized by the CDDP, specialized equipment and supplies must:

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- (A) Be in addition to any medical equipment and supplies furnished under OHP and private insurance;
 - (B) Be determined necessary to the daily functions of the child; and
 - (C) Be directly related to the child's disability.
- (c) Specialized equipment and supplies exclude:
- (A) Items that are not necessary or of direct medical or remedial benefit to the child;
 - (B) Specialized equipment and supplies intended to supplant similar items furnished under OHP or private insurance;
 - (C) Items available through family, community, or other governmental resources;
 - (D) Items that are considered unsafe for the child;
 - (E) Toys or outdoor play equipment; and
 - (F) Equipment and furnishings of general household use.
- (d) Funding for specialized equipment with an expected life of more than one year is one time funding that is not continued in subsequent plan years. Funding for each specialized equipment purchase must be specifically approved through a regional process to ensure the support is necessary to prevent out-of-home placement or to return the child to the family home, and to ensure the support is cost effective. Specialized equipment may only be included in a child's Annual Support Plan when all other public and private resources for the equipment have been exhausted.
- (e) The CDDP must secure use of equipment or furnishings costing more than \$500 through a written agreement between the CDDP and the child's parent or guardian that specifies the time period the item is to be available to the child and the responsibilities of all parties should the item be lost, damaged, or sold within that time period. Any equipment or supplies purchased with long-term support funds that are not used according to the child's Annual Support Plan, or according to an agreement securing the state's use, may be immediately recovered.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 427.005, 427.007, & 430.610 - 430.670
Hist.: SPD 7-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 20-2009, f. 12-23-09, cert. ef. 12-28-09; SPD 4-2011(Temp), f. & cert. ef. 2-1-11 thru 7-31-11

Rule Caption: Certification change for supported living, proctor care residential, and employment and alternatives to employment services.

Adm. Order No.: SPD 5-2011(Temp)

Filed with Sec. of State: 2-7-2011

Certified to be Effective: 2-7-11 thru 8-1-11

Notice Publication Date:

Rules Amended: 411-328-0570, 411-328-0810, 411-335-0030, 411-335-0050, 411-335-0380, 411-345-0030, 411-345-0100, 411-345-0260

Subject: In response to legislatively required budget reductions effective October 1, 2010, the Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is changing the certification period to five years for:

- OAR chapter 411, division 328, Supported Living Services;
- OAR chapter 411, division 335, Proctor Care Residential Services; and
- OAR chapter 411, division 345, Employment and Alternatives to Employment Services.

In addition, language associated with the certification timeframe and provider expectations is also being changed to comply with the five year cycle.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-328-0570

Issuance of Certificate

- (1) No person or governmental unit acting individually or jointly with any other person or governmental unit shall establish, conduct, maintain, manage, or operate a supported living program without being certified.
- (2) Each certificate is issued only for the supported living program and persons or governmental units named in the application and is not transferable or assignable.
- (3) A certificate issued on or before February 1, 2009 shall be valid for a maximum of five years unless revoked or suspended.
- (4) As part of the certificate renewal process, the service provider must conduct a self-evaluation based upon the requirements of this rule.
- (a) The service provider must document the self-evaluation information on forms provided by the Division;

- (b) The service provider must develop and implement a plan of improvement based upon the findings of the self-evaluation; and
- (c) The service provider must submit these documents to the local CDDP with a copy to the Division.
- (5) The Division shall conduct a review of the service provider prior to the issuance of a certificate.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670
Hist.: MHD 5-1992, f. 8-21-92, cert. ef. 8-24-92; MHD 3-1997, f. & cert. ef. 2-7-97; Renumbered from 309-041-0570 by SPD 17-2009, f. & cert. ef. 12-9-09; SPD 5-2011(Temp), f. & cert. ef. 2-7-11 thru 8-1-11

411-328-0810

Program Management

- (1) **NON-DISCRIMINATION.** The program must comply with all applicable state and federal statutes, rules, and regulations in regard to non-discrimination in employment practices.
- (2) **PROHIBITION AGAINST RETALIATION.** A community program or service provider may not retaliate against any staff who reports in good faith suspected abuse or retaliate against the adult with respect to any report. An alleged perpetrator may not self-report solely for the purpose of claiming retaliation.
 - (a) Any community facility, community program, or person that retaliates against any person because of a report of suspected abuse or neglect shall be liable according to ORS 430.755, in a private action to that person for actual damages and, in addition, shall be subject to a penalty up to \$1000, notwithstanding any other remedy provided by law.
 - (b) Any adverse action is evidence of retaliation if taken within 90 days of a report of abuse. Adverse action means only those actions arising solely from the filing of an abuse report. For purposes of this subsection, "adverse action" means any action taken by a community facility, community program, or person involved in a report against the person making the report or against the adult because of the report and includes but is not limited to:
 - (A) Discharge or transfer from the community program, except for clinical reasons;
 - (B) Discharge from or termination of employment;
 - (C) Demotion or reduction in remuneration for services; or
 - (D) Restriction or prohibition of access to the community program or the residents served by the program.
- (3) **DOCUMENTATION REQUIREMENTS.** All entries required by this rule, unless stated otherwise, must:
 - (a) Be prepared at the time, or immediately following the event being recorded;
 - (b) Be accurate and contain no willful falsifications;
 - (c) Be legible, dated, and signed by the person making the entry; and
 - (d) Be maintained for no less than five years.
- (4) **DISSOLUTION.** Prior to the dissolution of a program, a representative of the governing body or owner must notify the Division 30 days in advance in writing and make appropriate arrangements for the transfer of individuals' records.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670
Hist.: MHD 5-1992, f. 8-21-92, cert. ef. 8-24-92; MHD 3-1997, f. & cert. ef. 2-7-97; Renumbered from 309-041-0810 by SPD 17-2009, f. & cert. ef. 12-9-09; SPD 5-2011(Temp), f. & cert. ef. 2-7-11 thru 8-1-11

411-335-0030

Agency Management and Personnel Practices

- (1) **NON-DISCRIMINATION.** The agency must comply with all applicable state and federal statutes, rules, and regulations in regard to non-discrimination in employment practices.
- (2) **BASIC PERSONNEL POLICIES AND PROCEDURES.** The agency must have and implement personnel policies and procedures that address suspension, increased supervision, or other appropriate disciplinary employment procedures when an agency staff member, or subcontractor including respite providers and volunteers, has been identified as an accused person in an abuse investigation or when the allegation of abuse has been substantiated. Policy must reflect that any incurred crime as described under the criminal records check rules in OAR 407-007-0200 to 407-007-0370 shall be reported to the agency.
- (3) **APPLICATION FOR EMPLOYMENT.** An application for employment at the agency must inquire whether an applicant has had any founded reports of child abuse or substantiated abuse.
- (4) **CRIMINAL RECORDS CHECKS.** Any employee, volunteer, proctor provider, respite provider, crisis provider, advisor, skill trainer, or any subject individual defined by OAR 407-007-0200 to 407-007-0370, who has or will have contact with a resident of the agency, must have an

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approved criminal records check in accordance with OAR 407-007-0200 to 407-007-0370 and under ORS 181.534.

(a) Effective July 28, 2009, the agency may not use public funds to support, in whole or in part, a person as described in section (4) of this rule in any capacity who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(b) Section (4)(a) of this rule does not apply to employees of the proctor provider or proctor agency who were hired prior to July 28, 2009 and remain in the current position for which the employee was hired.

(c) Any employee, volunteer, proctor provider, respite provider, crisis provider, advisor, skill trainer, or any subject individual defined by OAR 407-007-0200 to 407-007-0370 must self-report any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The person must notify the Department or its designee within 24 hours.

(5) INVESTIGATIONS. For investigations conducted by the Department or the Department's designee in homes certified for children, the definitions of abuse described in ORS 419B.005 and OAR 407-045-0260 shall apply.

(6) PROHIBITION AGAINST RETALIATION. The agency may not retaliate against any agency staff member, subcontractor including respite providers and volunteers, or proctor providers that report in good faith suspected abuse, or retaliate against the individual, with respect to any report. An accused person may not self-report solely for the purpose of claiming retaliation.

(a) Any community facility, community program, or person that retaliates against any person because of a report of suspected abuse or neglect shall be liable according to ORS 430.755, in a private action to that person for actual damages and, in addition, shall be subject to a penalty up to \$1000, notwithstanding any other remedy provided by law.

(b) Any adverse action is evidence of retaliation if taken within 90 days of a report of abuse. For purposes of this subsection, "adverse action" means any action taken by a community facility, community program, or person involved in a report against the person making the report or against the individual because of the report and includes but is not limited to:

(A) Discharge or transfer from the program, except for clinical reasons;

(B) Discharge from or termination of employment;

(C) Demotion or reduction in remuneration for services; or

(D) Restriction or prohibition of access to the program or the individuals served by the program.

(7) RESPONSIBILITIES OF PROCTOR AGENCY. The proctor agency must:

(a) Implement policies and procedures to assure support, health, safety, and crisis response for individuals served, including policies and procedures to assure necessary training of agency staff and proctor providers.

(b) Implement policies and procedures to assure that provider payment and agency support is commensurate to the support needs of individuals enrolled in the proctor care services. Policies and procedures must include frequency of review.

(c) Implement policies and procedures to assure support, health, safety, and crisis response for individuals placed in all types of respite care, including policies and procedures to assure training of respite care providers. The types of respite care include but are not limited to:

(A) Respite care in the proctor provider's home during day hours only;

(B) Respite care in the home of someone other than the proctor provider for day time only;

(C) Overnight care in the proctor provider's home; and

(D) Overnight care at someone other than the proctor provider's home.

(d) Implement policies and procedures to assure confidentiality of individuals in service and of family information.

(e) Implement policies and procedures to review and document that each child enrolled in proctor care services continues to require such services. Policies and procedures must include frequency of review and the criteria as listed below.

(A) The child's need for a formal Behavior Support Plan based on the Risk Tracking Record and functional assessment of the behavior.

(B) The child has been stable and generally free of serious behavioral or delinquency incidents for the past 12 months.

(C) The child has been free of psychiatric hospitalization (hospital psychiatric unit, Oregon State Hospital, and sub acute) for the last 12 months, except for assessment and evaluation.

(D) The child poses no significant risk to self or community.

(E) The proctor provider has not needed or utilized the agency crisis services in response to the child's medical, mental health, or behavioral needs more than one time in the past 12 months.

(F) The proctor provider is successfully supporting the child over time, with a minimum of agency case management contact other than periodic monitoring and check in.

(G) The proctor provider does not require professional support for the child, and there has been or could be a reduction in ongoing weekly professional support for the child including consultation, skill training, and staffing.

(H) The proctor agency is not actively working with the child's family to return the child to the family home.

(f) ADULTS IN PROCTOR SERVICES. Implement policies and procedures where the ISP Team evaluates annually the adult individual's support needs and need for proctor services.

(g) Assure that preliminary certification or licensing activities (whichever is appropriate) are completed per the relevant foster care statutes and OAR chapter 411, divisions 346 or 360. Such work must be submitted to the Division for final review and approval.

(h) Complete an initial home study for all proctor provider applicants that are updated at the certification renewal for all licensed or certified proctor providers.

(i) Provide and document training and support to agency staff, proctor providers, subcontractors, volunteers, and respite providers to maintain the health and safety of the individuals served.

(j) Provide and document training and support to the agency staff, proctor providers, subcontractors, volunteers, and respite providers to implement the ISP process, including completion of a Risk Tracking Record, development of protocols and BSP for each individual served, and the development of the ISP.

(k) Have a plan for emergency back-up for home provider including but not limited to use of crisis respite, other proctor homes, additional staffing, and behavior support consultations.

(l) Coordinate and document entries, exits, and transfers.

(m) Report to the Division, and the CDDP, any placement changes due to a Crisis Plan made outside of normal working hours. Notification must be made by 9:00 a.m. of the first working day after the change has happened.

(n) Assure that each proctor provider has a current Emergency Disaster Plan on file in the proctor provider home, in the agency office, and provided to the CDDP and any case manager of an individual who is not an employee of the local CDDP.

(o) Assure emergency backup in the event the proctor provider is unavailable.

(8) GENERAL REQUIREMENTS FOR SAFETY AND TRAINING. All volunteers having contact with the individual, proctor providers, substitute caregivers, respite providers, child care providers, and agency staff, except for those providing services in a crisis situation, must:

(a) Receive training specific to the individual. This training must at a minimum consist of basic information on environment, health, safety, ADLs, positive behavioral supports, and behavioral needs for the individual, including the ISP, BSP, required protocols, and any emergency procedures. Training must include required documentation for health, safety, and behavioral needs of the individual.

(b) Receive OIS training. OIS certification is required if physical intervention is likely to occur as part of the BSP. Knowledge of OIS principles, not certification is required if it is unlikely that physical intervention shall be required.

(c) Receive mandatory reporter training.

(d) Receive confidentiality training.

(e) Be at least 18 years of age and have a valid social security card.

(f) Be cleared by the Department's criminal records check requirements.

(g) Have a valid Oregon driver's license and proof of insurance.

(h) Receive training in applicable agency policies and procedures.

(9) In addition to the above general requirements, the following requirements must be met for each specific provider classification as listed below.

(a) PROCTOR PROVIDERS:

(A) Must receive and maintain current First Aid and CPR training.

(B) Must have knowledge of these rules and OAR divisions 346 or 360 as appropriate to their license or certificate.

(b) SKILLS TRAINERS, ADVISORS, OR OTHER AGENCY STAFF:

(A) Must receive and maintain current First Aid and CPR training.

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(B) Must have knowledge of these rules and OAR divisions 346 or 360.

(C) Anyone age 18 or older, living in an agency staff persons uncertified home must have an approved Department criminal records check per OAR 407-007-0200 to 407-007-0370 and as described in section (4) of this rule, prior to any visit of an individual to the staff person's home.

(D) Must assure health and safety guidelines for alternative caregivers including but not limited to the following:

(i) The home and premises must be free from objects, materials, pets, and conditions that constitute a danger to the occupants and the home and premises must be clean and in good repair.

(ii) Any sleeping room used for an individual in respite must be finished, attached to the house, and not a common living area, closet, storage area, or garage. If a child is staying overnight, the sleeping arrangements must be safe and appropriate to the individual's age, behavior, and support needs.

(iii) The home must have tubs or showers, toilets, and sinks that are operable and in good repair with hot and cold water.

(iv) The alternative caregivers must have access to a working telephone in the home, and must have a list of emergency telephone numbers and know where the numbers are located.

(v) All medications, poisonous chemicals, and cleaning materials must be stored in a way that prevents the individuals from accessing them, unless otherwise addressed in an individual's ISP.

(vi) Firearms must be stored unloaded. Firearms and ammunition must be stored in separate locked locations. Loaded firearms must never be carried in any vehicle while it is being used to transport an individual.

(vii) First aid supplies must be available in the home and in the vehicles that shall be used to transport an individual.

(c) RESPITE PROVIDERS.

(A) IN PROCTOR PROVIDER HOME – DAY OR NIGHT:

(i) Must be trained on basic health needs of the individuals in service.

(ii) Must be trained on basic safety in the home including but not limited to first aid supplies, the Emergency Plan, and the Fire Evacuation Plan.

(B) IN OTHER THAN PROCTOR PROVIDER HOME – DAY OR NIGHT.

Must assure health and safety guidelines for alternative caregivers, including but not limited to:

(i) The home and premises must be free from objects, materials, pets, and conditions that constitute a danger to the occupants and the home and premises must be clean and in good repair.

(ii) Any sleeping room used for an individual in respite must be finished, have a window that may be opened, be attached to the house, and not a common living area, storage area, closet, or garage. If the individual is staying overnight, the sleeping arrangements must be safe and appropriate to the individual's age, behavior, and support needs.

(iii) The home must have tubs or showers, toilets, and sinks that are operable and in good repair with hot and cold water.

(iv) The alternative caregivers must have access to a working telephone in the home and must have a list of emergency telephone numbers and know where the numbers are located.

(v) All medications, poisonous chemicals, and cleaning materials must be stored in a way that prevents an individual from accessing them.

(vi) Firearms must be stored unloaded. Firearms and ammunition must be stored in separate locked locations. Loaded firearms must never be carried in any vehicle while it is being used to transport an individual.

(vii) First aid supplies must be available in the home and in the vehicles that shall be used to transport individuals.

(d) ALTERNATE CAREGIVERS.

(A) DAY CARE, CAMP:

(i) When a child is cared for by a child care provider, camp, or child care center, the proctor agency must assure that the camp, provider home, or center is certified, licensed, or registered as required by the Child Care Division (ORS 657A.280). The agency must also assure that the ISP team is in agreement with the plan for the child to attend the camp, child care center, or child care provider home.

(ii) Adults participating in employment or alternatives to employment must have such services addressed in their ISP. Any camping or alternative day service experience must be addressed in the ISP and approved by the ISP team.

(B) SOCIAL ACTIVITIES FOR LESS THAN 24 HOURS, INCLUDING OVERNIGHT ARRANGEMENTS:

(i) The proctor agency must assure the person providing care is capable of assuming all care responsibilities and shall be present at all times.

(ii) The proctor agency must assure that the ISP team is in agreement with the planned social activity.

(iii) The proctor agency must assure that the proctor provider maintains back-up responsibilities for the person in service.

(10) GENERAL CRISIS REQUIREMENTS FOR INDIVIDUALS ALREADY IN PROCTOR AGENCY HOMES.

(a) Crisis service providers must:

(A) Be at least 18 years of age.

(B) Have initial and annual approval to work based on current Department policies and procedures for review of criminal records check per OAR 407-007-0200 to 407-007-0370 and as described in section (4) of this rule, prior to supervising any individual. Providers serving children must also have a child welfare check completed on an annual basis.

(C) Upon placement of the individual, have knowledge of the individual's needs. This knowledge must consist of basic information on health, safety, ADLs, and behavioral needs for the individual, including the ISP, BSP, and required protocols. Training for the provider must include information on required documentation for health, safety, and behavioral needs of the individual.

(b) The agency must:

(A) Make follow-up contact with the crisis providers within 24 hours of the placement to assess and assure the individual's and provider's support needs are met.

(B) Initiate transition planning with the ISP team and document the plan within 72 hours.

(11) MANDATORY ABUSE REPORTING PERSONNEL POLICIES AND PROCEDURES. Proctor agency staff and caregivers are mandatory reporters. Upon reasonable cause to believe that abuse has occurred, all members of the household and any proctor providers, substitute caregivers, agency employees, independent contractors, or volunteers must report pertinent information to the Department, the CDDP, or law enforcement. For reporting purposes the following shall apply:

(a) Notification of mandatory reporting status must be made at least annually to all proctor providers, agency employees, substitute caregivers, subcontractors, and volunteers, on forms provided by the Department.

(b) All agency employees and proctor providers must be provided with a Department produced card regarding abuse reporting status and abuse reporting requirements.

(12) DIRECTOR QUALIFICATIONS. The proctor agency must be operated under the supervision of a Director who has a minimum of a bachelor's degree and two years of experience, including supervision, in developmental disabilities, mental health, rehabilitation, social services, or a related field. Six years of experience in the identified fields may be substituted for a degree.

(13) QUALIFICATIONS FOR PROCTOR AGENCY STAFF AND PROCTOR PROVIDERS INCLUDING SUBCONTRACTORS AND VOLUNTEERS. Any agency staff including skill trainers, respite providers, substitute caregivers, subcontractors, and volunteers must meet the following criteria:

(a) Be at least 18 years of age and have a valid social security card.

(b) Have approval to work based on Department policies and a criminal records check completed by the Department as described in section (4) of this rule.

(c) Disclosed any founded reports of child abuse or substantiated abuse.

(d) Be literate and capable of understanding written and oral orders, be able to communicate with individual's physicians, services coordinators, and appropriate others, and be able to respond to emergency situations at all times.

(e) Have met the basic qualification in the agency's Competency Based Training Plan.

(f) Meet any additional qualifications specified for substitute caregivers in OAR 411-360-0110 and OAR 411-360-0120 if working in a home licensed as an adult foster home for individuals with developmental disabilities.

(14) PERSONNEL FILES AND QUALIFICATION RECORDS. The agency must maintain clear, written, signed, and up-to-date job descriptions and respite agreements when applicable, as well as a file available to the Department or CDDP for inspection that includes written documentation of the following for each agency employee:

(a) Written documentation that references and qualifications were checked.

(b) Written documentation of an approved criminal records check by the Department as required by OAR 407-007-0200 to 407-007-0370.

(c) Written documentation of employees' notification of mandatory abuse training and reporter status prior to supervising individuals and annually thereafter.

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(d) Written documentation of any founded reports of child abuse or substantiated abuse.

(e) Written documentation kept current that the agency staff person has demonstrated competency in areas identified by the agency's Competency Based Training Plan as required by Oregon's Core Competencies defined in OAR 411-335-0020 and that is appropriate to their job description.

(f) Written documentation of 12 hours of job-related in-service training annually.

(g) Proctor providers must meet all of the standards in these rules and the standards that apply to the specific type of foster home:

(A) The child foster home certification standards in OAR chapter 411, division 346.

(B) The adult foster home licensing standards in OAR chapter 411, division 360.

(C) The child welfare administrative rules in OAR chapter 413, divisions 200 and 220.

(15) AGENCY DOCUMENTATION REQUIREMENTS. All documentation required by these rules must:

(a) Be prepared at the time, or immediately following the event being recorded.

(b) Be accurate and contain no willful falsification.

(c) Be legible, dated, and signed by the person making the entry.

(d) Be maintained for no less than five years.

(e) Be made readily available for the purposes of inspection.

(16) DISSOLUTION OF AGENCY. Prior to the dissolution of an agency, a representative of the governing body or owner of the agency must notify the Division 30 days in advance in writing and make appropriate arrangement for the transfer of individual's records.

Stat. Auth.: ORS 409.050, 410.070, 427.005, 427.007, & 430.215

Stats. Implemented: ORS 430.021 & 430.610 - 430.670

Hist.: SPD 33-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 32-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 2-2010(Temp), f. & cert. ef. 3-18-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 5-2011(Temp), f. & cert. ef. 2-7-11 thru 8-1-11

411-335-0050

Issuance of Proctor Care Agency Certificate

(1) No person, agency, or governmental unit acting individually or jointly with any other person, agency, or governmental unit shall establish, conduct, maintain, manage, or operate Department funded proctor services in proctor provider homes for individuals with developmental disabilities without being certified by the Department for each home or facility.

(2) No certificate is transferable or applicable to any other agency, management agent, or ownership other than that indicated on the application and certificate.

(3) The Department shall issue a certificate to an agency found to be in compliance with these rules. A certificate issued on or before February 1, 2009 shall be valid for five years unless revoked or suspended.

(4) Any home managed and contracted to serve children with developmental disabilities by a proctor care agency under this certificate must be certified by the Department in accordance with the Division's rules for children's foster provider homes: OAR chapter 411, division 346.

(5) Any home managed and contracted to serve adults with developmental disabilities must be licensed as an adult foster home for adults with developmental disabilities (AFH-DD) in accordance with OAR chapter 411, division 360.

Stat. Auth.: ORS 409.050, 410.070, 427.005, 427.007, & 430.215

Stats. Implemented: ORS 430.021 & 430.610 - 430.670

Hist.: SPD 33-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 32-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 5-2011(Temp), f. & cert. ef. 2-7-11 thru 8-1-11

411-335-0380

Conditions

(1) Conditions may be attached to a certificate upon a finding that:

(a) Information on the application or initial inspection requires a condition to protect the health and safety of individuals;

(b) There exists a threat to the health, safety, and welfare of individuals;

(c) There is reliable evidence of abuse, neglect, or exploitation;

(d) The home or agency is not being operated in compliance with these rules; or

(e) The proctor provider is certified to care for a specific person only and further placements may not be made into that home or facility.

(2) Conditions that may be imposed on a certificate include but are not limited to:

(a) Restricting the total number of individuals;

(b) Restricting the number and support level of individuals allowed within a certified classification level based upon the capacity of the proctor provider and agency staff to meet the health and safety needs of all individuals;

(c) Reclassifying the level of individuals that can be served;

(d) Requiring additional agency staff or agency staff qualifications;

(e) Requiring additional training of proctor providers and agency staff;

(f) Requiring additional documentation; or

(g) Restriction of admissions.

(3) The agency shall be notified in writing of any conditions imposed, the reason for the conditions, and be given an opportunity to request a hearing under ORS 183.310 to 183.502.

(4) In addition to, or in lieu of, a contested case hearing, an agency may request a review by the Administrator or designee of conditions imposed by the Department. The review does not diminish the agency's right to a hearing.

(5) Conditions may be imposed for the duration of the certificate period (five years) or limited to some other shorter period of time. If the condition corresponds to the certification period, the reasons for the condition shall be considered at the time of renewal to determine if the conditions are still appropriate. The effective date and expiration date of the condition shall be indicated on an attachment to the certificate.

Stat. Auth.: ORS 410.070, 409.050, 427.005 - 427.007 & 430.215

Stats. Implemented: ORS 430.021(4) & 430.610 - 430.670

Hist.: SPD 33-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 32-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 5-2011(Temp), f. & cert. ef. 2-7-11 thru 8-1-11

411-345-0030

Issuance of Certificate

(1) No person or governmental unit acting individually or jointly with any other person or governmental unit shall establish, conduct, maintain, manage, or operate an employment or alternative to employment service without being certified.

(2) Each certificate is issued only for the employment or alternative to employment service and persons or governmental units named in the application. No certificate is transferable or assignable.

(3) A certificate issued on or after February 1, 2008 shall be valid for a maximum of five years unless revoked or suspended.

(4) As part of the certificate renewal process the service provider must conduct a self-evaluation based upon the requirements of this rule.

(a) The service provider must document the self-assessment on forms provided by the Department;

(b) The service provider must develop and implement a plan of improvement based upon the findings of the self-evaluation; and

(c) The service provider must submit these documents to the local CDDP with a copy to the Department.

(5) The Department shall conduct a review of the service provider prior to the issuance of a certificate.

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

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630 & 430.670

Hist.: MHD 26-1982(Temp), f. & ef. 12-3-82; MHD 9-1983, f. & ef. 6-7-83; MHD 7-1990(Temp), f. & cert. ef. 6-12-90; MHD 13-1990, f. & cert. ef. 12-7-90; MHD 1-1997, f. & cert. ef. 1-31-97; Renumbered from 309-047-0010, SPD 23-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 5-2011(Temp), f. & cert. ef. 2-7-11 thru 8-1-11

411-345-0100

Program Management

(1) NONDISCRIMINATION. The service must comply with all applicable state and federal statutes, rules, and regulations in regard to nondiscrimination in employment practices.

(2) PROHIBITION AGAINST RETALIATION. A community program or service provider may not retaliate against any staff that reports in good faith suspected abuse or retaliate against the individual with respect to any report. An accused person may not self-report solely for the purpose of claiming retaliation.

(a) Any community facility, community program, or person that retaliates against any person because of a report of suspected abuse or neglect shall be liable according to ORS 430.755, in a private action to that person for actual damages and, in addition, shall be subject to a penalty up to \$1000, notwithstanding any other remedy provided by law.

(b) Any adverse action is evidence of retaliation if taken within 90 days of a report of abuse. Adverse action means only those actions arising solely from the filing of an abuse report. For purposes of this subsection, "adverse action" means any action taken by a community facility, community program, or person involved in a report against the person making the

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report or against the adult because of the report and includes but is not limited to:

(A) Discharge or transfer from the community program, except for clinical reasons;

(B) Discharge from or termination of employment;

(C) Demotion or reduction in remuneration for services; or

(D) Restriction or prohibition of access to the community program or the individuals served by the program.

(3) DOCUMENTATION REQUIREMENTS. All entries required by these rules, unless stated otherwise, must:

(a) Be prepared at the time, or immediately following the event being recorded;

(b) Be accurate and contain no willful falsifications;

(c) Be legible, dated, and signed by the person making the entry; and

(d) Be maintained for no less than five years.

(4) PROVIDER SERVICE PAYMENT LIMITATION.

(a) Effective February 1, 2010, monthly service rates, as authorized in Division payment and reporting systems for individuals enrolled in employment and alternatives to employment services and paid to certified providers for delivering employment or alternatives to employment services as described in these rules, shall be limited to a maximum of \$1,800 per month.

(b) An exception to the provider service payment limitation, only for costs of directly supporting the individual served, may be granted by the Division if documentation supports the following criteria are met:

(A) The individual has a current behavior or health condition, as well as a documented history of such, posing a risk to the individual's health and welfare or that of others; AND

(B) The individual has a current employment and alternatives to employment service rate and ISP requiring at least 1:1 staffing for purposes of meeting behavioral or medical support needs; AND

(C) Steps have been taken to address the existing behavior or condition within the \$1,800 cap and there is continued risk to health and safety of self or others, regardless of setting.

(c) Special conditions shall be required in the provider contract. The Division or the Division's designee shall monitor services to assure their delivery and the continued need for additional funds.

(5) INDEPENDENCE, PRODUCTIVITY, AND INTEGRATION. As stated in ORS 427.007 the service must have a written policy that states that each individual's ISP is developed to meet each of the following:

(a) Employment and activities that address each individual's level of independence;

(b) Employment and activities that address each individual's productivity; and

(c) Employment and activities that address each individual's integration into the local community.

(6) DISSOLUTION OF SERVICE. Prior to the dissolution of a service, a representative of the governing body or owner of the service must notify the Department in writing 30 days in advance and make appropriate arrangements for the transfer of individual records.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630 & 430.670

Hist.: MHD 26-1982(Temp), f. & ef. 12-3-82; MHD 9-1983, f. & ef. 6-7-83; MHD 7-1990(Temp), f. & cert. ef. 6-12-90; MHD 13-1990, f. & cert. ef. 12-7-90; MHD 1-1997, f. & cert. ef. 1-31-97; Renumbered from 309-047-0045, SPD 23-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 12-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 5-2011(Temp), f. & cert. ef. 2-7-11 thru 8-1-11

411-345-0260

Health and Safety: Physical Environment

(1) COMMUNITY BASED SERVICES. All supported employment and community based services must ensure that the site has no known health or safety hazards in its immediate environment and that individuals are trained to avoid recognizable hazards.

(2) OWNED, LEASED, OR RENTED BUILDINGS AND PROPERTY. The service must assure that at least once every five years, a health and safety inspection is conducted.

(a) The inspection must cover all areas and buildings where services are delivered to individuals, administrative offices, and storage areas.

(b) The inspection may be performed by:

(A) Oregon Occupational Safety and Health Division;

(B) The service's workers compensation insurance carrier; or

(C) An appropriate expert such as a licensed safety engineer or consultant as approved the Department; and

(D) The Oregon Health Department, when necessary.

(c) The inspection must cover:

(A) Hazardous material handling and storage;

(B) Machinery and equipment used by the service;

(C) Safety equipment;

(D) Physical environment; and

(E) Food handling, when necessary.

(d) The documented results of the inspection, including recommended modifications or changes, and documentation of any resulting action taken must be kept by the provider for five years.

(3) FIRE AND LIFE SAFETY INSPECTIONS FOR OWNED, LEASED, OR RENTED BUILDINGS AND PROPERTY. The service provider must ensure that each service site has annual fire and life safety inspections performed by the local fire authority or a Deputy State Fire Marshal. The documented results of the inspection, including documentation of recommended modifications or changes, and documentation of any resulting action taken must be kept by the provider for five years.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630 & 430.670

Hist.: MHD 7-1990(Temp), f. & cert. ef. 6-12-90; MHD 13-1990, f. & cert. ef. 12-7-90; MHD 1-1997, f. & cert. ef. 1-31-97; Renumbered from 309-047-0125, SPD 23-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 5-2011(Temp), f. & cert. ef. 2-7-11 thru 8-1-11

Rule Caption: Foster Homes for Children with Developmental Disabilities.

Adm. Order No.: SPD 6-2011(Temp)

Filed with Sec. of State: 2-10-2011

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Notice Publication Date:

Rules Amended: 411-346-0110, 411-346-0150, 411-346-0160, 411-346-0165, 411-346-0190, 411-346-0200, 411-346-0220

Subject: In response to legislatively required budget reductions effective October 1, 2010, the Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is temporarily amending various rules relating to foster homes for children with developmental disabilities (CFH-DD) in OAR chapter 411, division 346 to change the annual certification period to two years. Language associated with the certification timeframe and provider expectations for chimney inspection, emergency preparedness, and inactive referral status have also been changed to comply with the two year cycle.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-346-0110

Definitions

(1) "Abuse" means:

(a) Abuse of a child under the age of 18 as defined in ORS 419B.005; and

(b) Abuse of an adult as defined in OAR 407-045-0260 when an individual between the ages of 18 and 21 resides in a certified child foster home.

(2) "Alternate Caregiver" means any person 18 and older responsible for the care or supervision of a child in foster care.

(3) "Alternative Educational Plan (AEP)" means any school plan that does not occur within the physical school setting.

(4) "Appeal" means the process for a contested hearing under ORS chapter 183 that the foster provider may use to petition the suspension, denial, non-renewal, or revocation of their certificate or application.

(5) "Applicant" means a person who wants to become a child foster provider, lives at the residence where a child in foster care shall live, and is applying for a child foster home certificate or is renewing a child foster home certificate.

(6) "Assistant Director" means the assistant director of the Division, or that person's designee.

(7) "Aversive Stimuli" means the use of any natural or chemical product to alter a child's behavior such as the use of hot sauce or soap in the mouth and spraying ammonia or lemon water in the face of a child. Psychotropic medications are not considered aversive stimuli.

(8) "Behavior Supports" means a positive training plan used by the foster provider and alternate caregivers to help a child in foster care develop the self control and self direction necessary to assume responsibilities, make daily living decisions, and learn to conduct themselves in a manner that is socially acceptable.

(9) "Case Plan" means the goal-oriented, time-limited, individualized plan of action for a child and the child's family developed by the child's family and the Department's Children, Adults, and Families Division for promotion of the child's safety, permanency, and well being.

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(10) "Case Worker" means an employee of the Department's Children, Adults, and Families Division.

(11) "Certificate" means a document issued by the Division that notes approval to operate a child foster home for a period not to exceed two years.

(12) "Certifier" or "Certifying Agency" means the Division, Community Developmental Disability Program, or an agency approved by the Division who is authorized to gather required documentation to issue or maintain a child foster home certificate.

(13) "Child" means:

(a) An individual under the age of 18 who has a provisional eligibility determination of developmental disability by the Community Developmental Disability Program; or

(b) A young adult age 18 through 21 who is remaining in the same foster home for the purpose of completing their Individualized Education Plan, based on their Individual Support Plan team recommendation and an approved certification variance.

(14) "Child Foster Home (CFH)" means a home certified by the Division that is maintained and lived in by the person named on the foster home certificate.

(15) "Child Foster Home Contract" means an agreement between a provider and the Department that describes the responsibility of the foster care provider and the Department.

(16) "Child Placing Agency" means the Department, Community Developmental Disability Program, or the Oregon Youth Authority.

(17) "Commercial Basis" means providing and receiving compensation for the temporary care of individuals not identified as members of the household.

(18) "Community Developmental Disability Program (CDDP)" means an entity that is responsible for planning and delivery of services for individuals with developmental disabilities in a specific geographic service area of the state operated by or under a contract with the Division or a local mental health authority.

(19) "Denial" means the refusal of the certifying agency to issue a certificate of approval to operate a child foster home because the certifying agency has determined that the home or the applicant is not in compliance with one or more of these rules.

(20) "Department" means the Department of Human Services (DHS).

(21) "Developmental Disability (DD)" means a disability that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional. Developmental disabilities include mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with mental retardation, and the disability:

(a) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the condition must be manifested before the age of 18;

(b) Originates and directly affects the brain and has continued, or must be expected to continue, indefinitely;

(c) Constitutes a significant impairment in adaptive behavior; and

(d) Is not primarily attributed to a mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder.

(22) "DHS-CW" means the child welfare program area within the Department's Children, Adults, and Families Division.

(23) "Direct Nursing Services" means the provision of individual-specific advice, plans, or interventions, based on nursing process as outlined by the Oregon State Board of Nursing, by a nurse at the home or facility. Direct nursing service differs from administrative nursing services. Administrative nursing services include non-individual-specific services, such as quality assurance reviews, authoring health related agency policies and procedures, or providing general training for the foster provider or alternate caregivers.

(24) "Discipline" for the purpose of these rules, discipline is synonymous with behavior supports.

(25) "Division" means the Department of Human Services, Seniors and People with Disabilities Division (SPD).

(26) "Domestic Animals" mean any various animals domesticated so as to live and breed in a tame condition. Examples of domestic animals are dogs, cats, and domesticated farm stock.

(27) "Educational Surrogate" means a person who acts in place of a parent in safeguarding a child's rights in the special education decision-making process:

(a) When the parent cannot be identified or located after reasonable efforts;

(b) When there is reasonable cause to believe that the child has a disability and is a ward of the state; or

(c) At the request of a parent or adult student.

(28) "Emergency Certificate" means a foster home certificate issued for 30 days.

(29) "Foster Care" means a child is placed away from their parent or guardian in a certified child foster home.

(30) "Foster Provider" means the certified care provider who resides at the address listed on the foster home certificate. For the purpose of these rules, "foster provider" is synonymous with child foster parent or relative caregiver and is considered a private agency for purposes of mandatory reporting of abuse.

(31) "Founded Reports" means the Department's Children, Adults, and Families Division or Law Enforcement Authority (LEA) determination, based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

(32) "Guardian" means a parent for individuals less than 18 years of age or a person or agency appointed and authorized by an Oregon court to make decisions about services for an individual in foster care.

(33) "Health Care Provider" means a person or health care facility licensed, certified, or otherwise authorized or permitted by Oregon law to administer health care in the ordinary course of business or practice of a profession.

(34) "Home Inspection" means an on-site, physical review of the applicant's home to assure the applicant meets all health and safety requirements within these rules.

(35) "Home Study" means the assessment process used for the purpose of determining an applicant's abilities to care for a child in need of foster care placement.

(36) "Incident Report" means a written report of any unusual incident involving the child in foster care.

(37) "Individualized Education Plan (IEP)" means a written plan of instructional goals and objectives in conference with the teacher, parent or guardian, student, and a representative of the school district.

(38) "Individual Support Plan (ISP)" means the written details of the supports, activities, and resources required to meet the health, safety, financial, and personal goals of the child in foster care. The Individual Support Plan is the child's plan of care for Medicaid purposes.

(39) "Individual Support Plan (ISP) Team" means a team composed of:

(a) The child in foster care when appropriate;

(b) The foster provider;

(c) The guardian;

(d) The Community Developmental Disability Program services coordinator; and

(e) May include family or any other approved persons who are approved by the child and the child's guardian to develop the Individual Support Plan.

(40) "Licensed Medical Professional" means a person who meets the following:

(a) Holds at least one of the following valid licensures or certifications:

(A) Physician licensed to practice in Oregon;

(B) Nurse practitioner certified by the Oregon State Board of Nursing under ORS 678.375; or

(C) Physician's assistant licensed to practice in Oregon; and

(b) Whose training, experience, and competence demonstrate expertise in children's mental health, the ability to conduct a mental health assessment, and provide psychotropic medication management for a child in foster care.

(41) "Mandatory Reporter" means any public or private official who:

(a) For the purposes of this rule, is a foster provider, staff, or volunteer working with individuals birth to 17 years of age, and comes in contact with and has reasonable cause to believe a child has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused a child, regardless of whether or not the knowledge of the abuse was gained in the reporter's official capacity. Nothing contained in ORS 40.225 to 40.295 shall affect the duty to report imposed by this section, except that a psychiatrist, psychologist, clergyman, attorney, or guardian ad litem appointed under ORS 419B.231 shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

(b) For the purposes of this rule, is a foster provider, staff, or volunteer working with individuals 18 years and older, and while acting in an

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official capacity, comes in contact with and has reasonable cause to believe an adult with developmental disabilities has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused an adult with developmental disabilities. Pursuant to ORS 430.765(2) psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 40.295.

(42) "Mechanical Restraint" means any mechanical device, material, object, or equipment that is attached or adjacent to an individual's body that the individual cannot easily remove or easily negotiate around that restricts freedom of movement or access to the individual's body.

(43) "Member of the Household" means any adults and children living in the home, including any employees or volunteers assisting in the care provided to a child placed in the home. For the purpose of these rules, a child in foster care is not considered a member of the household.

(44) "Mental Health Assessment" means the determination of a child's need for mental health services by interviewing the child and obtaining all pertinent biopsychosocial information, as identified by the individual, family, and collateral sources that:

(a) Addresses the current complaint or condition presented by the child;

(b) Determines a diagnosis; and

(c) Provides treatment direction and individualized services and supports.

(45) "Misuse of Funds" includes but is not limited to providers or their staff:

(a) Borrowing from or loaning money to a child in foster care;

(b) Witnessing a will in which the provider or a staff is a beneficiary;

(c) Adding the provider's name to an individual's bank account or other titles for personal property without approval of the individual, when of age to give legal consent, or the individual's legal representative and authorization of the Individual Support Plan team;

(d) Inappropriately expending or theft of an individual's personal funds;

(e) Using an individual's personal funds for the provider's or staff's own benefit; or

(f) Commingling an individual's funds with provider or another individual's funds.

(46) "Monitoring" means the observation by the Division, or designee, of a certified child foster home to determine continuing compliance with these rules.

(47) "Nurse" means a person who holds a current license from the Oregon Board of Nursing as a registered nurse (RN) or licensed practical nurse (LPN).

(48) "Nursing Care Plan" means a plan of care developed by a registered nurse that describes the medical, nursing, psychosocial, and other needs of the individual and how those needs shall be met. The Nursing Care Plan includes which tasks shall be taught or delegated to the foster provider and alternate caregivers.

(49) "Occupant" means any person having official residence in a certified child foster home.

(50) "Oregon Intervention System (OIS)" means a system of providing training to people who work with designated individuals to intervene physically or non-physically to keep individuals from harming self or others. The Oregon Intervention System is based on a proactive approach that includes methods of effective evasion, deflection, and escape from holding.

(51) "Oregon Youth Authority (OYA)" means an agency that has been given commitment and supervision responsibilities over those youth offenders, by order of the juvenile court under ORS 137.124 or other statute, until the time that a lawful release authority authorizes release or terminates the commitment or placement.

(52) "Permanent Foster Care" means a long term contractual agreement between the foster parent and the Department's Children, Adults, and Families Division, approved by the juvenile court that specifies the responsibilities and authority of the foster parent and the commitment by the permanent foster parent to raise a child until the age of majority or until the court determines that permanent foster care is no longer the appropriate plan for the child.

(53) "Protected Health Information" means any oral or written health information that identifies the child and relates to the child's past, present, or future physical or mental health condition, health care treatment, or payment for health care treatment.

(54) "Protective Physical Intervention" means:

(a) Any manual physical holding of or contact with a child that restricts the child's freedom of movement; and

(b) The use of any physical action to maintain the health and safety of a child or others during a potentially dangerous situation or event.

(55) "Psychotropic Medication" means medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior including but not limited to anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed.

(56) "Qualified Mental Health Professional" means a person who meets both of the following:

(a) Holds at least one of the following educational degrees:

(A) Graduate degree in psychology;

(B) Bachelor's degree in nursing and licensed in Oregon;

(C) Graduate degree in social work;

(D) Graduate degree in a behavioral science field;

(E) Graduate degree in recreational, art, or music therapy;

(F) Bachelor's degree in occupational therapy and licensed in Oregon;

and

(b) Whose education and experience demonstrates the competencies to:

(A) Identify precipitating events;

(B) Gather histories of mental and physical disabilities, alcohol and drug use, past mental health services, and criminal justice contacts;

(C) Assess family, social, and work relationships;

(D) Conduct a mental status examination;

(E) Document a multiaxial DSM diagnosis;

(F) Write and supervise a Treatment Plan;

(G) Conduct a mental health assessment; and

(H) Provide individual, family, or group therapy within the scope of his or her practice.

(57) "Respite" means intermittent services provided on a periodic basis, but not more than 14 consecutive days, for the relief of, or due to the temporary absence of, persons normally providing the supports to individuals unable to care for themselves.

(58) "Revocation" means the action taken by the certifying agency to rescind a child foster home certificate of approval after determining that the child foster home is not in compliance with one or more of these rules.

(59) "Services Coordinator" means an employee of the Community Development Disability Program or the Division, who is selected to plan, procure, coordinate, monitor Individual Support Plan services, and to act as a proponent for individuals with developmental disabilities.

(60) "Significant Medical Needs" means but is not limited to total assistance required for all activities of daily living such as access to food or fluids, daily hygiene which is not attributable to the child's chronological age, and frequent medical interventions required by the care plan for health and safety of the child.

(61) "Specialized Diet" means that the amount, type of ingredients, or selection of food or drink items is limited, restricted, or otherwise regulated under a physician's order. Examples include but are not limited to low calorie, high fiber, diabetic, low salt, lactose free, or low fat diets.

(62) "Substantiated" means an abuse investigation has been completed by the Department or the Department's designee and the preponderance of the evidence establishes the abuse occurred.

(63) "Suspension of Certificate" means a temporary withdrawal of the approval to operate a child foster home after the certifying agency determines that the child foster home is not in compliance with one or more of these rules.

(64) "These Rules" mean the rules in OAR chapter 411, division 346.

(65) "Unauthorized Absence" means any length of time when a child is absent from the foster home without prior approval as specified on the Individual Support Plan.

(66) "Unusual Incident" means incidents involving serious illness or accidents, death of an individual, injury or illness of an individual requiring inpatient or emergency hospitalization, suicide attempts, a fire requiring the services of a fire department, an act of physical aggression, or any incident requiring an abuse investigation.

(67) "Urgent Medical Need" means the onset of psychiatric symptoms requiring attention within 48 hours to prevent a serious deterioration in a child's mental or physical condition.

(68) "Variance" means a temporary exemption from a regulation or provision of these rules that may be granted by the Division upon written application by the certifying agency.

(69) "Volunteer" means any person assisting in a child foster home without pay to support the care provided to a child placed in the child foster home.

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

Stats. Implemented: ORS 443.830 & 443.835

ADMINISTRATIVE RULES

Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0110, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SDP 6-2011(Temp), f. & cert. ef. 2-10-11 thru 8-1-11

411-346-0150

General Requirements for Certification

(1) The applicant or foster provider must participate in certification and certification renewal studies and in the ongoing monitoring of their homes.

(2) The applicant or foster provider must give the information required by the Division to verify compliance with all applicable rules, including change of address and change of number of persons in the household such as relatives, employees, or volunteers.

(3) The applicant seeking certification from the Division must complete the Division application forms. When two or more adults living in the home share foster provider responsibilities to any degree, they must be listed on the application as applicant and co-applicant.

(4) The applicant must disclose each state or territory they have lived in the last five years and for a longer period if requested by the certifier. The disclosure must include the address, city, state, and zip code of previous residences.

(5) Information provided by the applicants must include:

(a) Names and addresses of any agencies in the United States where any occupant of the home has been licensed or certified to provide care to children or adults and the status of such license or certification. This may include but is not limited to licenses or certificates for residential care, nurse, nurse's aide, and foster care;

(b) Proposed number, gender, age range, disability, and support needs of children to be served in foster care;

(c) School reports for any child of school age living in the home at the time of initial application. School reports for any child of school age living in the home within the last year may also be required;

(d) Names and addresses of at least four persons, three of whom are unrelated, who have known each applicant for two years or more and who can attest to their character and ability to care for children. The Division may contact schools, employers, adult children, and other sources as references;

(e) Reports of all criminal charges, arrests or convictions, the dates of offenses, and the resolution of those charges for all employees or volunteers and persons living in the home. If the applicant's minor children shall be living in the home, the applicants must also list reports of all criminal or juvenile delinquency charges, arrests or convictions, the dates of offenses, and the resolution of those charges;

(f) Founded reports of child abuse or substantiated abuse, with dates, locations, and resolutions of those reports for all persons living in the home, as well as all applicant or provider employees, independent contractors, and volunteers;

(g) Demonstration, upon initial certification, of successful completion of 15 hours of pre-service training.

(h) Demonstration, upon initial certification, of income sufficient to meet the needs and to ensure the stability and financial security of the family independent of the foster care payment;

(i) All child support obligations in any state, whether the obligor is current with payments or in arrears, and whether any applicant's or foster provider's wages are being attached or garnished for any reason;

(j) A physician's statement, on a form provided by the Division, that each applicant is physically and mentally capable of providing care;

(k) A floor plan of the house showing the location of:

(A) Rooms, indicating the bedrooms for the child in foster care, caregiver, and other occupants of the home;

(B) Windows;

(C) Exit doors;

(D) Smoke detectors and fire extinguishers; and

(E) Wheel chair ramps, if applicable; and

(l) A diagram of the house and property showing safety devices for fire places, wood stoves, water features, outside structures, and fencing.

(6) Falsification or omission of any of the information for certification may be grounds for denial or revocation of the child foster home certification.

(7) Applicants must be at least 21 years of age. Applicants who are "Indian," as defined in the Indian Child Welfare Act, may be 18 years of age or older, if an Indian child to be placed is in the legal custody of DHS-CW.

(8) Applicants, providers, alternate caregivers, providers' employees or volunteers, other occupants in the home who are 18 years or older, and other adults having regular contact in the home with a child in foster care

or any subject individual as described in OAR 407-007-0200 to 407-007-0370 must consent to a criminal records check by the Department, in accordance with OAR 407-007-0200 to 407-007-0370 (Criminal Records Check Rules) and under ORS 181.534. The Division may require a criminal records check on members of the household under 18 if there is reason to believe that a member may pose a risk to a child placed in the home. All persons subject to a criminal records check are required to complete an Oregon criminal records check and a national criminal records check, as described in OAR 407-007-0200 to 407-007-0370, including the use of fingerprint cards.

(a) Effective July 28, 2009, public funds may not be used to support, in whole or in part, a person described in section (8) of this rule in any capacity who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(b) A person does not meet qualifications as described in this rule if the person has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(c) Section (8)(a) and (b) of this rule do not apply to employees hired prior to July 28, 2009 that remain in the current position for which the employee was hired.

(d) Any person as described in section (8) of this rule must self-report any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The person must notify the Department or designee within 24 hours.

(9) The Division may not issue or renew a certificate if an applicant or member of the household:

(a) Has, after completing the criminal records check required by the Division, a fitness determination of "denied."

(b) Has, at any time, been convicted of a felony in Oregon or any jurisdiction that involves:

(A) Child abuse or neglect;

(B) Spousal abuse;

(C) Criminal activity against children, including child pornography;

or

(D) Rape, sexual assault, or homicide.

(c) Has, within the past five years from the date the criminal records check was signed been convicted of a felony in Oregon or any jurisdiction that involves:

(A) Physical assault or battery (other than against a spouse or child);

or

(B) Any drug-related offense.

(d) Has been found to have abused or neglected a child or adult as defined in ORS 419B.005 or as listed in OAR 407-045-0260.

(e) Has, within the past five years from the date the child foster home application was signed, been found to have abused or neglected a child or adult in the United States as defined by that jurisdiction or any other jurisdiction.

(10) The applicant or foster provider may request to withdraw their application any time during the certification process by notifying the certifier in writing. Written documentation by the certifier of verbal notice may substitute for written notification.

(11) The Division may not issue or renew a certificate for a minimum of five years if the applicant is found to have a license or certificate to provide care to children or adults, suspended, revoked, or not renewed by other than voluntary request. This shall be grounds for suspension and revocation of the certificate.

(12) The Division may not issue or renew a certificate based on an evaluation of any negative references, school reports, physician's statement, or previous licensing or certification reports from other agencies or states.

(13) A Department employee may be a foster provider, or an employee of an agency that contracts with the Department as a foster provider, if the employee's position with the Department does not influence referral, regulation, or funding of such activities. Prior to engaging in such activity, the employee must obtain written approval from the Assistant Director of the Division. The written approval must be on file with the Assistant Director of the Division and in the Division's certification file.

(14) An application is incomplete and void unless all supporting materials are submitted to the Division within 90 days from the date of the application.

(15) An application may not be considered complete until all required information is received and verified by the Division. Within 60 days upon receipt of the completed application, a decision shall be made by the Division to approve or deny certification.

(16) The Division shall determine compliance with these rules based on receipt of the completed application material, an investigation of infor-

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mation submitted, an inspection of the home, a completed home study, and a personal interview with the provider. A certificate issued on or after February 1, 2010 shall be valid for a maximum of two years, unless revoked or suspended.

(17) The Division may attach conditions to the certificate that limit, restrict, or specify other criteria for operation of the child foster home.

(18) A condition may be attached to the certificate that limits the provider to the care of a specific child. No other referrals shall be made to a provider with this limitation.

(19) A child foster home certificate is not transferable or applicable to any location or persons other than those specified on the certificate.

(20) The foster provider who cares for a child funded by the Department must enter into a contract with the Department and follow the Department rules governing reimbursement for services and refunds.

(21) The foster provider may not be the parent or legal guardian of any child placed in their home for foster care services funded by the Department.

(22) If the applicant or foster provider intends to provide care for a child with significant medical needs then at least one provider or applicant must have the following:

(a) An equivalent of one year of full-time experience in providing direct care to individuals;

(b) Health care professional qualifications.

(A) Such as a registered nurse (RN) or licensed practical nurse (LPN); or

(B) Has the equivalent of two additional years full-time experience providing care and support to an individual who has a medical condition that is serious and could be life-threatening;

(c) Copies of all current health related license or certificates and provide those documents to the certifying agent;

(d) Current certification in First Aid and Cardiopulmonary Resuscitation (CPR). The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the child served in the foster home;

(e) Current satisfactory references from at least two medical professionals, such as a physician and registered nurse, who have direct knowledge of the applicant's ability and past experiences as a caregiver. The medical professional references serve as two of the four references in section (5)(d) of this rule; and

(f) Positive written recommendation from the Division's Medically Fragile Children's Unit (MFCU) if the provider or applicant has provided services through the program or if the provider or applicant has historically received services through the program for a child in their family home or foster home.

(23) A foster provider may not accept a child with significant medical needs unless an initial care plan addressing the health and safety supports is in place at the time of placement.

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

Stats. Implemented: ORS 443.830 & 443.835

Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0150, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 2-2010(Temp), f. & cert. ef. 3-18-10 thru 6-30-10; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SDP 6-2011(Temp), f. & cert. ef. 2-10-11 thru 8-1-11

411-346-0160

Renewal of Certificate

(1) At least 90 days prior to the expiration of a certificate, the Division shall send a reminder notice and application for renewal to the currently certified provider. Submittal of a renewal application prior to the expiration date keeps the certificate in effect until the Division takes action. If the renewal application is not submitted prior to the expiration date, the child foster home shall be treated as an uncertified home.

(2) The certification renewal process includes the renewal application and the same supporting documentation as required for a new certification. With the discretion of the certifier, a financial statement, physician statement, and floor plan may not be required.

(3) Copies of the services coordinator's monitoring check list or recommendations from the services coordinators who have had children in the home within the last year may be requested at time of certification renewal.

(4) School reports may not be required if the Division or the certifier reasonably assumes this information has not changed or is not necessary.

(5) The Division or the certifier may investigate any information in the renewal application and shall conduct a home inspection.

(6) The provider shall be given a copy of the inspection form documenting any deficiencies and a time frame to correct deficiencies.

Deficiencies must be corrected no longer than 60 days from the date of inspection. If documented deficiencies are not corrected within the time frame specified, the renewal application shall be denied.

(7) Applicants, providers, providers' substitute caregivers, employees, volunteers, and any other occupants in the home 18 years of age and older must submit to an Oregon criminal records check and must continue to meet all certification standards as outlined in these rules.

(8) Each foster provider must provide documentation of a minimum of 10 hours of Division approved training per year prior to the renewal of the certificate. A mutually agreed upon training plan may be part of the re-certification process.

(9) When serving children with significant medical needs, the foster provider must have a minimum of six of the ten hours of annual training requirements in specific medical training beyond First Aid and CPR. The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the children served in the foster home.

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

Stats. Implemented: ORS 443.830 & 443.835

Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0160, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SDP 6-2011(Temp), f. & cert. ef. 2-10-11 thru 8-1-11

411-346-0165

Emergency Certification

(1) An emergency certificate may be issued by the Division for up to 30 days, provided the following conditions are met:

(a) An Oregon criminal records check indicates no immediate need for fingerprinting for all persons living in the home;

(b) A DHS-CW background check identifies no founded reports of child abuse committed by persons living in the home;

(c) Applicant has no previous revocations or suspensions of any license or certificate by any issuing agency for a foster home, group home, or any other care or support services;

(d) A review of support enforcement obligations and public assistance cases identifies no substantial financial concerns;

(e) An application and two references are submitted;

(f) An abbreviated home study is done; and

(g) A satisfactory home inspection and a Health and Safety Checklist are completed.

(2) When a child with significant medical needs shall be living in the foster home, the following additional requirements must be met before an emergency certificate may be issued:

(a) Current satisfactory references from at least two medical professionals, such as a physician and registered nurse, who have direct knowledge of the applicant's ability and past experiences as a caregiver; AND

(b) A positive written recommendation from the Division's Medically Fragile Children's Unit (MFCU) if the provider or applicant has provided services through the program or has historically received services through the program for a child in their family home or foster home; AND

(c) Current certification in First Aid and CPR. The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the children served in the foster home; AND

(d) Copies of all current medical related licenses or certificates must be provided to the certifier; AND

(e) Six hours of medical training beyond CPR and First Aid training as appropriate to the ages of the children served in the foster home; OR

(f) Licensed as a registered nurse, licensed practical nurse, emergency medical technician, nurse practitioner, or physician's assistant.

(3) Emergency certificates may be issued if the renewal process is incomplete at the time of the renewal.

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

Stats. Implemented: ORS 443.830 & 443.835

Hist.: SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SDP 6-2011(Temp), f. & cert. ef. 2-10-11 thru 8-1-11

411-346-0190

Standards and Practices for Care and Services

(1) The foster provider must:

(a) Provide structure and daily activities designed to promote the physical, social, intellectual, cultural, spiritual, and emotional development of the child in their home.

(b) Provide playthings and activities in the foster home, including games, recreational and educational materials, and books appropriate to the chronological age, culture, and developmental level of the child.

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(c) In accordance with the ISP and if applicable as defined in the DHS-CW case plan, encourage the child to participate in community activities with family, friends, and on their own when appropriate.

(d) Promote the child's independence and self-sufficiency by encouraging and assisting the child to develop new skills and perform age-appropriate tasks.

(e) In accordance with the ISP and if applicable as defined in the DHS-CW case plan, ask the child in foster care to participate in household chores appropriate to the child's age and ability that commensurate with those expected of the provider's own children.

(f) Provide the child with reasonable access to a telephone and to writing materials.

(g) In accordance with the ISP and if applicable as defined in the DHS-CW Case Plan, permit and encourage the child to have visits with family and friends.

(h) Allow regular contacts and private visits or phone calls with the child's CDDP services coordinator and if applicable the DHS-CW case worker.

(i) Not allow a child in foster care to baby-sit in the foster home or elsewhere without permission of the child's CDDP services coordinator and the guardian.

(2) RELIGIOUS, ETHNIC, AND CULTURAL HERITAGE.

(a) The foster provider must recognize, encourage, and support the religious beliefs, ethnic heritage, cultural identity, and language of a child and the child's family.

(b) In accordance with the ISP and guardian preferences, the foster provider must participate with the ISP team to arrange transportation and appropriate supervision during religious services or ethnic events for a child whose beliefs and practices are different from those of the provider.

(c) The foster provider may not require a child to participate in religious activities or ethnic events contrary to the child's beliefs.

(3) EDUCATION. The foster provider:

(a) Must enroll each child of school age in public school, within five school days of the placement, and arrange for transportation.

(b) Must comply with any Alternative Educational Plan described in the child's IEP.

(c) Must be actively involved in the child's school program and must participate in the development of the child's IEP. The foster provider may apply to be the child's educational surrogate if requested by the parent or guardian.

(d) Must consult with school personnel when there are issues with the child in school and report to the guardian and CDDP services coordinator any serious situations that may require Department involvement.

(e) Must support the child in his or her school or educational placement.

(f) Must assure the child regularly attends school or educational placement and monitor the child's educational progress.

(g) May sign consent to the following school related activities:

(A) School field trips within the state of Oregon;

(B) Routine social events;

(C) Sporting events;

(D) Cultural events; and

(E) School pictures for personal use only unless prohibited by the court or legal guardian.

(4) ALTERNATE CAREGIVERS.

(a) The foster provider must arrange for safe and responsible alternate care.

(b) A Child Care Plan for a child in foster care must be approved by the Division, the CDDP, or DHS-CW before it is implemented. When a child is cared for by a child care provider or child care center, the provider or center must be certified as required by the State Child Care Division (ORS 657A.280) or be a certified foster provider.

(c) The foster provider must have a Respite Plan approved by the certifier or the Division when using alternate caregivers.

(d) The foster provider must assure the alternate caregivers, consultants, and volunteers are:

(A) 18 years of age or older;

(B) Capable of assuming foster care responsibilities;

(C) Present in the home;

(D) Physically and mentally capable to perform the duties of the foster provider as described in these rules;

(E) Cleared by a criminal records check as described in OAR 411-346-0150(8) including a DHS-CW background check;

(F) Able to communicate with the child, individuals, agencies providing care to the child, CDDP services coordinator, and appropriate others;

(G) Trained on fire safety and emergency procedures;

(H) Trained on the child's ISP, Behavior Support Plan, and any related protocols and able to provide the care needed for the child;

(I) Trained on the required documentation for health, safety, and behavioral needs of the child;

(J) A licensed driver and with vehicle insurance in compliance with the Oregon DMV laws when transporting children by motorized vehicle; and

(K) Not be a person who requires care in a foster care or group home.

(e) When the foster provider uses an alternate caregiver and the child shall be staying at the alternate caregiver's home, the foster provider must assure the alternate caregiver's home meets the necessary health, safety, and environmental needs of the child.

(f) When the foster provider arranges for social activities of the child for less than 24 hours, including an overnight arrangement, the foster provider must assure that the person shall be responsible and capable of assuming child care responsibilities and be present at all times. The foster provider still maintains primary responsibility for the child.

(5) FOOD AND NUTRITION.

(a) The foster provider must offer three nutritious meals daily at times consistent with those in the community.

(A) Daily meals must include food from the four basic food groups, including fresh fruits and vegetables in season, unless otherwise specified in writing by a physician or physician assistant.

(B) There must be no more than a 14-hour span between the evening meal and breakfast unless snacks and liquids are served as supplements.

(C) Consideration must be given to cultural and ethnic background in food preparation.

(b) Any home canned food used must be processed according to current guidelines of Oregon State University extension services (<http://extension.oregonstate.edu/fch/food-preservation>).

(c) All food items must be used prior to the item's expiration date.

(d) The foster provider must implement specialized diets only as prescribed in writing by the child's physician or physician assistant.

(e) The foster provider must prepare and serve meals in the foster home where the child lives. Payment for meals eaten away from the foster home (e.g. restaurants) for the convenience of the foster provider is the responsibility of the foster provider.

(f) The foster provider, when serving milk, must only use pasteurized liquid or powdered milk for consumption by a child in foster care.

(g) A child who must be bottle-fed and cannot hold the bottle, or is 11 months or younger, must be held during bottle-feeding.

(6) CLOTHING AND PERSONAL BELONGINGS.

(a) The foster provider must assure that each child has his or her own clean, well-fitting, seasonal clothing appropriate to age, gender, culture, individual needs, and comparable to the community standards.

(b) A school-age child must participate in choosing their own clothing whenever possible.

(c) The foster provider must allow a child to bring and acquire appropriate personal belongings.

(d) The foster provider must assure that when a child leaves the child foster home, the child's belongings including all personal funds, medications, and personal items remain with the child. This includes all items brought with the child and obtained while living in the home.

(7) BEHAVIOR SUPPORT AND DISCIPLINE PRACTICES.

(a) The foster provider must teach and discipline a child with respect, kindness, and understanding, using positive behavior management techniques. Unacceptable practices include but are not limited to:

(A) Physical force, spanking, or threat of physical force inflicted in any manner upon the child;

(B) Verbal abuse, including derogatory remarks about the child or the child's family that undermine a child's self-respect;

(C) Denial of food, clothing, or shelter;

(D) Denial of visits or contacts with family members, except when otherwise indicated in the ISP or if applicable the DHS-CW case plan;

(E) Assignment of extremely strenuous exercise or work;

(F) Threatened or unauthorized use of physical interventions;

(G) Threatened or unauthorized use of mechanical restraints;

(H) Punishment for bed-wetting or punishment related to toilet training;

(I) Delegating or permitting punishment of a child by another child;

(J) Threat of removal from the foster home as a punishment;

(K) Use of shower or aversive stimuli as punishment; and

(L) Group discipline for misbehavior of one child.

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(b) The foster provider must set clear expectations, limits, and consequences of behavior in a non-punitive manner.

(c) If time-out separation from others is used to manage behavior, it must be included on the child's ISP and the foster provider must provide it in an unlocked, lighted, well-ventilated room of at least 50 square feet. The ISP must include whether the child needs to be within hearing distance or within sight of an adult during the time-out. The time limit must take into consideration the child's chronological age, emotional condition, and developmental level. Time-out is to be used for short duration and frequency as approved by ISP team.

(d) No child in foster care or other child in a foster home shall be subjected to physical abuse, sexual abuse, sexual exploitation, neglect, emotional abuse, mental injury, or threats of harm as defined in ORS 419B.005 and OAR 407-045-0260.

(e) BEHAVIOR SUPPORT PLAN (BSP). For a child who has demonstrated a serious threat to self, others, or property and for whom it has been decided a BSP is needed, the BSP must be developed with the approval of the ISP team.

(f) PROTECTIVE PHYSICAL INTERVENTION. A protective physical intervention must be used only for health and safety reasons and under the following conditions:

(A) As part of the child's ISP team approved BSP.

(i) When protective physical intervention shall be employed as part of the BSP, the foster provider and alternate caregivers must complete OIS training prior to the implementation of the BSP.

(ii) The use of any modified OIS protective physical intervention must have approval from the OIS Steering Committee in writing prior to their implementation. Documentation of the approval must be maintained in the child's records.

(B) As in a health-related protection prescribed by a physician or qualified health care provider, but only if absolutely necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for protection during the time that a medical condition exists.

(C) As an emergency measure if absolutely necessary to protect the child or others from immediate injury and only until the child is no longer an immediate threat to self or others.

(g) MECHANICAL RESTRAINT.

(A) The foster provider may not use mechanical restraints on a child in foster care other than car seat belts or normally acceptable infant safety products unless ordered by a physician or health care provider and with an agreement of the ISP team.

(B) The foster provider must maintain the original order in the child's records and forward a copy to the CDDP services coordinator and guardian.

(h) DOCUMENTATION AND NOTIFICATION OF USE OF PROTECTIVE PHYSICAL INTERVENTION.

(A) The foster provider must document the use of all protective physical interventions or mechanical restraints in an incident report. A copy of the incident report must be provided to the CDDP services coordinator and guardian.

(B) If an approved protective physical intervention is used, the foster provider must send a copy of the incident report within five working days to the services coordinator and guardian.

(C) If an emergency or non ISP team approved protective physical intervention is used, the foster provider must send a copy of the incident report within 24 hours to the services coordinator and guardian. The foster provider must make verbal notification to the CDDP services coordinator and guardian no later than the next working day.

(D) The original incident report must be on file with the foster provider in the child's records.

(E) The incident report must include:

(i) The name of the child to whom the protective physical intervention was applied;

(ii) The date, location, type, and duration of entire incident and protective physical intervention;

(iii) The name of the provider and witnesses or persons involved in applying the protective physical intervention;

(iv) The name and position of the person notified regarding the use of the protective physical intervention; and

(v) A description of the incident, including precipitating factors, preventive techniques applied, description of the environment, description of any physical injury resulting from the incident, and follow-up recommendations.

(8) MEDICAL AND DENTAL CARE. The foster provider must:

(a) Provide care and services, as appropriate to the child's chronological age, developmental level, and condition of the child, and as identified in the ISP.

(b) Assure that physician or qualified health care provider orders and those of other licensed medical professionals are implemented as written.

(c) Inform the child's physicians or qualified health care providers of current medications and changes in health status and if the child refuses care, treatments, or medications.

(d) Inform the guardian and CDDP services coordinator of any changes in the child's health status except as otherwise indicated in the DHS-CW Permanent Foster Care contract agreement and as agreed upon in the child's ISP.

(e) Obtain the necessary medical, dental, therapies, and other treatments of care including but not limited to:

(A) Making appointments;

(B) Arranging for or providing transportation to appointments; and

(C) Obtaining emergency medical care.

(f) Have prior consent from the guardian for medical treatment that is not routine, including surgery and anesthesia except in cases where a DHS-CW Permanent Foster Care contract agreement exists.

(g) Keep current medical records. The records must include, when applicable:

(A) Any history of physical, emotional, and medical problems, illnesses, or mental health status;

(B) Current orders for all medications, treatments, therapies, use of protective physical intervention, specialized diets, adaptive equipment, and any known food or medication allergies;

(C) Completed medication administration record (MAR) from previous months;

(D) Pertinent medical and behavioral information such as hospitalizations, accidents, immunization records including Hepatitis B status and previous TB tests, and incidents or injuries affecting the health, safety, or emotional well-being of the child;

(E) Documentation or other notations of guardian consent for medical treatment that is not routine including surgery and anesthesia;

(F) Record of medical appointments;

(G) Medical appointment follow-up reports provided to the foster provider; and

(H) Copies of previous mental health assessments, assessment updates including multi-axial DSM diagnosis and treatment recommendations, and progress records from mental health treatment services.

(h) Provide, when requested, copies of medical records and medication administration records to the child's legal guardian, services coordinator, and DHS-CW caseworker.

(i) Provide copies, as applicable, of the medical records described in section (8)(g)(H) above to the licensed medical professional prior to the medical appointment or no later than the time of the appointment with the licensed medical professional.

(9) MEDICATIONS AND PHYSICIAN OR QUALIFIED HEALTH CARE PROVIDER ORDERS.

(a) There must be authorization by a physician or qualified health care provider in the child's file prior to the usage of or implementation of any of the following:

(A) All prescription medications;

(B) Non prescription medications except over the counter topicals;

(C) Treatments other than basic first aid;

(D) Therapies and use of mechanical restraint as a health and safety related protection;

(E) Modified or specialized diets;

(F) Prescribed adaptive equipment; and

(G) Aids to physical functioning.

(b) The foster provider must have:

(A) A copy of an authorization in the format of a written order signed by a physician or a qualified health care provider; or

(B) Documentation of a telephone order by a physician or qualified health care provider with changes clearly documented on the MAR, including the name of the person giving the order, the date and time, and the name of the person receiving the telephone order; or

(C) A current pharmacist prescription or manufacturer's label as specified by the physician's order on file with the pharmacy.

(c) A provider or alternate caregiver must carry out orders as prescribed by a physician or a qualified health care provider. Changes may not be made without a physician or a qualified health care provider's authorization.

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(d) Each child's medication, including refrigerated medication, must be clearly labeled with the pharmacist's label, or in the manufacturer's originally labeled container, and kept in a locked location, or stored in a manner that prevents access by children.

(e) Unused, outdated, or recalled medications may not be kept in the foster home and must be disposed of in a manner that shall prevent illegal diversion into the possession of people other than for which it was prescribed.

(f) The foster provider must keep a MAR for each child. The MAR must be kept for all medications administered by the foster provider or alternate caregiver to that child, including over the counter medications and medications ordered by physicians or qualified health care providers and administered as needed (PRN) for the child.

(g) The MAR must include:

(A) The name of the child in foster care;

(B) A transcription of the written physician's or licensed health practitioner's order including the brand or generic name of the medication, prescribed dosage, frequency, and method of administration;

(C) A transcription of the printed instructions from the package for topical medications and treatments without a physician's order;

(D) Times and dates of administration or self-administration of the medication;

(E) Signature of the person administering the medication or the person monitoring the self-administration of the medication;

(F) Method of administration;

(G) An explanation of why a PRN medication was administered;

(H) Documented effectiveness of any PRN medication administration;

(I) An explanation of all medication administration or documentation irregularities; and

(J) Any known allergy or adverse drug reactions and procedures that maintain and protect the physical health of the child placed in the foster home.

(h) Any errors in the MAR must be corrected by circling the error and then writing on the back of the MAR what the error was and why.

(i) Treatments, medication, therapies, and specialized diets must be documented on the MAR when not used or applied according to the order.

(j) SELF-ADMINISTRATION OF MEDICATION. For any child who is self-administering medication, the foster provider must:

(A) Have documentation that a training program was initiated with approval of the child's ISP team or that training for the child was unnecessary;

(B) Have a training program that provides for retraining when there is a change in dosage, medication, and time of delivery;

(C) Provide for an annual review, at a minimum as part of the ISP process, upon completion of the training program;

(D) Assure that the child is able to handle his or her own medication regime;

(E) Keep medications stored in a locked area inaccessible to others; and

(F) Maintain written documentation of all training in the child's medical record.

(k) The foster provider may not use alternative medications intended to alter or affect mood or behavior, such as herbals or homeopathic remedies, without direction and supervision of a licensed medical professional.

(l) Any medication that is used with the intent to alter behavior of a child with a developmental disability must be documented on the ISP.

(m) BALANCING TEST. When a psychotropic medication is first prescribed and annually thereafter, the foster provider must obtain a signed balancing test from the prescribing health care provider using the Division's Balancing Test Form. Foster providers must present the physician or health care provider with a full and clear description of the behavior and symptoms to be addressed as well as any side effects observed.

(n) PRN prescribed psychotropic medication is prohibited.

(o) A mental health assessment by a qualified mental health professional or licensed medical professional must be completed, except as noted in subsection (A) of this section, prior to the administration of a new medication for more than one psychotropic or any antipsychotic medication to a child in foster care.

(A) A mental health assessment is not required in the following situations:

(i) In a case of urgent medical need;

(ii) For a substitution of a current medication within the same class;

or

(iii) A medication order given prior to a medical procedure; or

(B) When a mental health assessment is required, the foster provider:
(i) Must notify the DHS-CW caseworker when the child is in legal custody of DHS-CW worker; or

(ii) Shall arrange for a mental health assessment when the child is a voluntary care placement.

(C) The mental health assessment:

(i) Must have been completed within three months prior to the prescription; or

(ii) May be an update of a prior mental health assessment that focuses on a new or acute problem.

(D) Whenever possible, information from the mental health assessment must be communicated to the licensed medical professional prior to the issuance of a prescription for psychotropic medication.

(p) Within one business day after receiving a new prescription or knowledge of a new prescription for psychotropic medication for the child in foster care, the foster provider must notify:

(A) The child's parent when the parent retains legal guardianship;

(B) The child's family member or the person who has legal guardianship; or

(C) DHS-CW when DHS-CW is the legal guardian of the child; and

(D) The CDDP services coordinator.

(q) The notification from the foster provider to the legal guardian and the CDDP services coordinator must contain:

(A) The name of the prescribing physician, or qualified health care provider;

(B) The name of the medication;

(C) The dosage, any change of dosage or suspension, or discontinuation of the current psychotropic medication;

(D) The dosage administration schedule prescribed; and

(E) The reason the medication was prescribed.

(r) The foster provider must get a written informed consent prior to filling a prescription for any new psychotropic medication except in a case of urgent medical need from DHS-CW when DHS-CW is the legal guardian.

(s) The foster provider shall cooperate as requested, when a review of psychotropic medications is indicated.

(10) DIRECT NURSING SERVICES.

(a) When direct nursing services are provided to a child the foster provider must:

(A) Coordinate with the nurse and the ISP team to ensure that the services being provided are sufficient to meet the child's health needs; and

(B) Implement the Nursing Care Plan, or appropriate portions therein, as agreed upon by the ISP team and the registered nurse.

(b) When nursing tasks are delegated, they must be delegated by a licensed registered nurse in accordance with OAR chapter 851, division 047.

(11) CHILD RECORDS.

(a) GENERAL INFORMATION OR SUMMARY RECORD. The provider must maintain a record for each child in the home. The record must include:

(A) The child's name, date of entry into the foster home, date of birth, gender, religious preference, and guardianship status;

(B) The names, addresses, and telephone numbers of the child's guardian, family, advocate, or other significant person;

(C) The name, address, and telephone number of the child's preferred primary health provider, designated back up health care provider and clinic, dentist, preferred hospital, medical card number and any private insurance information, and Oregon Health Plan choice;

(D) The name, address, and telephone number of the child's school program; and

(E) The name, address, and telephone number of the CDDP services coordinator and representatives of other agencies providing services to the child.

(b) EMERGENCY INFORMATION. The foster provider must maintain emergency information for each child receiving foster care services in the child foster home. The emergency information must be kept current and must include:

(A) The child's name;

(B) The child's address and telephone number;

(C) The child's physical description which may include a picture and the date it was taken, and identification of:

(i) The child's race, gender, height, weight range, hair and eye color; and

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(ii) Any other identifying characteristics that may assist in identifying the child should the need arise, such as marks or scars, tattoos, or body piercing.

(D) Information on the child's abilities and characteristics including:

(i) How the child communicates;

(ii) The language the child uses or understands;

(iii) The ability of the child to know how to take care of bodily functions; and

(iv) Any additional information that could assist a person not familiar with the child to understand what the child can do for him or herself.

(E) The child's health support needs including:

(i) Diagnosis;

(ii) Allergies or adverse drug reactions;

(iii) Health issues that a person would need to know when taking care of the child;

(iv) Special dietary or nutritional needs such as requirements around textures or consistency of foods and fluids;

(v) Food or fluid limitations, due to allergies, diagnosis, or medications the child is taking that may be an aspiration risk or other risk for the child;

(vi) Additional special requirements the child has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the child;

(vii) Physical limitations that may affect the child's ability to communicate, respond for instructions, or follow directions;

(viii) Specialized equipment needed for mobility, positioning, or other health related needs;

(ix) The child's emotional and behavioral support needs including:

(I) Mental health or behavioral diagnosis and the behaviors displayed by the child; and

(II) Approaches to use when supporting the child to minimize emotional and physical outbursts.

(x) Any court ordered or guardian authorized contacts or limitations;

(xi) The child's supervisions requirements and why; and

(xii) Any additional pertinent information the provider has that may assist in the care and support of the child should a natural or man-made disaster occur.

(c) EMERGENCY PLANNING. The foster provider must post emergency telephone numbers in close proximity to all phones utilized by the foster provider or substitute caregivers. The posted emergency telephone numbers must include:

(A) Telephone numbers of the local fire, police department, and ambulance service if not served by a 911 emergency services; and

(B) The telephone number of any emergency physician and additional persons to be contacted in the case of an emergency.

(d) WRITTEN EMERGENCY PLAN.

(A) Foster providers must develop, maintain, update, and implement a written Emergency Plan for the protection of all children in foster care in the event of an emergency or disaster. The Emergency Plan must:

(i) Be practiced at least annually. The Emergency Plan practice may consist of a walk-through of the provider's and alternative caregiver's responsibilities.

(ii) Consider the needs of the child and address all natural and human-caused events identified as a significant risk for the home such as a pandemic or an earthquake.

(iii) Include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place, when unable to relocate, for a minimum of three days under the following conditions:

(I) Extended utility outage;

(II) No running water;

(III) Inability to replace food supplies; and

(IV) Alternative caregiver is unable provide respite or additional support and care.

(iv) Include provisions for evacuation and relocation that identifies:

(I) The duties of the alternative caregivers during evacuation, transporting, and housing of the child including instructions to notify the child's parent or legal guardian, the Division or designee, the CDDP services coordinator, and DHS-CW as applicable, of the plan to evacuate or the evacuation of the home as soon as the emergency or disaster reasonably allows;

(II) The method and source of transportation;

(III) Planned relocation sites that are reasonably anticipated to meet the needs of the child;

(IV) A method that provides persons unknown to the child the ability to identify each child by the child's name, and to identify the name of the child's supporting provider; and

(V) A method for tracking and reporting to the Division or the Division's designee and the local CDDP, the physical location of each child in foster care until a different entity resumes responsibility for the child,

(v) Address the needs of the child including provisions to provide:

(I) Immediate and continued access to medical treatment, information necessary to obtain care, treatment, food, and fluids for the child, during and after an evacuation and relocation;

(II) Continued access to life sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation;

(III) Behavior support needs anticipated during an emergency; and

(IV) The supports needed to meet the life-sustaining and safety needs of the child.

(B) The foster provider must provide and document all training to alternative caregivers regarding their responsibilities for implementing the emergency plan.

(C) The foster provider must re-evaluate and revise the Emergency Plan at least annually or when there is a significant change in the home.

(D) The foster provider must complete the Emergency Plan Summary, on the form supplied by the Division, and must send it to the Division annually and upon change of licensee or location of the child foster home.

(e) INDIVIDUAL SUPPORT PLAN (ISP). Within 60 days of placement, the child's ISP must be prepared by the ISP team and, at a minimum, updated annually.

(A) The foster provider must participate with the ISP team in the development and implementation of the ISP to address each child's behavior, medical, social, financial, safety, and other support needs.

(B) Prior to or upon entry to or exit from the foster home, the foster provider must participate in the development and implementation of a Transition Plan for the child.

(i) The Transition Plan must include a summary of the services necessary to facilitate the adjustment of the child to the foster home or after care plan; and

(ii) Identify the supports necessary to ensure health, safety, and any assessments and consultations needed for ISP development.

(f) FINANCIAL RECORDS.

(A) The foster provider must maintain a separate financial record for each child. Errors must be corrected with a single strike through and initialed by the person making the correction. The financial record must include:

(i) The date, amount, and source of all income received on behalf of the child;

(ii) The room and board fee that is paid to the provider at the beginning of each month;

(iii) The date, amounts, and purpose of funds disbursed on behalf of the child; and

(iv) The signature of the person making the entry.

(B) Any single transaction over \$25 purchased with the child's personal funds, unless otherwise indicated in the child's ISP, must be documented including receipts in the child's financial record.

(C) The child's ISP team may address how the child's personal spending money shall be managed.

(D) If the child has a separate commercial bank account, records from that account must be maintained with the financial record.

(E) The child's personal funds must be maintained in a safe manner and separate from other members of the household funds.

(F) Misuse of funds may be cause for suspension, revocation, or denial of renewal of the child foster home certificate.

(g) PERSONAL PROPERTY RECORD.

(A) The foster provider must maintain a written record of each child's property of monetary value of more than \$25 or that has significant personal value to the child, parent, or guardian, or as determined by the ISP team. Errors must be corrected with a single strike through and initialed by the person making the correction.

(B) Personal property records are not required for children who have a court approved Permanent Foster Care contract agreement unless requested by the child's guardian.

(C) The personal property record must include:

(i) The description and identifying number, if any;

(ii) The date when the child brought in the personal property or made a new purchase;

(iii) The date and reason for the removal from the record; and

(iv) The signature of the person making the entry.

(h) EDUCATIONAL RECORDS. The foster provider must maintain the following educational records when available:

(A) The child's report cards;

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- (B) Any reports received from the teacher or the school;
- (C) Any evaluations received as a result of educational testing or assessment; and
- (D) Disciplinary reports regarding the child.

(i) Child records must be available to representatives of the Division, the certifier, and DHS-CW conducting inspections or investigations, as well as to the child, if appropriate, and the guardian, or other legally authorized persons.

(j) Child records must be kept for a period of three years. If a child moves or the foster home closes, copies of pertinent information must be transferred to the child's new home.

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

Stats. Implemented: ORS 443.830 & 443.835

Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0190, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SDP 6-2011(Temp), f. & cert. ef. 2-10-11 thru 8-1-11

411-346-0200

Environmental Standards

(1) GENERAL CONDITIONS.

(a) The buildings and furnishings must be clean and in good repair and grounds must be maintained.

(b) Walls, ceilings, windows, and floors must be of such character to permit frequent washing, cleaning, or painting.

(c) There must be no accumulation of garbage, debris, or rubbish.

(d) The home must have a safe, properly installed, maintained, and operational heating system. Areas of the home used by the child in foster care must be maintained at normal comfort range during the day and during sleeping hours. During times of extreme summer heat, the provider must make reasonable effort to make the child comfortable using available ventilation, fans, or air-conditioning.

(2) EXTERIOR ENVIRONMENT.

(a) The premises must be free from objects, materials, and conditions that constitute a danger to the occupants.

(b) Swimming pools, wading pools, ponds, hot tubs, and trampolines must be maintained to assure safety, kept in clean condition, equipped with sufficient safety barriers or devices to prevent injury, and used by a child in foster care only under direct supervision by the provider or approved alternate caregiver.

(c) The home must have a safe outdoor play area on the property or within reasonable walking distance.

(3) INTERIOR ENVIRONMENT.

(a) KITCHEN.

(A) Equipment necessary for the safe preparation, storage, serving, and cleanup of meals must be available and kept in working and sanitary condition.

(B) Meals must be prepared in a safe and sanitary manner that minimizes the possibility of food poisoning or food-borne illness.

(C) If the washer and dryer are located in the kitchen or dining room area, soiled linens and clothing must be stored in containers in an area separate from food and food storage prior to laundering.

(b) DINING AREA. The home must have a dining area so the child in foster care may eat together with the foster family.

(c) LIVING OR FAMILY ROOM. The home must have sufficient living or family room space that is furnished and accessible to all members of the family including the child in foster care.

(d) BEDROOMS. Bedrooms used by the child in foster care must:

(A) Have adequate space for the age, size, and specific needs of each child;

(B) Be finished and attached to the house, have walls or partitions of standard construction that go from floor to ceiling, and have a door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom;

(C) Have windows that open and provide sufficient natural light and ventilation with window coverings provided that take into consideration the safety, care needs, and privacy of the child;

(D) Have no more than four children to a bedroom;

(E) Have safe, age appropriate furnishings that are in good repair, provided for each child including:

(i) A bed or crib with a frame unless otherwise documented by an ISP team decision, a clean comfortable mattress, and a water proof mattress cover if the child is incontinent;

(ii) A private dresser or similar storage area for personal belongings that is readily accessible to the child;

(iii) A closet or similar storage area for clothing that is readily accessible to the child; and

(iv) An adequate supply of clean bed linens, blankets, and pillows. Bed linens are to be properly fitting and provided for each child's bed.

(F) Be on the ground level for a child who is non-ambulatory or has impaired mobility;

(G) Provide flexibility in the decoration for the personal tastes and expressions of the child placed in the provider's home;

(H) Be in close enough proximity to the provider to alert the provider to nighttime needs or emergencies, or be equipped with a working monitor;

(I) Have doors that do not lock;

(J) Have no three-tier bunk beds in bedrooms occupied by a child in foster care; and

(K) Not be located on the third floor or higher from the ground level.

(e) A child of the foster provider may not be required to sleep in a room also used for another purpose in order to accommodate a child in foster care.

(f) The foster provider may not permit the following sleeping arrangements for a child placed in their home:

(A) Children of different sexes in the same room when either child is over the age of five years of age; and

(B) Children over the age of 12 months sharing a room with an adult.

(g) BATHROOMS.

(A) Must have tubs or showers, toilets, and sinks operable and in good repair with hot and cold water.

(B) A sink must be located near each toilet.

(C) There must be at least one toilet, one sink, and one tub or shower for each six household occupants including the provider and family.

(D) Must have hot and cold water in sufficient supply to meet the needs of the child for personal hygiene. Hot water temperature sources for bathing and cleaning areas that are accessible by the child in foster care may not exceed 120 degrees F.

(E) Must have grab bars and non-slip floor surfaces for toilets, tubs, or showers for the child's safety as necessary for the child's care needs.

(F) Must have barrier-free access to toilet and bathing facilities with appropriate fixtures for a child who utilizes a wheel chair or other mechanical equipment for ambulation. Barrier free must be appropriate for the non-ambulatory child's needs for maintaining good personal hygiene.

(G) The foster provider must provide each child with the appropriate personal hygiene and grooming items that meet each child's specific needs and minimize the spread of communicable disease.

(H) Window coverings in bathrooms must take into consideration the safety, care needs, and privacy of the child.

(4) GENERAL SAFETY.

(a) The foster provider must protect the child from safety hazards.

(b) Stairways must be equipped with handrails.

(c) A functioning light must be provided in each room and stairway.

(d) In homes with a child in foster care age three or under, or a child with impaired mobility, the stairways must be protected with a gate or door.

(e) Hot water heaters must be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location.

(f) Adequate safeguards must be taken to protect a child who may be at risk for injury from electrical outlets, extension cords, and heat-producing devices.

(g) The foster home must have operable phone service at all times available to all persons in the foster home including when there are power outages. The home must have emergency phone numbers readily accessible and in close proximity to the phone.

(h) The foster provider must store all medications, poisonous chemicals, and cleaning materials in a way that prevents access by a child.

(i) The foster provider must restrict a child's access to potentially dangerous animals. Only domestic animals must be kept as pets. Pets must be properly cared for and supervised.

(j) Sanitation for household pets and other domestic animals must be adequate to prevent health hazards. Proof of rabies or other vaccinations as required by local ordinances must be made available to the Division upon request.

(k) The foster provider must take appropriate measures to keep the house and premises free of rodents and insects.

(l) To protect the safety of a child in foster care, the provider must store hunting equipment and weapons in a safe and secure manner inaccessible to the child.

(m) The foster provider must have first aid supplies in the home in a designated place easily accessible to adults.

(n) There must be emergency access to any room that has a lock.

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(o) An operable flashlight, at least one per floor, must be readily available in case of emergency.

(p) House or mailbox numbers must be clearly visible and easy to read for easy identification by emergency vehicles.

(q) Use of video monitors must only be used as indicated in the ISP or Behavior Support Plan.

(5) FIRE SAFETY.

(a) Smoke detectors must be installed in accordance with manufacturer's instructions, equipped with a device that warns of low battery, and maintained to function properly.

(A) Smoke detectors must be installed in each bedroom, adjacent hallways leading to the bedrooms, common living areas, basements, and at the top of every stairway in multi-story homes.

(B) Ceiling placement of smoke detectors is recommended. If wall-mounted, the smoke detectors must be between 6" and 12" from the ceiling and not within 12" of a corner.

(b) At least one fire extinguisher, minimally rated 2:A:10:B:C, must be visible and readily accessible on each floor, including basements. A qualified professional who is well versed in fire extinguisher maintenance must inspect every fire extinguisher at least once per year. All recharging and hydrostatic testing must be completed by a qualified entity properly trained and equipped for this purpose.

(c) Use of space heaters must be limited to only electric space heaters equipped with tip-over protection. Space heaters must be plugged directly into the wall. No extension cords must be used with such heaters. No free-standing kerosene, propane, or liquid fuel space heaters must be used in the foster home.

(d) An Emergency Evacuation Plan must be developed, posted, and rehearsed at least once every 90 days with at least one drill practice per year occurring during sleeping hours. Alternate caregivers and other staff must be familiar with the emergency evacuation plan and a new child placed in foster care must be familiar with the Emergency Evacuation Plan within 24 hours. Fire drill records must be retained for one year.

(A) Fire drill evacuation rehearsal must document the date, time for full evacuation, location of proposed fire, and names of all persons participating in the evacuation rehearsal.

(B) The foster provider must be able to demonstrate the ability to evacuate all children in foster care from the home within three minutes.

(e) Foster homes must have two unrestricted exits in case of fire. A sliding door or window that may be used to evacuate a child may be considered a usable exit.

(f) Barred windows or doors used for possible exit in case of fire must be fitted with operable quick release mechanisms.

(g) Every bedroom used by a child in foster care must have at least one operable window, of a size that allows safe rescue, with safe and direct exit to the ground, or a door for secondary means of escape or rescue.

(h) All external and inside doors must have simple hardware with an obvious method of operation that allows for safe evacuation from the home. A home with a child that is known to leave their place of residence without permission must have a functional and activated alarm system to alert the foster provider.

(i) Fireplaces and wood stoves must include secure barriers to keep a child safe from potential injury and away from exposed heat sources.

(j) Solid or other fuel-burning appliances, stoves, or fireplaces must be installed according to manufacturer's specifications and under permit, where applicable. All applicants applying for a new child foster home certificate after July 1, 2007 must have at least one carbon monoxide sensor installed in the home in accordance with manufacturer's instructions if the home has solid or other fuel-burning appliances, stoves, or fireplaces. All foster providers certified prior to July 1, 2007 and moving to a new location that uses solid or other fuel-burning appliances, stoves, or fireplaces, must install a carbon monoxide sensor in the home in accordance with manufacturer's instructions prior to being certified at the new location.

(k) Chimneys must be inspected at the time of initial certification and if necessary the chimney must be cleaned. Chimneys must be inspected annually, unless the fireplace and or solid fuel-burning appliance was not used through the certification period and may not be used in the future. Required annual chimney inspections are to be made available to the certifier during certification renewal processes.

(l) A signed statement by the foster provider and certifier assuring that the fireplace and or solid fuel-burning appliance may not be in use must be submitted to the Division with the renewal application if a chimney inspection may not be completed.

(m) Flammable and combustible materials must be stored away from any heat source.

(6) SANITATION AND HEALTH.

(a) A public water supply must be utilized if available. If a non-municipal water source is used, it must be tested for coliform bacteria by a certified agent yearly and records must be retained for two years. Corrective action must be taken to ensure potability.

(b) All plumbing must be kept in good working order. If a septic tank or other non-municipal sewage disposal system is used, it must be in good working order.

(c) Garbage and refuse must be suitably stored in readily cleanable, rodent proof, covered containers, and removed weekly.

(d) SMOKING.

(A) The foster provider may not provide tobacco products in any form to a child under the age of 18 placed in their home.

(B) A child in foster care may not be exposed to second hand smoke in the foster home or when being transported.

(7) TRANSPORTATION SAFETY.

(a) The foster provider must ensure that safe transportation is available for children to access schools, recreation, churches, scheduled medical care, community facilities, and urgent care.

(b) If there is not a licensed driver and vehicle at all times there must be a plan for urgent and routine transportation.

(c) The foster provider must maintain all vehicles used to transport a child in a safe operating condition and must ensure that a first aid kit is in each vehicle.

(d) All motor vehicles owned by the foster provider and used for transporting a child must be insured to include liability.

(e) Only licensed adult drivers must transport a child in foster care in a motor vehicle. The motor vehicle must be insured to include liability.

(f) When transporting a child in foster care, the driver must ensure that the child uses seat belts or appropriate safety seats. Car seats or seat belts must be used for transporting a child in accordance with the Department of Transportation under ORS 815.055.

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

Stats. Implemented: ORS 443.830 & 443.835

Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0200, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SDP 6-2011(Temp), f. & cert. ef. 2-10-11 thru 8-1-11

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Inactive Referral Status; Denial, Suspension, Revocation, Refusal to Renew

(1) INACTIVE REFERRAL STATUS. The Division may require that a foster provider go on inactive referral status. Inactive referral status is a period, not to exceed 24 months or beyond the duration of the foster provider's current certificate, when during that time no agency shall refer additional children to the home and the provider may not accept additional children. The foster provider may request to be placed on inactive referral status. The certifier may recommend that the Division initiate inactive referral status.

(a) The Division may place a foster provider on inactive referral status for reasons including but not limited to the following:

(A) The Division or DHS-CW is currently assessing an allegation of abuse in the home.

(B) The special needs of the child currently in the home require so much of the foster provider's care and attention that additional children may not be placed in the home.

(C) The foster provider has failed to meet individualized training requirements or the Division has asked the foster provider to obtain additional training to enhance his or her skill in caring for the child placed in the home.

(D) The family or members of the household are experiencing significant family or life stress or changes in physical or mental health conditions that may be impairing their ability to provide care. Examples include but are not limited to:

(i) Separation or divorce and relationship conflicts;

(ii) Marriage;

(iii) Death;

(iv) Birth of a child;

(v) Adoption;

(vi) Employment difficulties;

(vii) Relocation;

(viii) Law violation; or

(ix) Significant changes in the care needs of their own family members (children or adults).

(b) The Division shall notify the foster provider immediately upon placing them on inactive referral.

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(c) Within 30 days of initiating inactive referral status, the Division shall send a letter to the foster provider that confirms the inactive status, states the reason for the status, and the length of inactive referral status.

(d) When the foster provider initiates inactive referral status, the inactive status ends at the request of the foster provider and when the Division has determined the conditions that warranted the inactive referral status have been resolved.

(A) There must be no conditions in the home that compromise the safety of the child already placed in the home.

(B) If applicable, a mutually agreed upon plan must be developed to address the issues prior to resuming active status.

(C) The foster provider must be in compliance with all certification rules, including training requirements, prior to a return to active status.

(2) DENIAL, SUSPENSION, REVOCATION, REFUSAL TO RENEW.

(a) The Division shall deny, suspend, revoke, or refuse to renew a child foster care certificate where it finds there has been substantial failure to comply with these rules.

(b) Failure to disclose requested information on the application or providing falsified, incomplete, or incorrect information on the application shall constitute grounds for denial or revocation of the certificate.

(c) The Division shall deny, suspend, revoke, or refuse to renew a certificate if the foster provider fails to submit a plan of correction, implement a plan of correction, or comply with a final order of the Division.

(d) Failure to comply with OAR 411-346-0200(5) may constitute grounds for denial, revocation, or refusal to renew.

(e) The Division may deny, suspend, revoke, or refuse to renew the child foster home certificate where imminent danger to health or safety of a child exists, including any founded report or substantiated abuse.

(f) The Division shall deny, suspend, revoke, or refuse to renew a certificate if the foster provider has been convicted of any crime that would have resulted in an unacceptable criminal records check upon certification.

(g) Suspension shall result in the removal of a child placed in the foster home and no placements shall be made during the period of suspension.

(h) The applicant or foster provider whose certificate has been denied or revoked may not reapply for certification for five years after the date of denial or revocation.

(i) The Division shall provide the applicant or the foster provider a written notice of denial, suspension, or revocation that states the reason for such action.

(j) Such revocation, suspension, or denial shall be done in accordance with the rules of the Division and ORS chapter 183 that govern contested cases.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835
Hist.: MHD 15-2000(Temp), f. & cert. ef. 11-30-00 thru 5-28-01; MHD 3-2001, f. 5-25-01, cert. ef. 5-28-01; Renumbered from 309-046-0220, SPD 34-2004, f. 11-30-04, cert. ef. 1-1-05; SPD 10-2007, f. 6-27-07, cert. ef. 7-5-07; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 2-2010(Temp), f. & cert. ef. 3-18-10 thru 6-30-10; SPD 7-2010, f. 6-29-10, cert. ef. 7-1-10; SDP 6-2011(Temp), f. & cert. ef. 2-10-11 thru 8-1-11

Department of Justice Chapter 137

Rule Caption: Calculating child support: self-support reserve.

Adm. Order No.: DOJ 1-2011(Temp)

Filed with Sec. of State: 1-26-2011

Certified to be Effective: 1-26-11 thru 7-24-11

Notice Publication Date:

Rules Amended: 137-050-0745

Subject: OAR 137-050-0745 is amended to update the monthly self-support reserve amount.

Rules Coordinator: Vicki Tungate—(503) 986-6086

137-050-0745

Self-Support Reserve

(1) A support calculation must ensure that a parent being ordered to pay support is left with enough income to meet his or her own basic needs. This is known as the Self Support Reserve and is determined as follows:

(a) Determine the parent's adjusted income as provided in OAR 137-050-0715;

(b) Calculate the parent's income available for support by subtracting a self-support reserve of \$1059 from the parent's adjusted income;

(c) Compare the amount of income available for support to the amount of support that was calculated under OAR 137-050-0710(8). The lesser of the two amounts is presumed to be the correct support amount.

(2) Any available income remaining after application of the self-support reserve in step (1)(c) is the income available for medical support.

(3) This rule does not apply to an incarcerated obligor as defined in OAR 137-055-3300.

(4) The amount of the self-support reserve (SSR) is based on the federal poverty guideline (FPG), and is adjusted to account for estimated taxes using a 1.167 multiplier. (SSR = FPG x 1.167) The self-support reserve amount will be reviewed and updated annually.

Stat. Auth.: ORS 25.270 - 25.290, 180.345

Stats. Implemented: ORS 25.270 - 25.290

Hist.: DOJ 16-2009, f. 12-1-09, cert. ef. 1-4-10; DOJ 1-2011(Temp), f. & cert. ef. 1-26-11 thru 7-24-11

Department of Oregon State Police Chapter 257

Rule Caption: Amend OSP's rules allowing criminal justice Regional Information Sharing Systems access to criminal offender information.

Adm. Order No.: OSP 1-2011

Filed with Sec. of State: 2-3-2011

Certified to be Effective: 2-28-11

Notice Publication Date: 1-1-2011

Rules Amended: 257-010-0015, 257-010-0020, 257-010-0025, 257-010-0045, 257-010-0050

Rules Repealed: 257-010-0015(T), 257-010-0020(T), 257-010-0025(T), 257-010-0045(T), 257-010-0050(T)

Subject: Pursuant to ORS 181.030, each member of the Department is authorized and empowered to prevent crime, pursue and apprehend offenders, obtain legal evidence necessary to ensure criminal convictions of offenders, institute criminal proceedings, and execute any lawful warrant or order of arrest issued against any person or persons for any violation of law. regional Information Sharing Systems (RISS) are inter-jurisdictional intelligence entities designed to identify, target, and remove criminal conspiracies and activities and terrorist conspiracies and activities that span jurisdictional boundaries, pursuant to 42 USC section 3796(h) and 28 CFR part 23. While membership in RISSs is limited to law enforcement agencies, how an RISS functions as an entity differs across the United States. In some cases, the RISS is operated and managed by a criminal justice agency. In other cases, the RISS is created as a distinct legal entity, i.e. a non-profit corporation. While the Department's current administrative rules allow criminal justice agencies to access criminal offender information for criminal justice purposes, its rules do not allow RISSs created as distinct legal entities to access criminal offenders information. Allowing RISSs, even when they are created as distinct legal entities, clearly advances the duties and responsibilities placed on OSP by the Oregon legislature. The amendments to OAR 257-010-0015, 257-010-0020, 257-010-0025, 257-010-0045, and 257-010-0050 allow RISSs to access the Department's criminal offender information so that both the RISSs and the Department can carry out their missions of stopping criminal and terrorist conspiracies and activities that occur across state jurisdictional lines.
Rules Coordinator: Cort Dokken—(503) 934-0228

257-010-0015

Definitions

As used in these rules:

(1) "Criminal Offender Information" means records, including fingerprints and photographs, received, compiled, and disseminated by the Oregon State Police for purposes of identifying criminal offenders and alleged offenders and maintained as to such persons' records of arrest, the nature and disposition of criminal charges, sentencing, confinement (confinement shall not include the retention by the Oregon State Police of records of transfer of inmates between penal institutions or other correctional facilities), and release, and includes the OSP Computerized Criminal History System.

(2) "Agency Agreement" means a written agreement between OSP and a Criminal Justice or Designated Agency as defined by ORS 181.010 authorized to receive criminal offender information, or between OSP and any state, federal, Native American tribe or private agency specifically granted authority by statute to receive Oregon criminal offender informa-

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tion, specifying the terms and conditions of accessing and receiving Oregon CCH Information.

(3) "Computerized Criminal History (CCH) System" means the administration and maintenance of on-line computer files of significant criminal offender information.

(4) "OSP" means the Oregon State Police and includes the Identification Services Section (ISS) and the Law Enforcement Data System (LEDS).

(5) "Oregon CCH System" means the Oregon Computerized Criminal History System.

(6) "Federal Criminal Offender Information System" means the national computerized criminal history system maintained and operated by the Federal Bureau of Investigation (FBI) which includes the Interstate Identification Index.

(7) "Criminal Justice Agency" means:

(a) The Governor;

(b) Courts of Criminal Jurisdiction;

(c) The Attorney General;

(d) District Attorneys, City Attorneys with criminal prosecutive functions and public defender organizations established under ORS Chapter 151;

(e) Law Enforcement Agencies;

(f) The Department of Corrections;

(g) The State Board of Parole and Post-Prison Supervision;

(h) The Board on Public Safety Standards and Training; and

(i) Any other state or local agency with law enforcement authority designated by order of the Governor.

(8) "Designated Agency" means any state, county or municipal government agency where Oregon criminal offender information is required to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, or licensing purposes, or other demonstrated and legitimate needs when designated by order of the Governor.

(9) "Regional Information Sharing System (RISS)" means an inter-jurisdictional intelligence system, in whatever form, designed pursuant to 42 USC §3796(h) and 23 CFR Part 23 to identify, target, and remove criminal conspiracies and activities and terrorist conspiracies and activities that occur across law enforcement and state jurisdictional boundaries.

(10) "State Control Terminal" means the agency within each state which is responsible for the state's computer link with the National Crime Information Center and National Law Enforcement Telecommunications System, Inc., and which is responsible for ensuring that NCIC and NLETS system security and operational policies and procedures are carried out within the state.

(11) "Law Enforcement Agency" means county sheriffs, municipal police departments, state police, other police officers of this and other states, and law enforcement agencies of the federal government.

(12) "Administration of Criminal Justice" means performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information. Criminal justice employment investigations are included, as is the licensing of or issuing of a permit for a weapon or explosive when required to be performed by a Criminal Justice Agency, pursuant to a federal, state or local law.

(13) "Firearm Instant Check System" means information received from Oregon Gun Dealers as defined in 18 U.S.C. § 921, concerning the selling, leasing or otherwise transferring a firearm and compiled by the Oregon State Police under authority of ORS 166.412 for purposes of determining if the person purchasing the firearm is disqualified from purchasing a firearm under Oregon or Federal Law and if the firearm being purchased is stolen.

(14) "Authorized agency" means the Department of State Police or other governmental agency designated by the state to report, receive or disseminate criminal offender information.

(15) "Qualified entity" means a business or organization that:

(a) Provides care or placement services, or licenses or certifies others to provide care or placement services, for children, elderly persons or dependent persons;

(b) Is not governed by a state regulatory or licensing agency; and

(c) Has been determined by an authorized agency to meet the criteria established by the authorized agency by rule under subsection (9) ORS 181.533.

(16) "Subject individual" means a person who is employed or seeks to be employed by a qualified entity or who is providing services or seeks to provide services to a qualified entity on a contractual or voluntary basis.

(17) "Organization" means a qualified entity that:

(a) Is exempt from taxation under section 501(c) of the Internal Revenue Code, as amended and in effect on January 1, 2002; and

(b) Provides mentoring programs or tutoring programs.

(18) "Tutoring program" means a program that provides a committed, sustained, one-to-one relationship between a volunteer and a youth, dependent person or elderly person. A sustained relationship typically lasts nine months or longer.

(19) "Youth" means a person who has not attained 18 years of age.

(20) "Dependent person" means a person who, because of physical or mental disability, or medical disability due to alcohol or drug dependence, needs mentoring or tutoring programs.

(21) "Elderly person" means a person 65 years of age or older.

Stat. Auth.: ORS 181.537, 181.538, 181.555, 181.556, 181.560(4), 183.310 - 183.550, 192.44 & 194.164

Stats. Implemented: ORS 181.538 & 181.556

Hist.: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76; DSP 1-1981, f. & ef. 5-1-81; DSP 3-1981, f. 10-30-81, ef. 11-1-81; OSP 3-1988, f. 8-22-88, cert. ef. 9-1-88; OSP 1-1990, f. & cert. ef. 6-4-90; OSP 1-1991, f. 5-17-91, cert. ef. 7-1-91; OSP 4-1993, f. & cert. ef. 12-20-03; OSP 4-1994, f. & cert. ef. 8-2-94; OSP 3-1996, f. & cert. ef. 3-22-96; OSP 1-2002, f. & cert. ef. 3-8-02; OSP 4-2010(Temp), f. 6-29-10, cert. ef. 7-1-10 thru 12-28-10; Administrative correction 1-25-11; OSP 1-2011, f. 2-3-11, cert. ef. 2-28-11

257-010-0020

System Responsibilities

(1) Maintenance and Dissemination of Criminal Offender Information. The Oregon State Police has statutory and administrative responsibility for the maintenance and dissemination of criminal offender information in Oregon.

(2) Accuracy and Completeness of Information. Information entered into Criminal Offender Information files is based on written documents submitted to the OSP by Criminal Justice Agencies reporting their record of official action, which documents contain fingerprint or other verification as to the identity of the individual to whom the information refers:

(a) OSP is responsible for the accuracy and completeness of information entered into the Oregon Criminal Offender Information System and any information subsequently transmitted for inclusion in the FBI Interstate Identification Index;

(b) This responsibility extends only to information contained in the documents as submitted to OSP.

(3) Removal of Information. OSP is responsible for removal of information from the Oregon and Federal Criminal Offender Information Systems when required by law or court order. In the event the OSP discovers there has been an erroneous entry in criminal offender information records maintained by OSP or the FBI, OSP shall correct or purge the inaccurate information.

(4) Entry of Information. Only terminals located at the OSP, Identification Services Section or others designated by the Superintendent of the OSP are allowed to enter, update, or modify records in the Oregon CCH File. Entry of information by other forms of electronic communications, as in the case of integration of computer systems, must be approved by the Superintendent of the OSP.

(5) Information to Qualified Criminal Justice and Designated Agencies. OSP is responsible for providing Criminal Offender Information to qualified Criminal Justice and Designated Agencies. Such information will be furnished, after proper inquiry, in either computerized or document form.

(6) Information to Regional Information Sharing Systems. OSP is responsible for providing Criminal Offender Information in computerized form to Regional Information Sharing Systems. Such information will be furnished, after proper inquiry, only if it exists in computerized form.

(7) Development of Operational Procedures. OSP is responsible for development of operational procedures to be followed by Criminal Justice and Designated Agencies permitted access to Oregon Criminal Offender Information and FBI Interstate Identification Index files.

(8) All Criminal Offender information distributed by the OSP shall contain a notice in writing in substantially the following language: Because additions or deletions may be made at any time, a new CCH record should be requested when needed for subsequent use.

(9) All agencies shall insofar as is feasible, taking into consideration the then existing capability of the OSP to respond, request and obtain a cur-

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rent criminal offender information record when that record is to be disseminated outside that agency.

(10) NCIC and NLETS Control Terminal Responsibility. OSP is the "state control terminal" for the NCIC and NLETS computer interface to Oregon and is responsible for assuring that all policies and rules for computer access to Oregon and Federal Criminal Offender Information Systems are adhered to by Oregon user agencies and Regional Information Sharing Systems.

(11) System Development and Operation. OSP is responsible for providing the computer hardware and software capabilities necessary to insure secure access, efficient processing and integrity of the information stored in the Oregon Criminal Offender Information System and for interfacing to the Federal Criminal Offender Information System.

(12) Physical Security of Computer Installation. OSP is responsible for development and implementation of policies and procedures to safeguard the criminal offender information at the central computer site from accidental or malicious damage or unauthorized access or use.

(13) Audit and Inspection of the User Agencies. OSP is responsible for periodically auditing and inspecting each computer terminal location accessing Oregon and Federal Criminal Offender Information to insure compliance with state and federal law, published rules, policies, and procedures.

(14) CCH computer terminal transaction records will be maintained at and by OSP and will be made available, upon written request, to participating Criminal Justice Agencies.

Stat. Auth.: ORS 181.555, 181.560(4), 183.310 - 183.550 & 192.440
Stats. Implemented: ORS 166.291, 166.412 & 181.880
Hist.: DSP 2, f. 6-14-74, ef. 7-11-74, DSP 4, f. 4-22-76, ef. 4-30-76; OSP 1-1990, f. & cert. ef. 6-4-90; OSP 4-1993, f. & cert. ef. 12-20-93; OSP 1-2002, f. & cert. ef. 3-8-02; OSP 4-2010(Temp), f. 6-29-10, cert. ef. 7-1-10 thru 12-28-10; Administrative correction 1-25-11; OSP 1-2011, f. 2-3-11, cert. ef. 2-28-11

257-010-0025

Access to and Use of Criminal Offender Information

(1) Access to OSP criminal offender information by any means shall be limited to:

(a) Criminal Justice Agencies, where the information is to be used for the administration of criminal justice, Criminal Justice Agency employment, or the information is required to implement a federal or state statute, local ordinance, Executive Order, or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct, or other demonstrated and legitimate needs;

(b) Designated Agencies upon Executive Order of the Governor, where the information is required to implement a federal or state statute, Executive Order, or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, or licensing purposes, or other demonstrated and legitimate needs:

(A) When a Designated Agency requests criminal offender information about an individual from OSP under ORS 181.555(1) for agency employment, licensing or other permissible purposes, the agency shall provide documentation that the individual:

(i) Gave prior written consent for the agency to make a criminal offender record check through the OSP; or

(ii) Has received written notice from the agency that a criminal offender record check may be made through the OSP. Notice shall be provided prior to the time the request is made and shall include: Notice of the manner in which the individual may be informed of the procedures adopted under ORS 181.555(3) for challenging inaccurate criminal offender information; and notice of the manner in which the individual may become informed of rights, if any, under Title VII of the Civil Rights Act of 1964; and notice that discrimination by an employer on the basis of arrest records alone may violate federal civil rights law and that the individual may obtain further information by contacting the Bureau of Labor and Industries.

(B) When an authorized agency or organization requests, in written form, criminal offender information about an individual from OSP under ORS 181.555(1), that agency will be charged a fee of \$4 for each individual checked (fee does not apply when check is made by agency using their LEDS terminal).

(c) Qualified entities upon successful determination as being a qualified entity by the OSP Identification Services Section. Qualified entities may request from OSP Identification Services Section a criminal records check for purposes of evaluating the fitness of a subject individual as an employee, contractor or volunteer. The OSP Identification Services Section may access state and federal criminal records only through use of the subject individual's fingerprints.

(A) Before the OSP Identification Services Section conducts a criminal records check based on the subject individual's fingerprints:

(i) The OSP Identification Services Section shall determine whether the entity requesting the criminal records check is a qualified entity as defined in 257-010-0015(15) and has executed a user agreement making that determination;

(ii) The qualified entity must establish criteria to be used by the OSP Identification Services Section in reviewing the criminal offender information for a final record check determination;

(iii) The qualified entity must provide the criteria established under paragraph (ii) of this subsection to the OSP Identification Services Section; and

(iv) The qualified entity must have informed the subject individual that the qualified entity might request a fingerprint-based criminal records check and that the subject individual may obtain a copy of the record check report from, or challenge the accuracy or completeness of the record check report through, the OSP Identification Services Section or the Federal Bureau of Investigation.

(B) Upon receipt of a subject individual's criminal offender information, the OSP Identification Services Section shall make a final record check determination by comparing the criminal offender information with the criteria provided to the OSP Identification Services Section by the qualified entity under subsection (A)(ii) of this section. In making the final record check determination, the OSP Identification Services Section may only consider information that the Department of State Police may disclose under ORS 181.560. The OSP Identification Services Section may only consider records of any conviction, or of any arrest less than one year old on which there has been no acquittal or dismissal.

(C) The OSP Identification Services Section shall only respond to a qualified entity's inquiry concerning a subject individual in the following manner and shall not provide specific criminal offender information:

(i) Yes. (No disqualifying criteria established by the qualified entity and ORS 181.560 was found.)

(ii) No. (One or more disqualifying criteria established by the qualified entity and ORS 181.560 was found.)

(d) Regional Information Sharing Systems, where the information is to be used to identify, target, and remove criminal conspiracies and activities and terrorist conspiracies and activities that occur across law enforcement and state jurisdictional boundaries. Access to Oregon Criminal Offender Information by Regional Information Sharing Systems is limited to only Oregon Criminal Offender Information that exists in computerized format;

(e) A person or agency not defined as a Criminal Justice, Designated Agency, or Qualified Entity has access only through the OSP Identification Services Section pursuant to ORS 181.555 and 181.560. The request must be submitted in writing and may be hand carried or mailed to the OSP Identification Services Section. A fee of \$10 will be charged for each check. A fee of \$5 will be charged for each request for copy certification by a notary public in addition to any other applicable fee. Checks are to be made payable to the Oregon State Police. Inquiries are to be addressed to Oregon State Police, Identification Services Section, 3772 Portland Road N.E., Salem, OR 97303. Inquiries may also be made through the OSP webpage at www.osp.state.or.us, when a customer account is established for billing purposes.

(A) The requesting party must furnish OSP with sufficient information to assist identifying and notifying the individual of interest. If the information is sought for employment purposes the requester must state on the written request that the individual has been so advised and the manner in which the individual was so advised;

(B) These individuals will be advised by letter the name of the requestor, and that they are allowed to review their criminal history for inaccurate or incomplete information. They will also be advised that they may become informed of certain rights under Title VII of the Civil Rights Act of 1964 by contacting the Bureau of Labor and Industries;

(C) If a challenge is received prior to the end of the statutory 14 day waiting period, response to the requester will be held in abeyance until the challenge is resolved;

(D) OSP will respond to all requests and furnish Oregon conviction information and any arrest information less than one year old on which there has been no acquittal or dismissal. If the compiled information does not meet the above criteria or there is no record of the subject, OSP will reply to the requester that there is no criminal record.

(2) Access to Oregon CCH information by means of computer terminals shall be limited to Criminal Justice Agencies, Designated Agencies, and Regional Information Sharing Systems using their respective identifi-

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ation number (ORI) as authorized by OSP in an "Agency Agreement." Access to FBI criminal offender information by a Regional Information Sharing System is authorized, pursuant to an OSP "Agency Agreement," only upon a showing that the system is authorized under Title 28, United States Code, Section 534 and Title 28, Code of Federal Regulations, Part B & C, to receive such FBI criminal offender information.

(3) Oregon criminal offender information may be shared between authorized Criminal Justice and Designated Agencies, and between Regional Information Sharing Systems and their respective participating law enforcement agencies. All other secondary dissemination of criminal offender information is prohibited unless expressly permitted by Oregon Revised Statute. Dissemination of Oregon criminal offender information by the Department of Human Services or the Employment Department to public or private agencies authorized by ORS 181.537(1)(d) shall be limited to persons with a demonstrated and legitimate need to know the information. Such need must be demonstrated to the satisfaction of the Department of Human Services or the Employment Department responsible for the dissemination of the information. Title 28, United States Code, Section 534 and Title 28, Code of Federal Regulations, Section 20.33(b), prohibits dissemination of FBI criminal offender information to public or private agencies by Criminal Justice or Designated Agencies. Inquiries for nonofficial purposes or the checking of records for unauthorized persons or agencies is prohibited. A person wishing to review their criminal history record maintained by the FBI should write to: Federal Bureau of Investigation, CJIS Division, Attn: SCU, Module D2, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306. The FBI will inform the person how to obtain a copy of their record and, if necessary, how to challenge the accuracy or completeness of that record.

(4) Criminal offender information may be furnished to authorized Criminal Justice, Designated Agency, and Regional Information Sharing System employees and no person who has been convicted of a crime which could have resulted in a sentence to a federal or state penitentiary will be allowed to operate a computer terminal accessing CCH information or have access to Criminal offender information. All authorized agency or system employees as described above must be fingerprinted and the fingerprint card submitted to OSP. The fingerprint cards will be searched against the state and federal criminal record files. The "Reason Fingerprinted" may be for criminal justice employment such as "Police Officer," "Corrections Officer" or "Access to CCH." These fingerprint cards will be retained by OSP and entered into the CCH File. Exceptions to this rule may be made in extraordinary circumstances upon written application to the Superintendent of the Oregon State Police setting forth such circumstances. The Superintendent of OSP will maintain a central file where such exception authorization shall be filed.

(5) Screening of Criminal Justice, Designated Agency, and Regional Information Sharing System employees who have access to CCH or criminal offender information records is the responsibility of the employing agency or system.

(6) Any Criminal Justice, Designated Agency, or Regional Information Sharing System that obtains Oregon or FBI criminal offender information, either directly through that agency's or system's computer terminal, through the computer terminal of another agency or system, or directly from OSP, must have executed a written "Agency Agreement" with the OSP prior to such access. Any public or private agency receiving Oregon criminal offender information from the Department of Human Services or the Employment Department pursuant to ORS 181.537(1)(c) or (d) must have executed a written "Agency Agreement" with the Department of Human Services or the Employment Department prior to receiving the information. Dissemination of Oregon criminal offender information received under authority of ORS 181.537(1)(d) by a public or private agency is strictly prohibited.

(7) Security of computer terminals. Any computer terminal with CCH accessing capability must be physically secure and placed in a location not available to unauthorized persons. Computer terminals must be so placed that unauthorized persons may not observe the content of messages transmitted or received on such computer terminal.

(8) Security of criminal offender information records. Any Criminal Justice, Designated Agency, Regional Information Sharing System, or private entity obtaining or receiving criminal offender information shall maintain those records in secure files, available only to authorized agency employees, until they are destroyed by burning, shredding or secure and confidential recycling and shall treat those records in such a manner that the record does not become public information in any later proceeding, except through court order or as otherwise provided by law.

(9) Radio Transmission. Any radio transmission of criminal offender information records shall be limited to essential details only, with information identifying individuals and offenses concealed insofar as possible. Plain text transmission of an entire (summary or full CCH) record is prohibited.

(10) Fee for relief from the bar of purchasing/possessing a firearm. When a person barred from possessing a firearm under ORS 166.250(1)(c)(A), (B), (D) or (E) or barred from purchasing a firearm under ORS 166.470 and is granted relief from the bar by a court under ORS 166.274, a fee of \$12 will be charged to enter and maintain this information in the CCH File as authorized under ORS 166.274(4)(c).

(11) Fee for conducting applicant and regulatory fingerprint based criminal record background check when fingerprint card is retained in the CCH File. A fee of \$27 will be charged to conduct a fingerprint based criminal record background check when the fingerprint card and related information is entered and maintained in the CCH File.

(12) Fee for conducting applicant and regulatory fingerprint based criminal record background check when fingerprint card is not retained in the CCH File. A fee of \$28 will be charged to conduct a fingerprint based criminal record background check when the fingerprint card and related information is returned to the contributor or destroyed by the ISS. This fee will be waived as provided in ORS 181.556(1) & (2).

(13) Fee for conducting applicant and regulatory fingerprint based criminal record background check for qualified entity based on criteria established by the qualified entity. A fee of \$52 will be charged to conduct a fingerprint based criminal record background check and fitness determination. The fingerprint card and results of the fitness determination will be returned to the contributor. This fee will be waived as provided in ORS 181.556(1) & (2).

(14) Agencies authorized by Oregon Revised Statute or federal law to submit fingerprint record checks to the FBI, Identification Division via OSP, are responsible to pay the prevailing user fee charged by the FBI for those fingerprint record checks in addition to the OSP user fee, except as otherwise provided by state or federal law.

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

Stat. Auth.: ORS 166.291, 166.412, 181.537, 181.555, 181.556(4), 183.310 - 183.550, 192.440 & 194.164

Stats. Implemented: ORS 166.291, 166.412 & 181.880

Hist.: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76; DSP 1-1981, f. & ef. 5-1-81; DSP 3-1981, f. 10-30-81, ef. 11-1-81; DSP 1-1982, f. 3-12-82, ef. 3-15-82; OSP 1-1990, f. & cert. ef. 6-4-90; OSP 1-1991, f. 5-17-91, cert. ef. 7-1-91; OSP 1-1992, f. 3-17-92, cert. ef. 3-18-92; OSP 4-1993, f. & cert. ef. 12-20-93; OSP 4-1994, f. & cert. ef. 8-2-94; OSP 3-1996, f. 5-24-96, cert. ef. 7-1-96; OSP 1-2002, f. & cert. ef. 3-8-02; OSP 1-2005(Temp), f. & cert. ef. 3-1-05 thru 8-27-05; OSP 3-2005, f. & cert. ef. 9-12-05; OSP 4-2010(Temp), f. 6-29-10, cert. ef. 7-1-10 thru 12-28-10; Administrative correction 1-25-11; OSP 1-2011, f. 2-3-11, cert. ef. 2-28-11

257-010-0045

Violation of Rules

(1) Willful violation of Oregon Revised Statute, Executive Order or published rules relating to the Oregon Criminal Offender Information System by any authorized agency, Regional Information Sharing System, or employee may result in immediate termination of such agency's authorization to receive such information from the Oregon and/or Federal Criminal Offender Information Systems.

(2) Reinstatement will be effected only upon demonstration by the agency or system that the cause of such violation has been corrected. Final determination as to the reinstatement of any agency or system so terminated will be the responsibility of the OSP.

Stat. Auth.: ORS 181.555, 181.560(4), 183.310 - 183.550 & 192.440

Stats. Implemented: ORS 166.291, 166.412 & 181.880

Hist.: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76; OSP 1-1990, f. & cert. ef. 6-4-90; OSP 4-1993, f. & cert. ef. 12-20-93; OSP 4-2010(Temp), f. 6-29-10, cert. ef. 7-1-10 thru 12-28-10; Administrative correction 1-25-11; OSP 1-2011, f. 2-3-11, cert. ef. 2-28-11

257-010-0050

Rights of Appeal

A Criminal Justice, Designated Agency, Regional Information Sharing System, or employee desiring to appeal any action, order, or administrative ruling by the OSP may proceed under the provisions of Rules 30.00 to 30.80 of the **Attorney General's Model Rules of Practice and Procedures** under the Administrative Procedure Act relating to contested cases and judicial review.

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

Stat. Auth.: ORS 181.555, 181.560(4), 183.310 - 183.550 & 192.440

Stats. Implemented: ORS 166.291, 166.412 & 181.880

Hist.: DSP 2, f. 6-14-74, ef. 7-11-74; DSP 4, f. 4-22-76, ef. 4-30-76; OSP 1-1990, f. & cert. ef. 6-4-90; OSP 4-1993, f. & cert. ef. 12-20-93; OSP 4-2010(Temp), f. 6-29-10, cert. ef. 7-1-10 thru 12-28-10; Administrative correction 1-25-11; OSP 1-2011, f. 2-3-11, cert. ef. 2-28-11

ADMINISTRATIVE RULES

Rule Caption: Revises the authority of Law Enforcement to access Firearm Instant Check System information for criminal investigations.

Adm. Order No.: OSP 2-2011

Filed with Sec. of State: 2-3-2011

Certified to be Effective: 2-28-11

Notice Publication Date: 1-1-2011

Rules Amended: 257-010-0055

Rules Repealed: 257-010-0055(T)

Subject: This rule amends Oregon Administrative Rules (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 rule 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; Administrative correction 12-28-10; OSP 2-2011, f. 2-3-11, cert. ef. 2-28-11

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

Rule Caption: Group registration plates.

Adm. Order No.: DMV 1-2011

Filed with Sec. of State: 1-28-2011

Certified to be Effective: 1-28-11

Notice Publication Date: 12-1-2010

Rules Amended: 735-040-0098

Rules Repealed: 735-040-0098(T)

Subject: ORS 805.205(2)(a) requires DMV to collect a surcharge, as determined by DMV, for non-profit group plates. The surcharge amount may not be less than \$2.50 per plate and not more than \$16 for each non-profit group plate issued or renewed. When setting the surcharge, DMV is required to consult with the non-profit group for which plates are issued. In August of 2009, after consulting with existing non-profit groups, DMV adopted OAR 735-040-0098 to set the surcharge amount for non-profit group plates at \$2.50 per plate. Under OAR 735-040-0097, a non-profit group may request that DMV collect a surcharge of more than \$2.50 per plate.

On May 18, 2010, DMV received a request for non-profit group plates that recognize fallen public safety officers pursuant to ORS 805.205(3)(b). The group requesting the plates requested that DMV set the surcharge at \$8 per plate for each year of the registration period. DMV consulted with the group and determined to set the surcharge at \$8 per plate for each year of the registration period.

This permanent rule amendment replaces a temporary amendment DMV filed to coincide with issuance of the Fallen Public Safety Officer registration plates and to avoid a possible loss in revenue to the non-profit group requesting the plates.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-040-0098

Non-profit Group Plate Surcharge

In addition to any other fee authorized by law:

(1) DMV will collect a surcharge of \$2.50 per plate for each year of the registration period upon issuance and renewal of a non-profit group plate.

(2) Notwithstanding section (1) of this rule, DMV will collect a surcharge of \$8 per plate for each year of the registration period upon issuance and renewal of a non-profit group plate that recognizes fallen public safety officers.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 15-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; DMV 1-2010, f. & cert. ef. 1-28-10; DMV 14-2010(Temp), f. 8-27-10, cert. ef. 9-1-10 thru 2-28-11; DMV 1-2011, f. & cert. ef. 1-28-11

Department of Transportation, Highway Division Chapter 734

Rule Caption: Implementation of 2010 SB 1024 amendments to ORS 374.310.

Adm. Order No.: HWD 1-2011

Filed with Sec. of State: 1-19-2011

Certified to be Effective: 1-19-11

Notice Publication Date: 11-1-2010

Rules Amended: 734-051-0020, 734-051-0040, 734-051-0045, 734-051-0070, 734-051-0080, 734-051-0135, 734-051-0245, 734-051-0255, 734-051-0295, 734-051-0315, 734-051-0345, 734-051-0500, 734-051-0530

Rules Repealed: 734-051-0020(T), 734-051-0040(T), 734-051-0045(T), 734-051-0070(T), 734-051-0080(T), 734-051-0135(T),

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734-051-0245(T), 734-051-0255(T), 734-051-0295(T), 734-051-0315(T), 734-051-0345(T), 734-051-0500(T), 734-051-0530(T)

Subject: The 2010 special session of the legislature made statutory changes to ORS 374.310 which were signed into law by the governor in March 2010. Temporary rules were approved by the Oregon Transportation Commission on July 21, 2010 to bring OAR chapter 734 division 51 rules into compliance with the changes in ORS 374.310. These amendments replace the temporary rules and correct and update citations and references contained in the access management rules.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-051-0020

Purpose and Applicability of Rules

(1) The purpose of division 51 rules is to provide a safe and efficient transportation system through the preservation of public safety, the improvement and development of transportation facilities, the protection of highway traffic from the hazards of unrestricted and unregulated entry from adjacent property, and the elimination of hazards due to highway grade intersections. These rules establish procedures and criteria used by the Department to govern highway approaches, access control, spacing standards, medians and restriction of turning movements in compliance with statewide planning goals and in a manner compatible with acknowledged comprehensive plans and consistent with Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR), and the 1999 Oregon Highway Plan (OHP).

(2) The 1999 Oregon Highway Plan dated March 18, 1999 and all amendments approved by the Oregon Transportation Commission as of the adoption of this rule are hereby adopted by reference as the policy framework and investment priorities for implementing access management.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345
Stats. Implemented: ORS 374.305 - 374.350 & 374.990
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0030; HWD 2-2007, f. & cert. ef. 1-26-07; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0040

Definitions

The following definitions apply to division 51 rules:

(1) **“1999 Oregon Highway Plan”** means the 1999 Oregon Highway Plan and all amendments approved by the Oregon Transportation Commission as adopted by OAR 734-051-0020.

(2) **“Access Control”** means no right of access exists between a property abutting the highway and the highway. The right of access may have been acquired by the Department or eliminated by law.

(3) **“Access Management Strategy”** means a project delivery strategy that identifies the location and type of approaches and other necessary improvements that will occur primarily within the highway right of way and that is intended to improve current conditions of the section of highway by moving in the direction of the access management spacing standards.

(4) **“Access Management Plan”** means a plan for managing a designated section of highway or the influence area of an interchange to maintain and improve highway performance and safety. It is intended to improve current and future conditions on a section of highway or interchange by moving in the direction of the access management spacing standards and may address local street connectivity, local street improvements and local plans and land use regulations. An Access Management Plan may be developed independent of or in conjunction with a highway or interchange project; however, an Access Management Plan is not a highway or interchange project.

(5) **“Access Mitigation Proposal”** means a proposal offered by an applicant that identifies the location and type of approaches and necessary improvements to the highway and that is intended to improve current conditions of the section of highway by moving in the direction of the access management spacing standards by combining or removing approaches resulting in a net reduction of approaches to that section of highway. An Access Mitigation Proposal must be approved by the Department, agreed to by all affected property owners, and real property interests must be recorded.

(6) **“Alternate Access”** means the physical existence of other means to access a property than the proposed approach, such as an existing public right of way, another location on the subject state highway, an easement across adjoining property, a different highway, a service road, or an alley, including singularly or as a joint approach, but without a conclusive determination that the alternate access is “reasonable” as defined in section (51) of this rule.

(7) **“Appealable decision”** means a decision by the Department that may be appealed through a Region Review as set forth in OAR 734-051-0345 or a Contested Case Hearing as set forth in OAR 734-051-0355. An appealable decision includes a decision to deny an application or to deny a deviation or approval of an application with mitigation measures.

(8) **“Applicant”** means a person, firm or corporation, or other legal entity that applies for an approach or deviation including an owner or lessee, or an option holder of a property abutting the highway, or their designated agent.

(9) **“Application”** means a completed form Application for State Highway Approach including any required documentation and attachments necessary for the Department to determine if the application can be deemed complete.

(10) **“Approach”** means a legally constructed, approach road or private road crossing, recognized by the Department as grandfathered or existing under a valid Permit to Operate.

(11) **“Approach road”** means a legally constructed, public or private connection, providing vehicular access to and/or from a highway and an adjoining property.

(12) **“Classification of highways”** means the Department’s state highway classifications defined in the 1999 Oregon Highway Plan.

(13) **“Commission”** means the Oregon Transportation Commission.

(14) **“Construction Permit”** means a Permit to Construct a State Highway Approach including all attachments, required signatures, and conditions and terms.

(15) **“Crash history”** means at least the three most recent years of crash data recorded by the Department’s Crash Analysis and Reporting Unit.

(16) **“Day”** means calendar day, unless specifically stated otherwise.

(17) **“Deemed complete”** means an application and all required supplemental documentation necessary for the Department to review and assess the application and determine if a Construction Permit or a Permit to Operate may be issued.

(18) **“Department”** or **“ODOT”** means the Oregon Department of Transportation.

(19) **“Deviation”** means a departure from the access management spacing standards.

(20) **“Division 51”** means Oregon Administrative Rules (OAR) 734-051-0010 through 734-051-0560 and Tables 1, 2, 3, 4, 5, 6 and 7 adopted and made a part of division 51 rules and Figures 1, 2, 3 and 4 adopted and made a part of division 51 rules.

(21) **“Double-Frontage Property”** means a property with a right of access to more than one state highway.

(22) **“Executive Deputy Director”** means the Executive Deputy Director for Highway Division of the Oregon Department of Transportation.

(23) **“Expressway”** means a segment of highway defined in the 1999 Oregon Highway Plan and classified by the Oregon Transportation Commission.

(24) **“Fair Market Value”** means the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy.

(25) **“Freeway or Expressway ramp”** means all types, arrangements, and sizes of turning roadways for right or left turning vehicles that connect two or more legs at an interchange and the components of a ramp area terminal at each leg and a connection road, usually with some curvature and on a grade.

(26) **“Grandfathered approach”** means a legally constructed approach existing prior to 1949. A property owner has the burden to prove an approach is grandfathered based upon existence prior to 1949. For purposes of this Division, grandfathered approaches also include approaches presumed in compliance as set forth in OAR 734-051-0285(7) and approaches intended to remain open that were improved in conjunction with a Department project prior to April 1, 2000, as set forth in OAR 734-051-0285(9).

(27) **“Grant of Access”** means the conveyance or evidence of the conveyance from the Department of a specific right of access at a location where an abutting property currently does not have that specific right of access.

(28) **“Highway mobility standards”** mean the established standards for maintaining mobility as defined in the 1999 Oregon Highway Plan.

(29) **“Highway segment designations”** mean the four categories of designations, Special Transportation Area, Commercial Centers, Urban Business Areas, and Urban, defined in the 1999 Oregon Highway Plan.

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(30) "Indenture of Access" means a deeded conveyance that changes the location, width, or use restrictions of an existing reservation of access.

(31) "Infill" means development of vacant or remnant land passed over by previous development and that is consistent with zoning. Infill occurs in urban areas. It may also occur in rural areas on commercial or industrial zoned land where the land has been developed into an urban block pattern including a local street network, and the posted highway speed is at or below 45 miles per hour.

(32) "Influence area of an interchange" means the area 1320 feet from an interchange ramp terminal measured on the crossroad away from the mainline.

(33) "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.

(34) "Interchange Area Management Plan" means a plan for managing a grade-separated interchange area to ensure safe and efficient operation between connecting roadways and to protect the functional integrity, operations, and safety of the interchange. An Interchange Area Management Plan may be developed independent of or in conjunction with an interchange project and may address local street connectivity, local street improvements and local plans and land use regulations. An Interchange Area Management Plan is not an interchange project.

(35) "Intersection" means an area where two or more highways or an approach and a highway join or cross at grade.

(36) "Land Use Action" means an action by a local government or special district concerning the adoption, amendment or application of the statewide planning goals, a comprehensive plan provision, or a land use regulation including zoning or subdivision codes.

(37) "Median" means the portion of the roadway separating opposing traffic streams.

(38) "Mitigation Measures" mean conditions, improvements, modifications, and restrictions set forth in OAR 734-051-0145 and required by the Department or initiated by an applicant for approval of a deviation or an application.

(39) "Move in the direction of" means that changes in the approach(es) to a property abutting the highway would bring a site closer to conformance with existing highway standards including where existing approaches to the highway or expressway are combined or eliminated resulting in a net reduction in the number of approaches to the highway or expressway, improvements in spacing of private approaches or public approaches, or improvements to intersection sight distance.

(40) "Peak hour" means the highest one-hour volume observed on an urban roadway during a typical or average week or the 30th highest hourly traffic volume on a rural roadway typically observed during a year.

(41) "Permit to Construct" means a Permit to Construct a State Highway Approach including all attachments, required signatures, conditions and terms, and performance bonds or insurance.

(42) "Permit to Operate" means a Permit to Operate, Maintain and Use a State Highway Approach including all required signatures and attachments, and conditions and terms. A Permit to Operate is not required for a public approach. However the Department may issue a Permit to Operate for a public approach upon agreement with the governing city or county.

(43) "Permitee" means a person, firm or corporation, or other entity holding a valid Permit to Operate including the owner or lessee of the property abutting the highway or their designated agent.

(44) "Permitted approach" means a legally constructed private or public approach existing under a valid Permit to Operate.

(45) "Planned" means not constructed but adopted into a comprehensive plan or transportation system plan in accordance with administrative procedures of OAR 660-012 and ORS Chapter 197.

(46) "Private approach" means an approach serving one or more properties and is not a public approach as defined in section (50) of this rule.

(47) "Private road crossing" means a legally constructed, privately owned road designed for use by trucks which are prohibited by law from using state highways, county roads, or other public highways.

(48) "Professional Engineer" means a person registered and holding a valid certificate to practice engineering in the State of Oregon, as provided in ORS 672.002 through 672.325, with expertise in traffic engineering, as provided in OAR 820-040-0030.

(49) "Project Delivery" means the allocation of resources to plan and construct new highways or modify and improve existing highways.

(50) "Public approach" means an existing or planned city street or county road connection that provides vehicular access to the general public from a highway. An existing city street or county road connection must be

under the authority of the city or county to be considered a public approach. A planned city street or county road must be consistent with 734-051-0040(45) and must be or come under the authority of the city or county to be considered a public approach.

(51) "Reasonable Access" means the ability to access a property in a manner that meets the criteria under ORS 374.310(3).

(52) "Redevelopment" means the act or process of changing existing development including replacement, remodeling, or reuse of existing structures to accommodate new development that is consistent with current zoning. Redevelopment occurs in urban areas. It may also occur in rural areas on commercial or industrial zoned land where the land has been developed into an urban block pattern including a local street network, and the posted highway speed is at or below 45 miles per hour.

(53) "Region Access Management Engineer" means a professional engineer employed by the Department who by training and experience has comprehensive knowledge of the Department's access management rules, policies, and procedures, or as specified in an Intergovernmental Agreement delegating permitting authority as set forth in OAR 734-051-0035(3).

(54) "Region Manager" means the person in charge of one of the Department's Transportation Regions or designated representative.

(55) "Reservation of Access" means a limitation of a common law right of access to a specific location where the Department has acquired access control subject to restrictions that are designated in a deed. A reservation of access may include a use restriction limiting the right of access to a specified use or restriction against a specified use. A use restriction included in a reservation of access does not restrict turning movements nor does the absence of a use restriction allow unrestricted turning movements. A reservation of access affords the right to apply for an approach but does not guarantee approval of an Application for State Highway Approach or the location of an approach.

(56) "Restricted Use Approach" means an approach that is intended to provide vehicular access for a specific use and for a limited volume of traffic. Such uses are determined by the Department and may include emergency services, government, and utility uses. A mitigation required as a part of approach permit approval or a condition on a construction permit does not by itself create a "restricted use approach."

(57) "Right of access" means the right of ingress and egress to the roadway and includes a common law right of access, reservation of access, or grant of access.

(58) "Right of way" means real property or an interest in real property owned by the Department as defined in the 1999 Oregon Highway Plan.

(59) "Rural" means the area outside the urban growth boundary, the area outside a Special Transportation Area in an unincorporated community, or the area outside an Urban Unincorporated Community defined in OAR 660-022-0010(9).

(60) "Safety factors" include the factors identified in OAR 734-051-0080(8).

(61) "Signature" means the signature of the specific individual or an authorized officer of the corporation or partnership and must include the name of the corporation or partnership licensed as set forth in ORS 60.111, and which maintains a registered agent and registered office in this state.

(62) "Spacing Standards" mean Access Management Spacing Standards as set forth in OAR 734-051-0115 and specified in Tables 1, 2 and 3 adopted and made a part of division 51 rules and Access Management Spacing Standards for Approaches in an Interchange Area as set forth in OAR 734-051-0125 and specified in Tables 4, 5, 6 and 7 and Figures 1, 2, 3 and 4, adopted and made a part of division 51 rules.

(63) "Temporary approach" means an approach that is constructed, maintained, and operated for a specified period of time not exceeding two years, and removed at the end of that period of time.

(64) "Traffic Impact Study" means a report prepared by a professional engineer that analyzes existing and future roadway conditions resulting from the applicant's development.

(65) "Trip" means a one-way vehicular movement that consists of a motor vehicle entering or exiting a property. A vehicle entering a property and later exiting that property has made two trips.

(66) "Urban" means the area within the urban growth boundary, within a Special Transportation Area of an unincorporated community, or within an Urban Unincorporated Community defined in OAR 660-022-0010(9).

(67) "Vehicle trips per day" means the total of all one-direction vehicle movements with either the origin or destination inside the study site that includes existing, primary, pass by, and diverted linked trips and is calculated in accordance with the procedures contained in the current edition of the Institute of Transportation Engineers (ITE) publications Trip

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Generation and Trip Generation Handbook. Adjustments to the standard rates in the ITE publications for mode split may be allowed if calculated in accordance with Transportation Planning Rule and the ITE procedures. Adjustments to the standard rates for multi-use internal site trips may be allowed if calculated in accordance with ITE procedures and if the internal trips do not add vehicle movements to the approaches to the highway.

(68) "Vehicular Access" means access by motorized vehicles to a property from a street, roadway, highway, easement, service road, or alley including singular or joint access.

(69) "Work Day" means Monday through Friday and excludes holidays.

[Publications: Publications referenced are available from the agency.]
[ED. NOTE: Tables & Figures referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312, 374.313 & 374.345
Stats. Implemented: ORS 374.305 - 374.345 & 374.990
Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0010; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04; HWD 8-2005, f. & cert. ef. 9-16-05; HWD 2-2007, f. & cert. ef. 1-26-07; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0045

Change of Use of an Approach

(1) This rule applies to private approaches existing under a valid Permit to Operate and private grandfathered approaches.

(2) As used in this rule -0045 "peak hour" of the site means the hour during which the highest volume of traffic enters and exits the property during a typical week.

(3) A change of use of an approach occurs, and an application must be submitted, when an action or event identified in subsection (a) of this section, results in an effect identified in subsection (b) of this section.

(a) The Department may review an approach at the time of an action such as:

- (A) Zoning or plan amendment designation changes;
- (B) Construction of new buildings;
- (C) Floor space of existing buildings increase;
- (D) Division or consolidation of property boundaries;
- (E) Changes in the character of traffic using the approach;
- (F) Internal site circulation design or inter-parcel circulation changes;

or

(G) Reestablishment of a property's use after discontinuance for four years or more.

(b) An application must be submitted when an action in subsection (a) of this section may result in any of the following:

(A) The number of peak hour trips increases by 50 trips or more from that of the property's prior use and the increase represents a 20 percent or greater increase in the number of peak hour trips from that of the property's prior use.

(B) The number of trips on a typical day increases by 500 trips or more from that of the property's prior use and the increase represents a 20 percent or greater increase in the number of trips on a typical day from that of the property's prior use.

(C) ODOT demonstrates that safety or operational problems related to the approach are occurring.

(D) The approach does not meet a stopping sight distance requirement (measured in feet) of 10 times the posted speed of the roadway (measured in miles per hour) or 10 times the 85th percentile speed of the roadway where the 85th percentile speed is higher or lower than the posted speed. The permittee may perform a study to determine if the 85th percentile speed is higher or lower than the posted speed. The sight distance measurement and the study to determine the 85th percentile speed shall be performed according to published Department procedures by or under the supervision of an engineer registered in the state of Oregon.

(E) The daily use of an approach increases by 10 or more vehicles with a gross vehicle weight rating of 26,000 pounds or greater.

- (c) An effect in subsection (b) of this section may be determined by:
- (A) Field counts;
 - (B) Site observation;
 - (C) Traffic Impact Study;
 - (D) Field measurement;
 - (E) Crash history;
 - (F) Institute of Transportation Engineer Trip Generation Manual; or
 - (G) Information and studies provided by the local jurisdiction.

(d) Mitigation of the change of use of an approach shall be limited to addressing the identified safety or operational problems.

(4) The following actions do not constitute a change of use:

(a) Modifications in advertising, landscaping, general maintenance, or aesthetics not affecting internal or external traffic flow or safety; or

(b) Buildout or redevelopment of an approved site plan or multi-phased development within the parameters of a Traffic Impact Study that is less than five years old or where within parameters of the future year analysis of the Traffic Impact Study, whichever is greater, and that is certified by a Professional Engineer.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312, 374.345 & Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.305 - 374.345, 374.990 & Ch. 974, OL 1999, Ch. 371, OL 2003
Hist.: 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0065; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0110; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0070

Application Procedure and Timelines

(1) The Department shall document decisions made under Division 51 rules with written findings and shall provide written notice to applicants:

- (a) Written findings shall be provided to the applicant upon request;
- (b) Materials submitted by the applicant become the property of the Department;

(c) The Region Manager may waive requirements for information and documentation required from an applicant depending on the nature of the application and on the sufficiency of other information available to the Department for its evaluation of an application;

(d) Where necessary to comply with the permitting criteria under Division 51 rules, approval of an application may be conditioned upon significant changes to a proposed site plan including relocation of buildings, parking, circulation, reduction of intensity of use, or variances from local jurisdictions; and

(e) Approval of an application may require mitigation measures set forth in OAR 734-051-0145.

(2) The Department, applicant, or local government may request a pre-application meeting to discuss the approach application process.

(3) An application is required:

- (a) For a new private approach to a state highway;
- (b) When a change of use occurs as set forth in OAR 734-051-0045;
- (c) For a temporary approach to a state highway; or
- (d) For a restricted use approach to a state highway.

(4) An application accompanied by a site plan must be submitted for each approach requested. All of the following apply to an application:

(a) The Department shall not accept an application for an approach to a freeway, a freeway ramp, or an expressway ramp, or where an approach would be aligned opposite a freeway or expressway ramp terminal.

(b) The Department shall require written evidence of concurrence by the owner where an applicant is not the property owner.

(c) The Department may refuse to accept an application that is incomplete or contains insufficient information to allow the Department to determine if supplemental documentation is required or otherwise determine that the application may be deemed complete.

(5) The Department shall determine if an application is deemed complete:

(a) Within 30 days of accepting an application when section (6) of this rule does not require supplemental documentation; or

(b) When the supplemental documentation is received and the Department determines that the supplemental documentation is sufficient to evaluate the application, if section (6) of this rule requires supplemental documentation.

(6) The Department may require supplemental documentation before an application is deemed complete, and the Region Manager:

(a) May conduct an on-site review to determine the need for supplemental documentation before an application is deemed complete. The on-site review area includes both sides of the highway in the vicinity of the proposed approach including:

- (A) The site frontage;
- (B) All approaches; and
- (C) The nearest public intersections within a distance less than the applicable spacing standard distance.

(b) May meet with the applicant to discuss the supplemental documentation including definition and degree of specification;

(c) Shall notify an applicant, within 30 days of accepting an application, of the supplemental documentation necessary for an application to be deemed complete;

(d) Shall notify an applicant, within 30 days of accepting an application, that an application may not be deemed complete where no right of access exists; and

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(A) An applicant may apply for an Application for a Grant of Access or Application for an Indenture of Access;

(B) An application for a Grant of Access or Application for an Indenture of Access must be submitted concurrently with an Application for State Highway Approach;

(C) OAR 734-051-0295 through 734-051-0335 govern modification of access rights:

(i) To state highways and other public roads from property where the Department has access control; and

(ii) To state highways from property owned or controlled by cities or counties where the Department has access control where a public road connection is requested.

(D) Submittal of an Application for a Grant of Access or Application for an Indenture of Access stays the 120-day timeline in section (8) of this rule;

(E) The timeline for processing an Application for a Grant of Access and completing the appraisals and property transactions may be up to 365 days depending on the complexity of the request; and

(F) The timeline for processing an Application for an Indenture of Access may be up to 60 days depending on the complexity of the request.

(e) May require a Traffic Impact Study for:

(A) Proposed developments generating vehicle trips that equal or exceed 600 daily trips or 100 hourly trips; or

(B) Proposed zone changes or comprehensive plan changes;

(f) May require a Traffic Impact Study for proposed developments or land use actions where the on-site review indicates that operational or safety problems exist or are anticipated; and

(g) Shall notify the applicant that required supplemental documentation, including an application for a grant of access or indenture of access, must be submitted within 60 days of the date of notice of supplemental documentation or the application expires.

(7) All of the following apply when a Traffic Impact Study is required:

(a) A Professional Engineer employed by the Department shall determine the scope of the study and shall review and comment on the study.

(b) Future year analyses apply to both public and private approaches and include year of each phase opening and future year beyond build out, based on vehicle trips per day and type of land use action, but not greater than the year of planning horizon for transportation system plans or 15 years, whichever is greater.

(c) A Professional Engineer must prepare the study in accordance with methods and input parameters approved by the Department.

(d) The scope and detail of the study must be sufficient to allow the Department to evaluate the impact of the proposal and the need for roadway capacity, operational, and safety improvements resulting from the approach.

(e) The study must identify the data and the application of data in the analysis.

(f) The study may be sufficient to satisfy the requirements of this rule without being adequate to satisfy local government requirements or the Transportation Planning Rule.

(8) When necessary to comply with the permitting criteria of division 51 Rules the Department shall evaluate an application that is deemed complete and shall approve or deny that application within 120 days including a final order as set forth in OAR 734-051-0355:

(a) The final 60 days of the 120 days are reserved for the Contested Case Hearing process set forth in OAR 734-051-0355;

(b) The Department shall use division 51 and ORS Chapter 374 and may use other applicable statutes, administrative rules, or manuals to evaluate and act on an application;

(c) If an application is approved, the Department shall issue a Construction Permit or a Permit to Operate as set forth in sections (10) through (13) of this rule; and

(d) Denial of an application is an appealable decision.

(9) If approval of an approach requires a deviation from access management spacing standards or access management spacing standards for approaches in an interchange area, a Traffic Impact Study may be required and the Department may approve or deny the deviation as set forth in OAR 734-051-0135:

(a) Approval of a deviation may be conditioned upon changes to a proposed site plan including relocation of buildings, changes to parking or circulation, reduction of the intensity of use, or variances from local jurisdiction regulations; and

(b) Denial of a deviation from spacing standards is an appealable decision.

(10) If a land use action is pending, including an appeal of a final land use decision or a limited land use decision, for a property for which an application has been submitted, the application may be accepted and processed:

(a) Approval will be conditioned on the Department receiving notice of approval of the land use action shown on the application.

(b) A Construction Permit may be issued while the local land use action is pending. A deposit may be required, to be determined in the manner used for a Temporary Approach in OAR 734-051-0095(2), to ensure that the approach will be removed if the land use is not approved.

(c) A Permit to Operate shall not be issued until the applicant provides the Department with written proof of final land use decision.

(11) To obtain a Construction Permit an applicant must submit construction drawings and plans within 60 days of notice of approval of an application when use of the Department's standard drawings is not appropriate. The Region Manager determines the acceptability of submitted construction plans. If plans are not submitted within the 60 days and no request for extension is received within that time, the approval will be void.

(12) The Department shall issue a Construction Permit as set forth in OAR 734-051-0175 upon approval of an application and approval of construction drawings and plans where required; and

(a) An approach approved by a Construction Permit must be constructed as required by OAR 734-051-0175 through 734-051-0245; and

(b) An applicant must have insurance, bonds, and deposits in place before construction begins and must provide 30 days written notice of cancellation or intent not to renew insurance coverage as set forth in OAR 734-051-0215.

(13) The Department shall issue a Permit to Operate as set forth in OAR 734-051-0245, except that a Permit to Operate is not required for a public approach under ORS 374.310.

(14) An applicant may request a Region Review of an appealable decision within 21 days of notice of that decision as set forth in OAR 734-051-0345:

(a) An applicant may request a collaborative discussion within the Region Review process; and

(b) The Region Review process stays the 120-day timeline for approval or denial of an application.

(c) An applicant may request a Contested Case Hearing following a Region Review and the hearing will be on the original decision.

(15) An applicant may request a Contested Case Hearing of an appealable decision within 21 days of notice of that decision, or within 21 days of notice of a Region Review decision, as set forth in OAR 734-051-0355.

(16) Division 51 timelines may be extended if the applicant and the Department agree in writing before the applicable deadline, as specified in these rules. Any agreement to extend a timeline shall include a new deadline date and shall state the reason for the extension. Applications for which an extension of time has been issued will expire on the deadline date specified in the extension letter if no new extension has been agreed to and the activities for which the deadline was extended have not been completed.

(17) An application will expire after 120 days of inactivity on the part of the applicant if the Department sends a reminder letter to notify the applicant that 90 days have passed with no activity, and advising that the application will expire in 30 days if the application continues to be inactive. Submittal of any information after the date of expiration will require a new application.

(18) A new public approach shall not be located on a freeway, a freeway ramp, or an expressway ramp. A new public approach that would be aligned opposite a freeway or expressway ramp must be included in an Interchange Area Management Plan or Access Management Plan, approved by the ODOT Chief Engineer and adopted by the Oregon Transportation Commission.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345

Stats. Implemented: ORS 374.305 - 374.350 & 374.990

Hist.: 1 OTC 43, f. 11-26-74, f. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; 2HD 13-1981, f. & ef. 10-2-81; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0015; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0090 & 734-051-0100; HWD 2-2007, f. & cert. ef. 1-26-07; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0080

Criteria for Approving an Application for an Approach

(1) The following apply to all applications:

(a) Existence of a recorded easement does not by itself establish a right of access and does not guarantee the approval of an application or the location of an approach.

(b) If an application is for a double-frontage property the approach must be located on the lower classification highway except where the

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Region Access Management Engineer determines that an approach to the higher classification highway would better meet the approval criteria in sections (2) through (10) of this rule.

(c) Where a development includes multiple parcels, the development is evaluated in its entirety, regardless of the number of individual parcels or ownership contained within the development, and applications will not be accepted for individual parcels or ownership.

(2) For a private approach with no alternate access to the property the Region Manager shall approve an application if the applicant demonstrates that section (9) of this rule is met.

(3) For a private approach in a rural area and on a statewide, regional, or district highway or an expressway or within the influence area of an expressway interchange or freeway interchange, with alternate access to the property, the Region Manager shall approve an application if the applicant demonstrates that:

(a) Either:

(A) The alternate access cannot be made reasonable as set forth in section (7) of this rule; or

(B) The proposal is for infill or redevelopment and approval of the proposal will result in a net reduction of approaches on the highway or the net result improves safety for any remaining approaches; and

(b) Section (9) of this rule is met.

(4) For a private approach in an urban area and on a statewide, regional, or district highway or within the influence area of an expressway interchange or freeway interchange, with alternate access to the property, the Region Manager shall approve an application, even where the Department has evidence that the alternate access is reasonable, if the applicant provides substantial evidence that demonstrates that:

(a) The alternate access is not reasonable as set forth in section (7) of this rule; and

(b) Section (9) of this rule is met.

(5) For a private approach in an urban area and on a statewide, regional, or district highway or within the influence area of an expressway interchange or freeway interchange, with alternate access to the property, the Region Manager shall approve an application if the applicant demonstrates that:

(a) The alternate access is reasonable as set forth in section (7) of this rule; and

(b) Section (9) and section (10) of this rule are met.

(6) For a private approach in an urban area and on an expressway, with alternate access to the property, the Region Manager shall approve an application if the applicant demonstrates that:

(a) The alternate access cannot be made reasonable as set forth in section (7) of this rule, and section (9) and section (10) of this rule of this rule are met; or

(b) The approach provides an immediate and long-term benefit to the state highway system, as set forth in OAR 734-051-0085, regardless of any required safety or operations mitigation measures, and section (9) of this rule is met.

(7) Which approval criteria will be applied to an application (sections (2) through (6) of this rule) depends in part upon whether alternate access to the site is or can be made reasonable, which is determined based upon the following:

(a) The Department determines that alternate access to the property is sufficient to allow the authorized uses for the property identified in the acknowledged local comprehensive plan.

(b) The Department determines that the type, number, size and location of approaches are adequate to serve the volume and type of traffic reasonably anticipated to enter and exit the property, based on the planned uses for the property.

(c) The Department may require mitigation measures are set forth in OAR 734-051-0145:

(A) Including where the applicant or the local jurisdiction commits proportional shares for the cost of removal or mitigation of geographic, safety, or physical restrictions on the property or local street network; and

(B) Neither a lack of commitment by a local government to share the cost of mitigation nor the cost of mitigation alone is determinative in evaluating whether the access is or could be made reasonable.

(d) Consideration of factors including:

(A) Legal restrictions;

(B) Geographic restrictions;

(C) Historical or cultural resources;

(D) Safety factors; and

(E) Physical considerations such as planned streets, roadway width, and weight and size restrictions.

(e) Where a significant difference exists between an existing and planned local road network, a phased method addressing access may be considered:

(A) Where a planned public street or road network cannot be provided at the time of development, an application may be approved with conditions requiring connection when such connection becomes available;

(B) The approach permit may be revoked and the approach removed, or the approach permit may be modified and mitigation required when the planned street or road network becomes available; and

(C) An agreement with the local government regarding the planned street or road network may be an intergovernmental agreement.

(8) For purposes of Division 51, safety factors include:

(a) Roadway character;

(b) Traffic character;

(c) Geometric character;

(d) Environmental character; and

(e) Operational character.

(9) As required by sections (2) through (6) of this rule an applicant must demonstrate, consistent with Division 51 rules, that:

(a) The approach is consistent with safety factors in section (8) of this rule;

(b) Spacing standards are met or a deviation is approved as set forth in OAR 734-051-0135; and

(c) The effect of the approach meets traffic operations standards, signals, or signal systems standards in OAR 734-020-0400 through 734-020-0500 and 734-051-0115 and 734-051-0125.

(10) As required by sections (5) and (6) of this rule the Department may require an applicant to demonstrate that:

(a) Highway mobility standards are met on state highways;

(b) The approach is consistent with an Access Mitigation Proposal, Access Management Strategy, or Access Management Plan for the segment of highway abutting the property, if applicable;

(c) The site plan shows that the site circulation does not require vehicles, once on site, to reenter the highway to access parking or other portions of the development; and

(d) More than one approach to the highway is necessary to accommodate traffic reasonably anticipated to the site if multiple approaches are requested.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312, 374.345 & Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 to 374.345, 374.990 & Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04; HWD

8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0135

Deviations from Access Management Spacing Standards

(1) A deviation will be considered when an approach does not meet spacing standards and the approach is consistent with safety factors in OAR 734-051-0080(8). The information necessary to support a deviation must be submitted with an application or with the supplemental documentation as set forth in OAR 734-051-0070(5) and (6).

(2) For a private approach with no reasonable alternate access to the property, as identified in OAR 734-051-0080(2), spacing standards are met if property frontage allows or a deviation is approved as set forth in this section. The Region Manager shall approve a deviation for a property with no reasonable alternate access if the approach is located:

(a) To maximize the spacing between adjacent approaches; or

(b) At a different location if the maximized approach location:

(A) Causes safety or operational problems; or

(B) Would be in conflict with a significant natural or historic feature including trees and unique vegetation, a bridge, waterway, park, archaeological area, or cemetery.

(3) The Region Access Management Engineer shall approve a deviation if:

(a) Adherence to spacing standards creates safety or traffic operation problems;

(b) The applicant provides a joint approach that serves two or more properties and results in a net reduction of approaches to the highway;

(c) The applicant demonstrates that existing development patterns or land holdings make joint use approaches impossible;

(d) Adherence to spacing standards will cause the approach to conflict with a significant natural or historic feature including trees and unique vegetation, a bridge, waterway, park, archaeological area, or cemetery;

(e) The highway segment functions as a service road;

(f) On a couplet with directional traffic separated by a city block or more, the request is for an approach at mid-block with no other existing

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approaches in the block or the proposal consolidates existing approaches at mid-block; or

(g) Based on the Region Access Management Engineer's determination that:

(A) Safety factors and spacing significantly improve as a result of the approach; and

(B) Approval does not compromise the intent of these rules as set forth in OAR 734-051-0020.

(4) When a deviation is considered, as set forth in section (1) of this rule, and the application results from infill or redevelopment:

(a) The Region Access Management Engineer may waive the requirements for a Traffic Impact Study and may propose an alternative solution where:

(A) The requirements of either section (2) or section (3) of this rule are met; or

(B) Safety factors and spacing improve and approaches are removed or combined resulting in a net reduction of approaches to the highway; and

(b) Applicant may accept the proposed alternative solution or may choose to proceed through the standard application review process.

(5) The Region Access Management Engineer shall require any deviation for an approach located in an interchange access management area, as defined in the Oregon Highway Plan, to be evaluated over a 20-year horizon from the date of application and may approve a deviation for an approach located in an interchange access management area if:

(a) A condition of approval, included in the Permit to Operate, is removal of the approach when reasonable alternate access becomes available;

(b) The approach is consistent with an access management plan for an interchange that includes plans to combine or remove approaches resulting in a net reduction of approaches to the highway;

(c) The applicant provides a joint approach that serves two or more properties and results in a net reduction of approaches to the highway; or

(d) The applicant demonstrates that existing development patterns or land holdings make utilization of a joint approach impracticable.

(6) The Region Access Management Engineer shall not approve a deviation for an approach if any of the following apply:

(a) Spacing standards can be met even though adherence to spacing standards results in higher site development costs.

(b) The deviation results from a self-created hardship including:

(A) Conditions created by the proposed site plan, building footprint or location, on-site parking, or circulation; or

(B) Conditions created by lease agreements or other voluntary legal obligations.

(c) The deviation creates a significant safety or traffic operation problem.

(7) The Region Access Management Engineer shall not approve a deviation for an approach in an interchange access management area where reasonable alternate access is available and the approach would increase the number of approaches to the highway.

(8) Where section (2), (3), (4) or (5) of this rule cannot be met, the Region Manager, not a designee, may approve a deviation where:

(a) The approach is consistent with safety factors; and

(b) The Region Manager identifies and documents conditions or circumstances unique to the site or the area that support the development.

(9) The Region Manager may require an intergovernmental agreement or completion of an access management plan or an interchange area management plan prior to approval of a deviation to construct a public approach.

(10) Approval of a deviation may be conditioned upon mitigation measures set forth in OAR 734-051-0145.

(11) Denial of a deviation is an appealable decision.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312, 374.345 & Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345, 374.990 & Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0320; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0245

Issuance of a Permit to Operate, Maintain and Use an Approach

(1) The Department shall issue a Permit to Operate for a private approach upon approval of an application, where no Construction Permit is required, or upon notification by the applicant that construction is complete and when the approach conforms to the terms and conditions of the Construction Permit.

(2) Use of a private approach is legal only after a Permit to Operate is issued.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312, 374.345 & Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345, 374.990 & Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00 HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0290; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0255

Maintenance of Approaches

(1) An applicant, permittee, or owner of a grandfathered approach must obtain approval and necessary permits prior to performing maintenance on an approach that interferes with or interrupts traffic on or along a highway.

(2) Where traffic signals are required, signal maintenance is performed by the Department or as assigned by a Cooperative Cost Agreement.

(3) For a public approach, the Department may require an intergovernmental agreement with the city or county to define responsibilities and obligations for maintenance of the approach.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312, 374.345 & Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345, 374.990 & Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0045; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0310; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0295

Grants of Access

(1) A grant of access establishes a right of access; and

(a) For a grant of access approved prior to April 1, 2000, the grant of access does not guarantee approval of an Application for State Highway Approach or issuance of a Construction Permit or Permit to Operate; and

(b) Subsequent to April 1, 2000, the Department may approve an Application for a Grant of Access only where an Application for State Highway Approach or a Construction Permit or Permit to Operate may be approved.

(c) Subsequent to January 21, 2011, where no right of access exists for a public approach, an application for a Grant of Access must be submitted.

(2) The applicant for a grant of access must be the owner of the property abutting the highway right of way or the owner's designated agent.

(3) The Department shall not approve an Application for a Grant of Access for a private approach:

(a) On a freeway, freeway mainlines, or freeway ramp;

(b) On an expressway or expressway ramp;

(c) Opposite a freeway or expressway ramp terminal; or

(d) In an Interchange Management Area.

(4) The Department may approve an Application for a Grant of Access to private property abutting a state and local facility where all of the following conditions are met:

(a) An applicant submits an Application for State Highway Approach as set forth in OAR 734-051-0070 and concurrently submits an Application for a Grant of Access, as set forth in OAR 734-051-0305.

(b) An applicant meets the requirements for issuance of a Construction Permit, as set forth in OAR 734-051-0175.

(c) The applicant agrees in writing to meet any mitigation measures, terms, and conditions placed on the Construction Permit and the Permit to Operate.

(d) The grant of access is consistent with the 1999 Oregon Highway Plan.

(e) One of the following occurs:

(A) The Department determines that access control is no longer needed at the location specified in the Application for a Grant of Access as set forth in section (7) of this rule; or

(B) The applicant establishes that the grant of access will benefit the state highway system as set forth in OAR 734-051-0085(1) and (2).

(f) Alternate access to the property is not and cannot be made reasonable as set forth in OAR 734-051-0080(7).

(g) The property owner must agree to deed restrictions to ensure that future development intensity and trip generation can be safely accommodated by the state transportation system.

(h) The application is approved by the Region Manager and reviewed by the State Traffic Engineer, and approved by the Technical Services Manager.

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(5) The Department shall not approve an Application for a Grant of Access for a public approach:

- (a) On a freeway, freeway mainlines, or freeway ramp;
- (b) On an expressway ramp;
- (c) Opposite a freeway or expressway ramp terminal; or
- (d) In an Interchange Management Area.

(6) The Department may approve an Application for a Grant of Access for a public approach to a state highway where all of the following conditions are met:

(a) An applicant submits an Application for a Grant of Access, as set forth in OAR 734-051-0305.

(b) The applicant meets the requirements for issuance of a Construction Permit, as set forth in OAR 734-051-0175.

(c) The applicant agrees in writing to meet any mitigation measures, terms, and conditions placed on the Construction Permit and the Permit to Operate.

(d) The grant of access is consistent with the 1999 Oregon Highway Plan, an adopted corridor plan, and local transportation system plan, or in the absence of an adopted corridor plan or transportation system plan, a grant of access may be considered where the applicant has explored all possible alternatives to the connection, including parallel streets, and the purchase of additional right of way.

(e) One of the following occurs:

(A) The Department determines that access control is no longer needed at the location specified in the Application for a Grant of Access as set forth in section (7) of this rule; or

(B) The applicant establishes that the grant of access will benefit the state highway system as set forth in OAR 734-051-0085; and

(i) The Department may determine that a benefit to the state highway system exists where the proposed connection is a public facility with a functional classification of collector or higher and is identified in an adopted transportation system plan, consistent with OAR 660-012-0000 through 660-012-0070; and

(ii) The Department shall require supporting documentation of sufficient detail to determine that a benefit to the state highway system exists, as set forth in OAR 734-051-0085(1) and (2), to be included in the transportation system plan; and

(iii) The Department shall determine if the supporting documentation is sufficient to meet the requirements in subparagraph (ii) of this paragraph.

(f) The Department and the local jurisdiction requesting a grant of access for a public approach:

(A) Shall enter into an intergovernmental agreement that details the responsibility for construction, maintenance, operation and cost of the public approach; and

(B) May enter into an intergovernmental agreement that addresses transportation plan and land use amendments or modifications to ensure that planned development intensities and trip generation can be safely supported on the state transportation system.

(g) The application is approved by the Region Manager and reviewed by the State Traffic Engineer, and approved by the Technical Services Manager.

(7) For the purposes of sections (4) and (6) of this rule, the Department shall consider the following factors in determining whether access control is still needed at the location specified in an application for a grant of access:

- (a) Classification of the highways and highway segment designations;
- (b) Spacing Standards;
- (c) Highway mobility standards;
- (d) State and local transportation system plans;
- (e) Comprehensive plan and land uses in the area; and
- (f) Safety factors.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345

Stats. Implemented: ORS 374.305 - 374.350 & 374.990

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0430; HWD 2-2007, f. & cert. ef. 1-26-07; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0315

Indentures of Access

(1) The Department may approve an Application for Indenture of Access to a property abutting a state or local facility where all of the following conditions are met:

(a) An applicant for a private approach submits an Application for State Highway Approach as set forth in OAR 734-051-0070 and concurrently submits an Application for Indenture of Access as set forth in OAR 734-051-0325;

(b) The applicant meets the requirements for issuance of a Construction Permit, as set forth in OAR 734-051-0175;

(c) The applicant agrees in writing to meet any mitigation measures, conditions, and terms placed on the Construction Permit and the Permit to Operate;

(d) The Region Manager approves the Application for Indenture of Access; and

(e) The property owner agrees to the closure of one or more existing reservations of access.

(2) All of the property owners that have a right of access at and are currently being served by the existing reservation of access must be applicants for any Application for Indenture of Access.

(3) A request for removal of farm crossing or farm access restrictions requires a grant of access as set forth in OAR 734-051-0295 and 734-051-0305.

(4) Approval of an Indenture of Access for a public approach may require mitigation measures to ensure that the state transportation system can safely accommodate the traffic at the indentured location. Mitigation measures may include but are not limited to amendments to the comprehensive plan or transportation system plan; or modification to the public street system.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312, 374.345 & Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345, 374.990 & Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0450; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0345

Region Review Process and Collaborative Discussion Option

(1) The Region Review process is an optional process that falls outside the 120-day timeline in OAR 734-051-0070(8) and applies to appealable decisions.

(2) To request a Region Review, an applicant must submit a written request to the Region Manager within 21 days of the mailing date of notice of an appealable decision and identify documentation to be presented at the Region Review.

(3) A Region Review Committee includes members with expertise in:

- (a) Access Management policies;
- (b) Roadway design standards;
- (c) Right-of-way;
- (d) Traffic engineering; and
- (e) At least one Professional Engineer with experience in the issues being reviewed.

(4) The Department may invite a representative from the affected local jurisdiction with land use or transportation knowledge to provide input to the Region Review Committee.

(5) The applicant or permittee may present additional information in writing or in person to the Region Review Committee.

(6) The Region Review Committee shall meet, consider information presented, and provide written findings to the Region Manager.

(7) The Region Manager shall review the Committee's findings and approve, modify, or reverse the original decision; and

(a) Shall notify the applicant in writing within 21 days of the committee meeting;

(b) Shall include information on the applicant's right to request a contested case hearing on the original decision; and

(c) May include mitigation measures, conditions and terms to be incorporated into the Construction Permit or Permit to Operate or intergovernmental agreement for a public approach.

(8) An applicant may request a collaborative discussion within the Region Review process:

(a) Both the applicant and the Department must agree to the collaborative discussion.

(b) The collaborative discussion:

(A) Will be conducted under the Alternative Dispute Resolution model in ORS 183.502; and

(B) Will include a time limit of 45 days, or longer if the Department and the applicant agree, in the Agreement to Collaborate.

(c) The Region Manager is the final agreement authority and may make a binding decision for the Department.

(d) Any agreement made by the Region Manager:

(A) Shall be documented in writing;

(B) May require conditions or limitations to be incorporated into the Construction Permit or Permit to Operate; and

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(C) Shall include information on the applicant's right to request a contested case hearing on the original decision.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312, 374.345 & Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.305 - 374.345, 374.990 & Ch. 974, OL 1999, Ch. 371, OL 2003
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0390; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0500

Authority and Purpose of OAR 734-051-0500 through 734-051-0560

(1) Pursuant to ORS 374.313, a person holding an interest in real property, which is or would be served by an approach may appeal the closure or denial of the approach under OAR 734-051-0355 by filing a claim for relief when:

(a) The Department closes an approach for which a permit was issued under ORS 374.310 or that was allowed by law prior to enactment of statutory permit requirements for approach roads, or denies an application for an approach at the location of a grant or reservation of access; and

(b) Such closure or denial is not the result of conditions contained in a contract, condemnation judgment, recorded deed or permit.

(2) The Department may offer remedies upon such closure or denial.

(3) OARS 734-051-0500 through 734-051-0560:

(a) Establish administrative remedies to address issues related to real property, value, utility and use; and

(b) Provide a simplified procedure for resolving the claim.

Stat. Auth.: ORS 184.616, 184.619, 374.313 & 374.345

Stats. Implemented: ORS 374.310, 374.313 & 374.345

Hist.: TO 7-2000, f. & cert. ef. 7-14-00; HWD 8-2005, f. & cert. ef. 9-16-05; HWD 2-2007, f. & cert. ef. 1-26-07; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

734-051-0530

Procedure for Resolving Claims

(1) Parties may agree to participate in mediation consistent with the applicable provisions of ORS 36.180 to 36.210 at any time during the process of determining the appropriate remedies, but prior to the final order in any contested case under OAR 734-051-0355.

(2) During mediation the parties may discuss any appropriate remedies in reaching agreement. Such mediation may also occur during the collaborative discussion phase of the review procedure for the denial or closure. (See OAR 734-051-0345).

(3) The property owner and the Department also may enter into an agreement to collaborate if the Department determines that the difference between the remedies offered and remedies claimed by the property owner is less than \$30,000.

(a) The agreement to collaborate may provide for a mutually chosen mediator as defined in ORS 36.185 to 36.210 to review the information made available to each party as of that time and other information mutually agreed to by the parties.

(b) The value of the remedies offered and claimed will include a dollar value assigned by the Department to any non-monetary remedies. Such review will result in a recommendation of remedies, subject to the condition that such remedies are neither less than the lower nor more than the greater of the offer and claim, in terms of assigned monetary value.

(c) The remedies recommended by the third party will be presented to the Director or the Director's designee. The Director or designee shall take this recommendation into consideration in making subsequent offers of remedies.

Stat. Auth.: ORS 184.616, 184.619, 374.313 & 374.345

Stats. Implemented: ORS 374.310, 374.313 & 374.345

Hist.: TO 7-2000, f. & cert. ef. 7-14-00; HWD 8-2005, f. & cert. ef. 9-16-05; HWD 8-2010(Temp), f. & cert. ef. 7-30-10 thru 1-21-11; HWD 1-2011, f. & cert. ef. 1-19-11

Rule Caption: Exemption of certain operations from maximum weight limits.

Adm. Order No.: HWD 2-2011

Filed with Sec. of State: 1-28-2011

Certified to be Effective: 1-28-11

Notice Publication Date: 12-1-2010

Rules Adopted: 734-070-0017

Subject: This rule implements an ODOT pilot program to contract out certain maintenance activities as specified in chapter 865, OL 2009, Section 23 (HB 2001). ODOT is contracting with a private party for snow removal. The contract specifies that ODOT will lease ODOT's snow removal trucks to the private contractor. The ODOT trucks are equipped with heavy frames, enabling the trucks to be used

efficiently for dual purposes, snow-plowing and sanding. The heavy framed ODOT trucks exceed weight limits and operate loaded only in work zones under weight limit exemptions. The purpose of the new rule is to provide the private contractor the same weight limit exemptions the department has when operating these trucks.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-070-0017

Weight Limitations – Exception

The exemptions from maximum weight limitations in ORS 818.030(3), 818.070(3) and 818.140(3) apply to any department-owned vehicle, combination of vehicles, article, machine or other equipment leased from the department to a private contractor, when used under contract with the department.

Stat. Auth.: ORS 184.616, 184.619, 818.030, 818.070, 818.140

Stats. Implemented: Or Laws 2009, chapter 865, sec. 23

Hist.: HWD 2-2011, f. & cert. ef. 1-28-11

Department of Transportation, Transportation Safety Division Chapter 737

Rule Caption: Minimum Safety Standards for Medium Speed Electric Vehicles.

Adm. Order No.: TSD 1-2011

Filed with Sec. of State: 1-28-2011

Certified to be Effective: 1-28-11

Notice Publication Date: 12-1-2010

Rules Amended: 737-010-0020

Subject: The amendments to OAR 737-010-0020 adopt by reference the following Federal Motor Vehicle Safety Standards (FMVSS), as set forth in Title 49 CFR Part 571 (October 1, 2008), for medium-speed electric vehicles:

- Federal Motor Vehicle Safety Standard (FMVSS) No. 108; Lamps, reflective devices, and associated equipment.
- Federal Motor Vehicle Safety Standard (FMVSS) No. 111; Rearview mirrors.
- Federal Motor Vehicle Safety Standard (FMVSS) No. 114; Theft protection and rollaway prevention standards.
- Federal Motor Vehicle Safety Standard (FMVSS) No. 135; Light vehicle brake systems.
- Federal Motor Vehicle Safety Standard (FMVSS) No. 206; Door locks and door retention components.
- Federal Motor Vehicle Safety Standard (FMVSS) No. 209; Seat belt assemblies. A Type 1 or Type 2 seat belt assembly conforming to FMVSS No. 209, installed at each designated seating position, and whose mounting complies with FMVSS No. 210.
- Federal Motor Vehicle Safety Standard (FMVSS) No. 216 Roof crush resistance.
- Federal Motor Vehicle Safety Standard (FMVSS) No. 305; Electric-powered vehicles: electrolyte spillage and electrical shock protection.
- A windshield of AS-1 or AS-5 composition, that conforms to the American National Standards Institute's "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highway," Z-26.1-1977, January 28, 1977, as supplemented by Z26.1a, July 3, 1980 (49 CFR 571.205)

The amendments also adopt the federal Vehicle Identification Number (VIN) requirements of 49 CFR Part 565.

Rules Coordinator: Lauri Kunze—(503) 986-3171

737-010-0020

Minimum Safety Standards for Medium-Speed Electric Vehicles

As the minimum vehicle safety standards for medium-speed electric vehicles, Transportation Safety adopts the standards and requirements set forth below. The vehicle safety equipment requirements described under this rule apply to original and replacement equipment. A medium-speed electric vehicle must:

- (1) Comply with the following Federal Motor Vehicle Safety Standards (FMVSS) found in the Code of Federal Regulations (CFR), Title 49, Part 571, 2008 edition.

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- (a) FMVSS No. 108; Lamps, reflective devices, and associated equipment.
- (b) FMVSS No. 111; Rearview mirrors.
- (c) FMVSS No. 114; Theft protection and rollaway prevention standards.
- (d) FMVSS No. 135; Light vehicle brake systems.
- (e) FMVSS No. 206; Door locks and door retention components.
- (f) FMVSS No. 209; Seat belt assemblies. A Type 1 or Type 2 seat belt assembly conforming to FMVSS No. 209, installed at each designated seating position, and whose mounting complies with FMVSS No. 210.
- (g) FMVSS No. 216; Roof crush resistance.
- (h) FMVSS No. 305; Electric-powered vehicles: electrolyte spillage and electrical shock protection.
- (i) FMVSS No. 205; A windshield of AS-1 or AS-5 composition, that conforms to the American National Standards Institute's "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highway," Z-26.1-1977, January 28, 1977, as supplemented by Z26.1a, July 3, 1980.

- (2) Comply with the federal Vehicle Identification Number (VIN) requirements found in 49 CFR Part 565.
- (3) Be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn shall emit an unreasonably loud or harsh sound.
- (4) Be fully enclosed and may not be an open-body type vehicle.
Stat. Auth.: ORS 184.616, 184.619, 802.010, 815.010, 815.030 & 2009 OL Ch 865
Stats. Implemented: ORS 815.010, 815.030 & 2009 OL Ch 865
Hist.: TSD 1-2009(Temp), f. & cert. ef. 9-29-09 thru 3-20-10; TSD 1-2010, f. & cert. ef. 2-25-10; TSD 1-2011, f. & cert. ef. 1-28-11

Employment Department
Chapter 471

Rule Caption: Allow employer hearing requests relating to Unemployment Insurance tax by email and secure website.

Adm. Order No.: ED 1-2011(Temp)

Filed with Sec. of State: 2-9-2011

Certified to be Effective: 2-9-11 thru 7-31-11

Notice Publication Date:

Rules Amended: 471-040-0005

Subject: Add email and secure web submission as alternate means for employers to request a hearing. The date of request is defined as the date received by the Employment Department. UI Tax hearings can no longer be requested directly from the Office of Administrative Hearings.

Rules Coordinator: Courtney Brooks—(503) 947-1724

471-040-0005

Request for Hearing

(1) A Request for hearing may be filed on forms provided by the Employment Department or similar offices in other states. Use of the form is not required provided the party specifically requests a hearing or otherwise expresses a present intent to appeal.

(2) A request for hearing on an administrative decision related to the payment or amount of unemployment insurance benefits may be filed:

(a) By mail, by fax or by telephone with any Employment Department Unemployment Insurance (UI) Center or UI Section in Oregon; or

(b) In person at any publicly accessible Employment Department office in Oregon; or

(c) By mail or fax with the Office of Administrative Hearings in Oregon.

(3) A request for hearing on an administrative decision related to unemployment insurance taxes pursuant to ORS 657.683, 657.663, 657.485, and 657.457, must be in writing and may be filed:

(a) By mail or by fax with any Employment Department UI Center or UI Tax Section office in Oregon; or

(b) In person at any publicly accessible Employment Department office in Oregon.

(c) By e-mail to the Employment Department's e-mail address as provided on the appealable document.

(d) Through the use of the Employment Department's secured website as provided on the appealable document.

(4) The filing date for any request for hearing shall be determined as follows:

(a) When delivered in person to any Employment Department office in the state of Oregon, the date of delivery, as evidenced by the receipt date

stamped or written by the agency employee who receives the document, shall be the date of filing.

(b) When filed by mail, the date of filing shall be the postmarked date affixed by the United States Postal Service or, in the absence of a postmarked date, the most probable date of mailing.

(c) When filed by fax, the date of filing shall be the encoded date on the fax document unless such date is absent, illegible, or improbable, in which case the fax receipt date stamped or written by the agency employee, if available, shall be the date of filing. If a filing date cannot otherwise be determined, the most probable date of faxing shall be the date of filing.

(d) When filed by telephone, the date of filing shall be the date marked or stamped by the agency employee accepting the request for hearing.

(e) When filed by e-mail, the date of filing shall be the date of delivery, as evidenced by the receipt date on the Employment Department's e-mail system, according to Pacific Time.

(f) When filed through the secured website, the date of filing shall be the date indicated in the confirmation e-mail sent to the requestor by the Employment Department, according to Pacific Time.

(g) When filed by any other means, the date of filing shall be the date of delivery, as evidenced by the receipt date stamped or written by the employee of the Employment Department, Office of Administrative Hearings or Employment Appeals Board who receives the document.

(5) A request for hearing with respect to a claim for benefits shall not stay the payment of any benefits not placed in issue by the request for hearing, nor shall it stay an order previously entered allowing benefits.

(6) This rule is effective for all hearing requests filed after the effective date of this rule.

Stat. Auth.: ORS 183.335, 657.260, 657.265 - 657.270, 657.335, 657.610 & OL 1993, Ch. 729
Stats. Implemented: ORS 657.280, 657.610 & 657
Hist.: IDE 150, f. & ef. 2-9-76; IDE 5-1979, f. & ef. 8-27-79; ED 4-1994, f. & cert. ef. 9-2-94; ED 3-1999, f. 6-29-99, cert. ef. 7-4-99; ED 7-2003, f. 4-25-03, cert. ef. 4-27-03; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04; ED 2-2005, f. 4-29-05, cert. ef. 5-1-05; ED 6-2005(Temp), f. 9-16-05, cert. ef. 9-18-05 thru 2-14-06; ED 8-2005, f. 12-23-05, cert. ef. 12-25-05; ED 1-2011(Temp), f. & cert. ef. 2-9-11 through 7-31-11

Land Conservation and Development Department
Chapter 660

Rule Caption: Minor and technical amendments to conform to law, clarify wording and correct references.

Adm. Order No.: LCDD 1-2011

Filed with Sec. of State: 2-2-2011

Certified to be Effective: 2-2-11

Notice Publication Date: 11-1-2010

Rules Amended: 660-004-0000, 660-004-0005, 660-004-0010, 660-004-0015, 660-004-0018, 660-004-0020, 660-004-0022, 660-004-0025, 660-004-0028, 660-004-0030, 660-004-0035, 660-004-0040

Subject: Rules were modified to make minor and technical amendments to: conform to statutes, laws and rules; respond to Land Use Board of Appeals and other court opinions; clarify ambiguous and unclear wording consistent with the intent of the rule; update and correct references to rules, statutes or other documents and correct grammar.

Rules Coordinator: Casaria Tuttle—(503) 373-0050, ext. 322

660-004-0000

Purpose

(1) The purpose of this division is to interpret the requirements of Goal 2 and ORS 197.732 regarding exceptions. This division explains the three types of exceptions set forth in Goal 2 "Land Use Planning, Part II, Exceptions." Urban Rules in other divisions of OAR 660 provide substantive standards for some specific types of goal exceptions. Where this is the case, the specific substantive standards in the other divisions control over the more general standards of this division. However, the definitions, notice, and planning and zoning requirements of this division apply to all types of exceptions. The types of exceptions that are subject to specific standards in other divisions are:

(a) Standards for a demonstration of reasons for sanitary sewer service to rural lands are provided in OAR 660-011-0060(9);

(b) Standards for a demonstration of reasons for urban transportation improvements on rural land are provided in OAR 660-012-0070;

(c) Standards to determine irrevocably committed exceptions pertaining to urban development on rural land are provided in OAR 660-014-0030,

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and standards for demonstration of reasons for urban development on rural land are provided in OAR 660-014-0040.

(2) An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local government's comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met. The conclusion shall be based on findings of fact supported by substantial evidence in the record of the local proceeding and by a statement of reasons that explains why the proposed use not allowed by the applicable goal, or a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use, should be provided for. The exceptions process is not to be used to indicate that a jurisdiction disagrees with a goal.

(3) The intent of the exceptions process is to permit necessary flexibility in the application of the Statewide Planning Goals. The procedural and substantive objectives of the exceptions process are to:

(a) Assure that citizens and governmental units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed; and

(b) Assure that findings of fact and a statement of reasons supported by substantial evidence justify an exception to a statewide goal.

(4) When taking an exception, a local government may rely on information and documentation prepared by other groups or agencies for the purpose of the exception or for other purposes, as substantial evidence to support its findings of fact. Such information must be either included or properly incorporated by reference into the record of the local exceptions proceeding. Information included by reference must be made available to interested persons for their review prior to the last evidentiary hearing on the exception.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.040, 197.712, 197.717, 197.732, & 197.736

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06; LCDD 1-2011, f. & cert. ef. 2-2-11

660-004-0005

Definitions

For the purpose of this division, the definitions in ORS 197.015 and the Statewide Planning Goals shall apply. In addition, the following definitions shall apply:

(1) An "Exception" is a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with ORS 197.732(2), the provisions of this division and, if applicable, the provisions of OAR 660-011-0060, 660-012-0070, 660-014-0030, or 660-014-0040.

(2) "Resource Land" is land subject to one or more of the statewide goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d).

(3) "Nonresource Land" is land not subject to any of the statewide goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d). Nothing in these definitions is meant to imply that other goals, particularly Goal 5, do not apply to nonresource land.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.015, 197.732, & 197.736

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 1-2011, f. & cert. ef. 2-2-11

660-004-0010

Application of the Goal 2 Exception Process to Certain Goals

(1) The exceptions process is not applicable to Statewide Goal 1 "Citizen Involvement" and Goal 2 "Land Use Planning." The exceptions process is generally applicable to all or part of those statewide goals that prescribe or restrict certain uses of resource land, restrict urban uses on rural land, or limit the provision of certain public facilities and services. These statewide goals include but are not limited to:

(a) Goal 3 "Agricultural Lands"; however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses allowed in an exclusive farm use (EFU) zone under ORS chapter 215 and OAR chapter 660, division 33, "Agricultural Lands", except as provided under OAR 660-004-0022 regarding a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

(b) Goal 4 "Forest Lands"; however, an exception to Goal 4 "Forest Lands" is not required for any of the forest or nonforest uses allowed in a forest or mixed farm/forest zone under OAR chapter 660, division 6, "Forest Lands";

(c) Goal 11 "Public Facilities and Services" as provided in OAR 660-011-0060(9);

(d) Goal 14 "Urbanization" as provided for in the applicable paragraph (l)(c)(A), (B), (C) or (D) of this rule:

(A) An exception is not required for the establishment of an urban growth boundary around or including portions of an incorporated city;

(B) When a local government changes an established urban growth boundary applying Goal 14 as it existed prior to the amendments adopted April 28, 2005, it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning;" Part II, Exceptions. An established urban growth boundary is one that has been acknowledged under ORS 197.251, 197.625 or 197.626. Findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

(i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14);

(ii) Areas that do not require a new exception cannot reasonably accommodate the use;

(iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(C) When a local government changes an established urban growth boundary applying Goal 14 as amended April 28, 2005, a goal exception is not required unless the local government seeks an exception to any of the requirements of Goal 14 or other applicable goals;

(D) For an exception to Goal 14 to allow urban development on rural lands, a local government must follow the applicable requirements of OAR 660-014-0030 or 660-014-0040, in conjunction with applicable requirements of this division;

(e) Goal 16 "Estuarine Resources";

(f) Goal 17 "Coastal Shorelands"; and

(g) Goal 18 "Beaches and Dunes."

(2) The exceptions process is generally not applicable to those statewide goals that provide general planning guidance or that include their own procedures for resolving conflicts between competing uses. However, exceptions to these goals, although not required, are possible and exceptions taken to these goals will be reviewed when submitted by a local jurisdiction. These statewide goals are:

(a) Goal 5 "Natural Resources, Scenic and Historic Areas, and Open Spaces";

(b) Goal 6 "Air, Water, and Land Resources Quality";

(c) Goal 7 "Areas Subject to Natural Hazards";

(d) Goal 8 "Recreational Needs";

(e) Goal 9 "Economic Development";

(f) Goal 10 "Housing" except as provided for in OAR 660-008-0035, "Substantive Standards for Taking a Goal 2, Part II, Exception Pursuant to ORS 197.303(3)";

(g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070, "Exceptions for Transportation Improvements on Rural Land";

(h) Goal 13 "Energy Conservation";

(i) Goal 15 "Willamette River Greenway" except as provided for in OAR 660-004-0022(6); and

(j) Goal 19 "Ocean Resources."

(3) An exception to one goal or goal requirement does not ensure compliance with any other applicable goals or goal requirements for the proposed uses at the exception site. Therefore, an exception to exclude certain lands from the requirements of one or more statewide goals or goal requirements does not exempt a local government from the requirements of any other goal(s) for which an exception was not taken.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 2-1987, f. & ef. 11-10-87; LCDC 3-1988(Temp), f. & cert. ef. 8-5-88; LCDC 6-1988, f. & cert. ef. 9-29-88; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2005, f. & cert. ef. 6-28-05; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 1-2011, f. & cert. ef. 2-2-11

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660-004-0015

Inclusion as Part of the Plan

(1) A local government approving a proposed exception shall adopt, as part of its comprehensive plan, findings of fact and a statement of reasons that demonstrate that the standards for an exception have been met. The reasons and facts shall be supported by substantial evidence that the standard has been met.

(2) A local government denying a proposed exception shall adopt findings of fact and a statement of reasons that demonstrate that the standards for an exception have not been met. However, the findings need not be incorporated into the local comprehensive plan.

Stat. Auth.: ORS 197.040

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 1-2011, f. & cert. ef. 2-2-11

660-004-0018

Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 and 660-014-0030 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For “physically developed” and “irrevocably committed” exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as “Rural Land” as defined by the goals, and are consistent with all other applicable goal requirements;

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(c) For uses in unincorporated communities, the uses are consistent with OAR 660-022-0030, “Planning and Zoning of Unincorporated Communities”, if the county chooses to designate the community under the applicable provisions of OAR chapter 660, division 22; and

(d) For industrial development uses and accessory uses subordinate to the industrial development, the industrial uses may occur in buildings of any size and type provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved on rural land only under provisions for a reasons exception as outlined in section (4) of this rule and applicable requirements of OAR 660-004-0020 through 660-004-0022, 660-011-0060 with regard to sewer service on rural lands, OAR 660-012-0070 with regard to transportation improvements on rural land, or OAR 660-014-0030 or 660-014-0040 with regard to urban development on rural land.

(4) “Reasons” Exceptions:

(a) When a local government takes an exception under the “Reasons” section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a “Reasons” exception, a new “Reasons” exception is required.

(c) When a local government includes land within an unincorporated community for which an exception under the “Reasons” section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.732

Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1986, f. & ef. 3-20-86; LCDD 4-1998, f. & cert. ef. 7-28-98; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 8-2005, f. & cert. ef. 12-13-05; LCDD 7-2006, f. 10-13-06, cert. ef. 10-23-06; LCDD 1-2011, f. & cert. ef. 2-2-11

660-004-0020

Goal 2, Part II(c), Exception Requirements

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) “Reasons justify why the state policy embodied in the applicable goals should not apply.” The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

(b) “Areas that do not require a new exception cannot reasonably accommodate the use”. The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, that do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) The “alternative areas” standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception[,] unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

(c) “The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.” The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is

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least productive, the ability to sustain resource uses near the proposed use[.], and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

(4) For the expansion of an unincorporated community described under OAR 660-022-0010, including an urban unincorporated community pursuant to OAR 660-022-0040(2), the reasons exception requirements necessary to address standards 2 through 4 of Goal 2, Part II(c), as described in of subsections (2)(b), (c) and (d) of this rule, are modified to also include the following:

(a) Prioritize land for expansion: First priority goes to exceptions lands in proximity to an unincorporated community boundary. Second priority goes to land designated as marginal land. Third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority is given to land of lower capability site class for agricultural land, or lower cubic foot site class for forest land; and

(b) Land of lower priority described in subsection (a) of this section may be included if land of higher priority is inadequate to accommodate the use for any one of the following reasons:

(A) Specific types of identified land needs cannot be reasonably accommodated on higher priority land;

(B) Public facilities and services cannot reasonably be provided to the higher priority area due to topographic or other physical constraints; or

(C) Maximum efficiency of land uses with the unincorporated community requires inclusion of lower priority land in order to provide public facilities and services to higher priority land.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.732

Hist.: LCDC 5-1982, f. & ef 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 1-2011, f. & cert. ef. 2-2-11

660-004-0022

Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040.

(1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

(A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned that require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

(3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts may include, but are not limited to, the following:

(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports;

(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or

(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages that support the decision.

(4) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10) the requirements of subsections (a) through (c) of this section apply:

(a) Appropriate reasons and facts may include findings that there is a demonstrated need for additional land in the community to accommodate a specific rural use based on Goals 3-19 and a demonstration that either:

(A) The use requires a location near a resource located on rural land; or

(B) The use has special features necessitating its location in an expanded area of an existing unincorporated community, including:

(i) For industrial use, it would have a significant comparative advantage due to its location such as, for example, that it must be near a rural energy facility, or near products available from other activities only in the surrounding area, or that it is reliant on an existing work force in an existing unincorporated community;

(ii) For residential use, the additional land is necessary to satisfy the need for additional housing in the community generated by existing industrial, commercial, or other economic activity in the surrounding area. The plan must include an economic analysis showing why the type and density of planned housing cannot be accommodated in an existing exception area or urban growth boundary, and is most appropriate at the particular proposed location. The reasons cannot be based on market demand for housing, nor on a projected continuation of past rural population distributions.

(b) The findings of need must be coordinated and consistent with the comprehensive plan for other exception areas, unincorporated communities, and urban growth boundaries in the area. For purposes of this subsection, "area" includes those communities, exception areas, and urban growth boundaries that may be affected by an expansion of a community boundary, taking into account market, economic, and other relevant factors.

(c) Expansion of the unincorporated community boundary requires a demonstrated ability to serve both the expanded area and any remaining infill development potential in the community, at the time of development, with the level of facilities determined to be appropriate for the existing unincorporated community.

(5) Expansion of Urban Unincorporated Communities: In addition to the requirements of section (4) of this rule, the expansion of an urban unincorporated community defined under OAR 660-022-0010(9) shall comply with OAR 660-022-0040.

(6) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses that are neither water-dependent nor water-related within the setback line required by section C.3.k of Goal 15 may be approved where reasons demonstrate the following:

(a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;

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(b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;

(c) The use will provide a significant public benefit; and

(d) The use is consistent with the legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by the commission under ORS 390.322.

(7) Goal 16 — Water-Dependent Development: To allow water-dependent industrial, commercial, or recreational uses that require an exception in development and conservation estuaries, an economic analysis must show that there is a reasonable probability that the proposed use will locate in the planning area during the planning period, considering the following:

(a) Goal 9 or, for recreational uses, the Goal 8 Recreation Planning provisions;

(b) The generally predicted level of market demand for the proposed use;

(c) The siting and operational requirements of the proposed use including land needs, and as applicable, moorage, water frontage, draft, or similar requirements;

(d) Whether the site and surrounding area are able to provide for the siting and operational requirements of the proposed use; and

(e) The economic analysis must be based on the Goal 9 element of the County Comprehensive Plan and must consider and respond to all economic needs information available or supplied to the jurisdiction. The scope of this analysis will depend on the type of use proposed, the regional extent of the market and the ability of other areas to provide for the proposed use.

(8) Goal 16 – Other Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or degradations of natural values to water-dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS chapter 196, in any of the circumstances specified in subsections (a) through (e) of this section:

(a) Dredging to obtain fill for maintenance of an existing functioning dike where an analysis of alternatives demonstrates that other sources of fill material, including adjacent upland soils or stockpiling of material from approved dredging projects, cannot reasonably be utilized for the proposed project or that land access by necessary construction machinery is not feasible;

(b) Dredging to maintain adequate depth to permit continuation of the present level of navigation in the area to be dredged;

(c) Fill or other alteration for a new navigational structure where both the structure and the alteration are shown to be necessary for the continued functioning of an existing federally authorized navigation project such as a jetty or a channel;

(d) An exception to allow minor fill, dredging, or other minor alteration of a natural management unit for a boat ramp or to allow piling and shoreline stabilization for a public fishing pier;

(e) Dredge or fill or other alteration for expansion of an existing public non-water-dependent use or a nonsubstantial fill for a private non-water-dependent use (as provided for in ORS 196.825) where:

(A) A Countywide Economic Analysis based on Goal 9 demonstrates that additional land is required to accommodate the proposed use;

(B) An analysis of the operational characteristics of the existing use and proposed expansion demonstrates that the entire operation or the proposed expansion cannot be reasonably relocated; and

(C) The size and design of the proposed use and the extent of the proposed activity are the minimum amount necessary to provide for the use.

(f) In each of the situations set forth in subsections (7)(a) to (e) of this rule, the exception must demonstrate that the proposed use and alteration (including, where applicable, disposal of dredged materials) will be carried out in a manner that minimizes adverse impacts upon the affected aquatic and shoreland areas and habitats.

(9) Goal 17 — Incompatible Uses in Coastal Shoreland Areas: Exceptions are required to allow certain uses in Coastal Shoreland areas consistent with subsections (a) through (e) of this section, where applicable:

(a) For purposes of this section, “Coastal Shoreland Areas” include:

(A) Major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources and historic and archaeological sites;

(B) Shorelands in urban and urbanizable areas, in rural areas built upon or irrevocably committed to non-resource use and shorelands in unincorporated communities pursuant to OAR chapter 660, division 22 (Unincorporated Communities) that are suitable for water-dependent uses;

(C) Designated dredged material disposal sites; and

(D) Designated mitigation sites.

(b) To allow a use that is incompatible with Goal 17 requirements for coastal shoreland areas listed in subsection (9)(a) of this rule, the exception must demonstrate:

(A) A need, based on Goal 9, for additional land to accommodate the proposed use;

(B) Why the proposed use or activity needs to be located on the protected site, considering the unique characteristics of the use or the site that require use of the protected site; and

(C) That the project cannot be reduced in size or redesigned to be consistent with protection of the site and, where applicable, consistent with protection of natural values.

(c) Exceptions to convert a dredged material disposal site or mitigation site to another use must also either not reduce the inventory of designated and protected sites in the affected area below the level identified in the estuary plan or be replaced through designation and protection of a site with comparable capacity in the same area.

(d) Uses that would convert a portion of a major marsh, coastal headland, significant wildlife habitat, exceptional aesthetic resource, or historic or archaeological site must use as little of the site as possible and be designed and located and, where appropriate, buffered to protect natural values of the remainder of the site.

(e) Exceptions to designate and protect, for water-dependent uses, an amount of shorelands less than that amount required by Goal 17 Coastal Shoreland Uses Requirement 2 must demonstrate that:

(A) Based on the Recreation Planning requirements of Goal 8 and the requirements of Goal 9, there is no need during the next 20-year period for the amount of water-dependent shorelands required by Goal 17 Coastal Shoreland Uses Requirement 2 for all cities and the county in the estuary. The Goal 8 and Goal 9 analyses must be conducted for the entire estuary and its shorelands, and must consider the water-dependent use needs of all local government jurisdictions along the estuary, including the port authority, if any, and be consistent with the Goal 8 Recreation Planning elements and Goal 9 elements of the comprehensive plans of those jurisdictions; and

(B) There is a demonstrated need for additional land to accommodate the proposed use(s), based on one or more of the requirements of Goals 3 to 18.

(10) Goal 18 — Fore-dune Breaching: A fore-dune may be breached when the exception demonstrates that an existing dwelling located on the fore-dune is experiencing sand inundation and the sand grading or removal:

(a) Does not remove any sand below the grade of the dwelling;

(b) Is limited to the immediate area in which the dwelling is located;

(c) Retains all graded or removed sand within the dune system by placing it on the beach in front of the dwelling; and

(d) Is consistent with the requirements of Goal 18 “Beaches and Dunes” Implementation Requirement 1.

(11) Goal 18 — Fore-dune Development: An exception may be taken to the fore-dune use prohibition in Goal 18 “Beaches and Dunes”, Implementation Requirement. Reasons that justify why this state policy embodied in Goal 18 should not apply shall demonstrate that:

(a) The use will be adequately protected from any geologic hazards, wind erosion, undercutting ocean flooding and storm waves, or the use is of minimal value;

(b) The use is designed to minimize adverse environmental effects; and

(c) The exceptions requirements of OAR 660-004-0020 are met.

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

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.012, 197.040, 197.712, 197.717, 197.732

Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 4-1985, f. & ef. 8-8-85; LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 7-1999, f. & cert. ef. 8-20-99; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06; LCDD 9-2006, f. & cert. ef. 11-15-06; LCDD 1-2011, f. & cert. ef. 2-2-11

660-004-0025

Exception Requirements for Land Physically Developed to Other Uses

(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal. Other rules may also apply, as described in OAR 660-004-0000(1).

(2) Whether land has been physically developed with uses not allowed by an applicable goal will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent

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and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

Stat. Auth.: ORS 197
Stats. Implemented: ORS 197.732
Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 1-2011, f. & cert. ef. 2-2-11

660-004-0028

Exception Requirements for Land Irrevocably Committed to Other Uses

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:

(a) A “committed exception” is an exception taken in accordance with ORS 197.732(2)(b), Goal 2, Part II(b), and with the provisions of this rule, except where other rules apply as described in OAR 660-004-0000(1).

(b) For the purposes of this rule, an “exception area” is that area of land for which a “committed exception” is taken.

(c) An “applicable goal,” as used in this rule, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

- (a) The characteristics of the exception area;
- (b) The characteristics of the adjacent lands;
- (c) The relationship between the exception area and the lands adjacent to it; and

(d) The other relevant factors set forth in OAR 660-004-0028(6).

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(2)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule, except where other rules apply as described in OAR 660-004-0000(1). Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is “impossible.” For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203;

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact that address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands that are found to be irrevocably committed under this rule may include physically developed lands.

(6) Findings of fact for a committed exception shall address the following factors:

- (a) Existing adjacent uses;
- (b) Existing public facilities and services (water and sewer lines, etc.);
- (c) Parcel size and ownership patterns of the exception area and adjacent lands;

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision. Past land divisions made without application of the goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created and uses approved pursuant to the applicable goals shall not be used to justify a com-

mitted exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for the subject parcels or land adjoining those parcels.

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land’s actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations;

(d) Neighborhood and regional characteristics;

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map or aerial photograph that shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.732 & 197.736
Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 5-1985, f. & ef. 11-15-85; LCDC 4-1996, f. & cert. ef. 12-23-96; LCDD 1-2011, f. & cert. ef. 2-2-11

660-004-0030

Notice and Adoption of an Exception

(1) Goal 2 requires that each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(2) A planning exception takes effect when the comprehensive plan or plan amendment is adopted by the city or county governing body. Adopted exceptions will be reviewed by the Commission when the comprehensive plan is reviewed for compliance with the goals through the acknowledgment or periodic review processes under OAR chapter 660, divisions 3 or 25, and by the Board when a plan amendment is reviewed as a post-acknowledgment plan amendment pursuant to OAR chapter 660, division 18.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.610 - 197.625, 197.628 - 197.646 & 197.732
Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 1-2011, f. & cert. ef. 2-2-11

660-004-0035

Appeal of an Exception

(1) Prior to acknowledgment, an exception, or the failure to take a required exception, may be appealed to the Board pursuant to ORS 197.830, or to the Commission as an objection to the local government’s request for acknowledgment, pursuant to ORS 197.251 and OAR chapter 660, division 3.

(2) After acknowledgment, an exception taken as part of a plan amendment, or the failure to take a required exception when amending a plan, may be appealed to the Board pursuant to ORS 197.620 and OAR chapter 660, division 18.

(3) After acknowledgment, an exception taken as part of a periodic review work task submitted under OAR 660-025-0130, or failure to take a required exception when amending a plan under periodic review, may be appealed to the Commission pursuant to ORS 197.633 and OAR 660-025-0150.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.610 - 197.625, 197.732 & 197.830
Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 1-2011, f. & cert. ef. 2-2-11

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660-004-0040

Application of Goal 14 to Rural Residential Areas

(1) The purpose of this rule is to specify how Goal 14 "Urbanization" applies to rural lands in acknowledged exception areas planned for residential uses.

(2)(a) This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Goal 3 "Agricultural Lands", Goal 4 "Forest Lands" (Forest Lands), or both has been taken. Such lands are referred to in this rule as "rural residential areas".

(b) Sections (1) to (8) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family home on such lot or parcel, where the application for partition or subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before October 4, 2000, the effective date of sections (1) to (8) of this rule.

(c) This rule does not apply to types of land listed in (A) through (H) of this subsection:

(A) Land inside an acknowledged urban growth boundary;

(B) Land inside an acknowledged unincorporated community boundary established pursuant to OAR chapter 660, division 22;

(C) Land in an acknowledged urban reserve area established pursuant to OAR chapter 660, divisions 21 or 27;

(D) Land in an acknowledged destination resort established pursuant to applicable land use statutes and goals;

(E) Resource land, as defined in OAR 660-004-0005(2);

(F) Nonresource land, as defined in OAR 660-004-0005(3);

(G) Marginal land, as defined in former ORS 197.247 (1991 Edition);

or

(H) Land planned and zoned primarily for rural industrial, commercial, or public use.

(3)(a) This rule took effect on October 4, 2000.

(b) Some rural residential areas have been reviewed for compliance with Goal 14 and acknowledged to comply with that goal by the department or commission in a periodic review, acknowledgment, or post-acknowledgment plan amendment proceeding that occurred after the Oregon Supreme Court's 1986 ruling in 1000 Friends of Oregon v. LCDC, 301 Or 447 (Curry County), and before October 4, 2000. Nothing in this rule shall be construed to require a local government to amend its acknowledged comprehensive plan or land use regulations for those rural residential areas already acknowledged to comply with Goal 14 in such a proceeding. However, if such a local government later amends its plan's provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.

(4) The rural residential areas described in subsection (2)(a) of this rule are "rural lands". Division and development of such lands are subject to Goal 14, which prohibits urban use of rural lands.

(5)(a) A rural residential zone in effect on October 4, 2000 shall be deemed to comply with Goal 14 if that zone requires any new lot or parcel to have an area of at least two acres, except as required by section (7) of this rule.

(b) A rural residential zone does not comply with Goal 14 if that zone allows the creation of any new lots or parcels smaller than two acres. For such a zone, a local government must either amend the zone's minimum lot and parcel size provisions to require a minimum of at least two acres or take an exception to Goal 14. Until a local government amends its land use regulations to comply with this subsection, any new lot or parcel created in such a zone must have an area of at least two acres.

(c) For purposes of this section, "rural residential zone currently in effect" means a zone applied to a rural residential area that was in effect on October 4, 2000, and acknowledged to comply with the statewide planning goals.

(6) After October 4, 2000, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR chapter 660, division 14, and applicable requirements of this division.

(7)(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.

(b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as "the minimum lot size."

(c) If, on October 4, 2000, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed the minimum lot size that is already in effect.

(d) If, on October 4, 2000, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.

(e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new dwellings in a rural residential area only if all conditions set forth in paragraphs (7)(e)(A) through (7)(e)(H) are met:

(A) The number of new dwelling units to be clustered or developed as a PUD does not exceed 10;

(B) The number of new lots or parcels to be created does not exceed 10;

(C) None of the new lots or parcels will be smaller than two acres;

(D) The development is not to be served by a new community sewer system;

(E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community;

(F) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the local government's land use regulations on October 4, 2000 as the minimum lot size for the area;

(G) Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there; and

(H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

(f) Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.

(g) In rural residential areas, the establishment of a new "mobile home park" or "manufactured dwelling park" as defined in ORS 446.003(23) and (30) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist:

(A) The parcel to be divided has two or more permanent habitable dwellings on it;

(B) The permanent habitable dwellings on the parcel to be divided were established there before October 4, 2000;

(C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it; and

(D) The partition would not create any vacant parcels on which a new dwelling could be established.

(E) For purposes of this rule, "habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.283(1)(p)(A)-(D).

(i) For rural residential areas designated after October 4, 2000, the affected county shall either:

(A) Require that any new lot or parcel have an area of at least ten acres, or

(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the applicable requirements for an exception to Goal 14 in OAR chapter 660, division 14. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."

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(8)(a) Notwithstanding the provisions of section (7) of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c).

- (A) Ashland;
- (B) Central Point;
- (C) Medford;
- (D) Newberg;
- (E) Sandy.

(b) Any division of rural residential land in an urban reserve area shall be done in accordance with the acknowledged urban reserve ordinance or acknowledged regional growth plan of a city or urban area listed in subsection (8)(a) that:

(A) has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, division 21; or

(B) is part of a regional growth plan that contains at least a twenty-year regional urban reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658.

(c) Notwithstanding the provisions of section (7) of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in subsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR chapter 660, division 21, or is not part of an acknowledged regional growth plan as described in subsection (b), paragraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.

(d) Notwithstanding the provisions of section (7), if Metro has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, division 21 or division 27, any land division of rural residential land in that urban reserve shall be done in accordance with the applicable acknowledged comprehensive plan and zoning provisions adopted to implement the urban reserve.

(e) Notwithstanding the provisions of section (7), if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan area and is in a rural residential area, and if Metro has not designated an urban reserve that contains at least a twenty-year reserve of land acknowledged to comply with either OAR chapter 660, division 21 or division 27, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.

(f) Notwithstanding the provisions of section (7) and subsection (8)(e), a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in subsection (8)(e). The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at densities of at least 10 units per net developable acre. In no case shall the minimum parcel area requirement set for such lands be smaller than 10 acres.

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (G) of this subsection exist:

(A) The parcel to be divided has two or more permanent, habitable dwellings on it;

(B) The permanent, habitable dwellings on the parcel to be divided were established there before October 4, 2000;

(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;

(D) The partition would not create any vacant parcels on which new dwellings could be established;

(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel;

(F) For purposes of this rule, habitable dwelling means a dwelling that meets the criteria set forth in ORS 215.213(1)(q)(A)—(D) or 215.283(1)(p)(A)—(D), whichever is applicable; and

(G) The parcel is not in an area designated as rural reserve under OAR chapter 660, division 27, except as provided under OAR 660-027-0070.

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws.

Stat. Auth.: ORS 197.040, 195.141

Stats. Implemented: ORS 197.175 & 197.732, 195.145, 195.141

Hist.: LCDD 7-2000, f. 6-30-00, cert. ef. 10-4-00; LCDD 3-2001, f. & cert. ef. 4-3-01; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 1-2008, f. & cert. ef. 2-13-08; LCDD 1-2011, f. & cert. ef. 2-2-11

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Rule Caption: Minor and technical amendments to conform to law, clarify wording and correct references.

Adm. Order No.: LCDD 2-2011

Filed with Sec. of State: 2-2-2011

Certified to be Effective: 2-2-11

Notice Publication Date: 11-1-2010

Rules Amended: 660-006-0000, 660-006-0003, 660-006-0004, 660-006-0005, 660-006-0010, 660-006-0015, 660-006-0020, 660-006-0025, 660-006-0026, 660-006-0027, 660-006-0029, 660-006-0031, 660-006-0035, 660-006-0040, 660-006-0050, 660-006-0055, 660-006-0057, 660-006-0060

Subject: Rules were modified to make minor and technical amendments to: conform to statutes, laws and rules; respond to Land Use Board of Appeals and other court opinions; clarify ambiguous and unclear wording consistent with the intent of the rule; update and correct references to rules, statutes or other documents and correct grammar.

Rules Coordinator: Casaria Tuttle—(503) 373-0050, ext. 322

660-006-0000

Purpose

(1) The purpose of this division is to conserve forest lands as defined by Goal 4 and to define standards for compliance with implementing statutes at ORS 215.700 through 215.799.

(2) To accomplish the purpose of conserving forest lands, the governing body shall:

(a) Designate forest lands on the comprehensive plan map as forest lands consistent with Goal 4 and OAR chapter 660, division 6;

(b) Zone forest lands for uses allowed pursuant to OAR chapter 660, division 6 on designated forest lands; and

(c) Adopt plan policies consistent with OAR chapter 660, division 6.

(3) This rule provides for a balance between the application of Goal 3 “Agricultural Lands” and Goal 4 “Forest Lands,” because of the extent of lands that may be designated as either agricultural or forest land.

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

Hist.: LCDD 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0003

Applicability

(1) This division applies to all forest lands as defined by Goal 4.

(2) Governing bodies shall amend their comprehensive plan and land use regulations to comply with requirements of OAR 660-006-0035(2) and 660-006-0040 by September 6, 1994.

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0004

Notice of Decision in Forest Zones

Governing bodies shall provide the following types of notice:

(1) Notice of all applications for dwellings and land divisions in forest and agriculture/forest zones shall be provided to the Department of Land Conservation and Development at the Salem office. Notice shall be in accordance with the governing body’s acknowledged comprehensive plan and land use regulations, and shall be mailed at least 10 calendar days prior to the hearing or decision being made.

(2) Notice of proposed actions described in section (1) of this rule shall be provided as required by procedures for notice contained in ORS 197.763 and 215.402 to 215.438.

(3) The provisions of sections (1) and (2) of this rule are repealed on September 6, 1995.

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

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Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0005

Definitions

For the purpose of this division, the following definitions apply:

(1) Definitions contained in ORS 197.015 and the Statewide Planning Goals.

(2) "Commercial Tree Species" means trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715.

(3) "Cubic Foot Per Acre" means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

(4) "Cubic Foot Per Tract Per Year" means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

(5) "Date of Creation and Existence." When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.

(6) "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(7) "Forest Operation" means any commercial activity relating to the growing or harvesting or any forest tree species as defined in ORS 527.620(6).

(8) "Governing Body" means a city council, county board of commissioners, or county court or its designate, including planning director, hearings officer, planning commission or as provided by Oregon law.

(9) "Lot" means a single unit of land that is created by a subdivision of land as provided in ORS 92.010.

(10) "Parcel" means a single unit of land that is created by a partition of land and as further defined in ORS 215.010(1).

(11) "Tract" means one or more contiguous lots or parcels in the same ownership.

(12) "Western Oregon" means that portion of the state lying west of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

Stat. Auth.: ORS 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL
Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0010

Identifying Forest Land

(1) Governing bodies shall identify "forest lands" as defined by Goal 4 in the comprehensive plan. Lands inventoried as Goal 3 agricultural lands, lands for which an exception to Goal 4 is justified pursuant to ORS 197.732 and taken, and lands inside urban growth boundaries are not required to be planned and zoned as forest lands. Lands suitable for commercial forest uses shall be identified using a mapping of average annual wood production capability by cubic foot per acre (cf/ac) as reported by the USDA Natural Resources Conservation Service.

(2) Where NRCS data are not available or are shown to be inaccurate, other site productivity data may be used to identify forest land, in the following order of priority:

- Oregon Department of Revenue western Oregon site class maps;
- USDA Forest Service plant association guides; or
- Other information determined by the State Forester to be of comparable quality.

(3) Where data of comparable quality under subsections (2)(a)-(c) are not available or are shown to be inaccurate, an alternative method for determining productivity may be used as described in the Oregon Department of Forestry's Technical Bulletin entitled "Land Use Planning Notes, Number 3 April 1998, Updated for Clarity April 2010."

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.040, ORS 197.230, ORS 197.245, ORS 215.700, ORS 215.705, ORS 215.720, ORS 215.740, ORS 215.750, ORS 215.780 & Ch. 792, 1993 OL
Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0015

Plan Designation Outside an Urban Growth Boundary

(1) Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone that conserves forest lands consistent with OAR chapter 660, division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732, the forest lands are marginal lands pursuant to ORS 197.247 (1991 Edition), the land is zoned with an Exclusive Farm Use Zone pursuant to ORS chapter 215 provided the zone qualifies for special assessment under ORS 308.370, or is an "abandoned mill site" zoned for industrial use as provided for by ORS 197.719. In areas of intermingled agricultural and forest lands, an agricultural/forest lands designation may also be appropriate if it provides protection for forest lands consistent with the requirements of OAR chapter 660, division 6. The plan shall describe the zoning designation(s) applied to forest lands and its purpose and shall contain criteria that clearly indicate where the zone(s) will be applied.

(2) When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.

Stat. Auth.: ORS 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL
Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0020

Plan Designation Within an Urban Growth Boundary

Goal 4 does not apply within urban growth boundaries and therefore, the designation of forest lands is not required.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.040, 197.230, 197.245 & Ch. 792, 1993 OL
Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0025

Uses Authorized in Forest Zones

(1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are:

- Uses related to and in support of forest operations;
- Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;
- Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.;
- Dwellings authorized by ORS 215.705 to 215.755; and
- Other dwellings under prescribed conditions.

(2) The following uses pursuant to the Forest Practices Act (ORS Chapter 527) and Goal 4 shall be allowed in forest zones:

- Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;
- Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation;
- Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities; and
- For the purposes of section (2) of this rule "auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(3) The following uses may be allowed outright on forest lands:

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(a) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;

(b) Farm use as defined in ORS 215.203;

(c) Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups;

(d) Temporary portable facility for the primary processing of forest products;

(e) Exploration for mineral and aggregate resources as defined in ORS chapter 517;

(f) Private hunting and fishing operations without any lodging accommodations;

(g) Towers and fire stations for forest fire protection;

(h) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans and public road and highway projects as described in ORS 215.213(1) and 215.283(1);

(i) Water intake facilities, canals and distribution lines for farm irrigation and ponds;

(j) Caretaker residences for public parks and public fish hatcheries;

(k) Uninhabitable structures accessory to fish and wildlife enhancement;

(l) Temporary forest labor camps;

(m) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head;

(n) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.467 and Goal 8;

(o) Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation;

(p) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact exterior walls and roof structures;

(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and

(q) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under this division.

(4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:

(a) Permanent facility for the primary processing of forest products;

(b) Permanent logging equipment repair and storage;

(c) Log scaling and weigh stations;

(d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;

(e)(A) Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a

camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

(B) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by paragraph (4)(e)(C) of this rule.

(C) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(f) Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable;

(g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517;

(h) Television, microwave and radio communication facilities and transmission towers;

(i) Fire stations for rural fire protection;

(j) Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 4;

(k) Aids to navigation and aviation;

(l) Water intake facilities, related treatment facilities, pumping stations, and distribution lines;

(m) Reservoirs and water impoundments;

(n) Firearms training facility;

(o) Cemeteries;

(p) Private seasonal accommodations for fee hunting operations may be allowed subject to section (5) of this rule, OAR 660-006-0029, and 660-006-0035 and the following requirements:

(A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

(B) Only minor incidental and accessory retail sales are permitted;

(C) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and

(D) A governing body may impose other appropriate conditions.

(q) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width;

(r) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;

(s) Home occupations as defined in ORS 215.448;

(t) A manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.213 and 215.283. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this subsection is not eligible for replacement under subsection (3)(p) of this rule. Governing bodies every two years shall review the permit authorizing such mobile homes. When the hardships end, governing bodies or their designee shall require the removal of such mobile homes. Oregon Department of Environmental Quality review and removal requirements also apply to such mobile homes. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons;

(u) Expansion of existing airports;

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(v) Public road and highway projects as described in ORS 215.213(2)(p) through (r) and (10) and 215.283(2)(q) through (s) and (3);

(w) Private accommodations for fishing occupied on a temporary basis may be allowed subject to section (5) of this rule, OAR 600-060-0029 and 660-006-0035 and the following requirements:

(A) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

(B) Only minor incidental and accessory retail sales are permitted;

(C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

(D) Accommodations must be located within one-quarter mile of fish bearing Class I waters; and

(E) A governing body may impose other appropriate conditions.

(x) Forest management research and experimentation facilities as described by ORS 526.215 or where accessory to forest operations; and

(y) An outdoor mass gathering subject to review by a county planning commission under the provisions of ORS 433.763. These gatherings are those of more than 3,000 persons that continue or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.

(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this rule.

(6) Nothing in this rule relieves governing bodies from complying with other requirement contained in the comprehensive plan or implementing ordinances such as the requirements addressing other resource values (e.g., Goal 5) that exist on forest lands.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 8-1995, f. & cert. ef. 6-29-95; ; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0026

New Land Division Requirements in Forest Zones

(1) Governing bodies shall legislatively amend their land division standards to incorporate one or more of the following parcel sizes. Under these provisions, a governing body may not determine minimum parcel sizes for forest land on a case-by-case basis:

(a) An 80-acre or larger minimum parcel size; or

(b) One or more numeric minimum parcel sizes less than 80 acres provided that each parcel size is large enough to ensure:

(A) The opportunity for economically efficient forest operations typically occurring in the area;

(B) The opportunity for the continuous growing and harvesting of forest tree species;

(C) The conservation of other values found on forest lands as described in Goal 4; and

(D) That parcel meets the requirements of ORS 527.630.

(2) New land divisions less than the parcel size in section (1) of this rule may be approved for any of the following circumstances:

(a) For the uses listed in OAR 660-006-0025(3)(m) through (o) and (4)(a) through (o) provided that such uses have been approved pursuant to OAR 660-006-0025(5) and the parcel created from the division is the minimum size necessary for the use; or

(b) For the establishment of a parcel for an existing dwelling on land zoned for forest use, subject to the following requirements:

(A) The parcel established shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;

(B) The dwelling existed prior to June 1, 1995;

(C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone; or

(ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone; and

(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.

(c) To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of subsection (1)(a) or (b). Approvals shall be based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of subsections (1)(a) or (b) of this rule in order to conduct the forest practice. Parcels created pursuant to this subsection:

(A) Shall not be eligible for siting of new dwelling;

(B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

(C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of resource lands;

(D) Shall not result in a parcel of less than 35 acres, except:

(i) Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency; or

(ii) Where the purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and

(E) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum lot or parcel size of the zone or the minimum size required for dwellings approved under OAR 660-006-0027(2).

(d) To allow a division of a lot or parcel zoned for forest use if:

(A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213(1) or 215.283(1);

(C) Except for one lot or parcel, each lot or parcel created under this subsection is between two and five acres in size;

(D) At least one dwelling is located on each lot or parcel created under this subsection; and

(E) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the lot or parcel is located indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

(e) To allow a proposed division of land as provided in ORS 215.783.

(3) A county planning director shall maintain a record of lots and parcels that do not qualify for division under the restrictions imposed by OAR 660-006-0026(2)(d) and (4). The record shall be available to the public.

(4) A lot or parcel may not be divided under OAR 660-006-0026(2)(d) if an existing dwelling on the lot or parcel was approved under:

(a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (Forest Lands).

(5)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this rule shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under section (2) of this rule.

(b) A restriction imposed under this section shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.

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(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this rule. The record shall be readily available to the public.

(6) A landowner allowed a land division under section (2) of this rule shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

Stat. Auth.: ORS 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780, 215.783 & Ch. 792, 1993 OL
Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7 1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0027

Dwellings in Forest Zones

The following standards apply to dwellings described at OAR 660-006-0025(1)(d):

(1) A lot of record dwelling authorized under ORS 215.705 may be allowed if:

(a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (d) of this section:

(A) Since prior to January 1, 1985; or

(B) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

(b) The tract on which the dwelling will be sited does not include a dwelling;

(c) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

(d) For purposes of this section, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(e) The dwelling must be located:

(A) On a tract in western Oregon that is composed of soil is not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:

(i) A United States Bureau of Land Management road; or

(ii) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

(B) On a tract in eastern Oregon that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:

(i) A United States Bureau of Land Management road; or

(ii) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

(f) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and

(g) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

(2) If a dwelling is not allowed pursuant to section (1) of this rule, a large tract forest dwelling authorized under ORS 215.740 may be allowed on land zoned for forest use if it complies with other provisions of law and is sited on a tract that does not include a dwelling:

(a) In eastern Oregon of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pur-

suant to section (7) of this rule for all tracts that are used to meet the acreage requirements of this subsection.

(b) In western Oregon of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to section (7) of this rule for all tracts that are used to meet the acreage requirements of this subsection.

(c) A tract shall not be considered to consist of less than 240 acres or 160 acres because it is crossed by a public road or a waterway.

(3) In western Oregon, a governing body of a county or its designate may allow the establishment of a single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(a) Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:

(A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

(A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

(A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(4) In eastern Oregon, a governing body of a county or its designate may allow the establishment of a single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(a) Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:

(A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(b) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

(A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(c) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

(A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(5) The following review standards apply to "template" dwellings approved under sections (3) or (4) of this rule:

(a) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under sections (3) or (4) of this rule.

(b) Except as provided by subsection (c) of this section, if the tract under section (3) or (4) of this rule abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(c)(A) If a tract 60 acres or larger described under section (3) or (4) of this rule abuts a road or perennial stream, the measurement shall be made in accordance with subsection (b) of this section. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

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(i) Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or

(ii) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.

(B) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

(6) A proposed "template" dwelling under this rule is not allowed:

(a) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;

(b) Unless it complies with the requirements of OAR 660-006-0029 and 660-006-0035;

(c) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under section (7) of this rule for the other lots or parcels that make up the tract are met; or

(d) If the tract on which the dwelling will be sited includes a dwelling.

(7)(a) The applicant for a dwelling authorized by subsections (2)(a) or (b) of this rule that requires one or more lot or parcel to meet minimum acreage requirements shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(c) Enforcement of the covenants, conditions and restrictions may be undertaken by the department or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

(d) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions and restrictions required by this section.

(e) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(8) Notwithstanding subsection (6)(a) of this rule, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in sections (3) or (4) or subsections (5)(b) or (c) of this rule, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle.

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

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 2-1990, f. & cert. ef. 3-9-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 6-2000, f. & cert. ef. 6-14-00; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0029

Siting Standards for Dwellings and Structures in Forest Zones

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this rule together with the requirements OAR 660-0060-0035 to identify the building site:

(1) Dwellings and structures shall be sited on the parcel so that:

(a) They have the least impact on nearby or adjoining forest or agricultural lands;

(b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

(c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and

(d) The risks associated with wildfire are minimized.

(2) Siting criteria satisfying section (1) of this rule may include setbacks from adjoining properties, clustering near or among existing struc-

tures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

(3) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:

(a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;

(b) A water use permit issued by the Water Resources Department for the use described in the application; or

(c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

(4) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

(5) Approval of a dwelling shall be subject to the following requirements:

(a) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules;

(b) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

(c) If the lot or parcel is more than 10 acres in western Oregon or more than 30 acres in eastern Oregon, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;

(d) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax; and

(e) The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Stat. Auth.: ORS 197.040, 197.245 & 215.730

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 7-1994, f. & cert. ef. 9-21-94; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0031

Youth Camps

(1) A youth camp may be established in compliance with the provisions of this rule. The purpose of this rule is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment.

(2) Changes to or expansions of youth camps established prior to the effective date of this rule shall be subject to the provisions of ORS 215.130.

(3) A "youth camp" is a facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.

(4) An application for a proposed youth camp shall comply with the following:

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(a) The number of overnight camp participants that may be accommodated shall be determined by the governing body, or its designate, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by subsection (4)(b) of this rule a youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff.

(b) The governing body, or its designate may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under subsection (4)(a) of this rule.

(c) Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10 percent of the total camper nights offered by the youth camp.

(d) The provisions of OAR 660-006-0025(5)(a).

(e) A campground as described in ORS 215.283(2)(c), 215.213(2)(e) and OAR 660-006-0025(4)(e) shall not be established in conjunction with a youth camp.

(f) A youth camp shall not be allowed in conjunction with an existing golf course.

(g) A youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.

(5) The youth camp shall be located on a lawful parcel that is:

(a) Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities. A youth camp shall be located on a parcel of at least:

(A) 80-acres if located in eastern Oregon.

(B) 40-acres if located in western Oregon.

(b) Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the governing body, or its designate sets a different setback based upon the following criteria that may be applied on a case-by-case basis:

(A) The proposed setback will prevent conflicts with commercial resource management practices;

(B) The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and

(C) The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.

(c) Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body or its designate shall verify that a proposed youth camp will not result in the need for a sewer system.

(d) Predominantly forestland if within a mixed agricultural/forest zone as provided for under OAR 660-006-0050.

(6) A youth camp may provide for the following facilities:

(a) Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horse back riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses shall not be allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.

(b) Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services shall be limited to the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.

(c) Bathing and laundry facilities except that they shall not be provided in the same building as sleeping quarters.

(d) Up to three camp activity buildings, not including primary cooking and eating facilities.

(e) Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker's

dwelling, shall not include kitchen facilities. Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.

(f) Covered areas that are not fully enclosed.

(g) Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.

(h) An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).

(i) A caretaker's residence may be established in conjunction with a youth camp prior to or after June 14, 2000, if no other dwelling exists on the subject property.

(7) A proposed youth camp shall comply with the following fire safety requirements:

(a) The fire siting standards in OAR 660-006-0035;

(b) A fire safety protection plan shall be developed for each youth camp that includes the following:

(A) Fire prevention measures;

(B) On site pre-suppression and suppression measures; and

(C) The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.

(c) Except as determined under subsection (7)(d) of this rule, a youth camp's on-site fire suppression capability shall at least include:

(A) A 1000 gallon mobile water supply that can access all areas of the camp;

(B) A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;

(C) A sufficient number of fire fighting hand tools; and

(D) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.

(d) An equivalent level of fire suppression facilities may be determined by the governing body, or its designate. The equivalent capability shall be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by ODF and not served by a local structural fire protection provider.

(e) The provisions of OAR 660-006-0031(7)(d) may be waived by the governing body, or its designate, if the youth camp is located in an area served by a structural fire protection provider and that provider informs the governing body in writing that on-site fire suppression at the camp is not needed.

(8) The governing body, or its designate, shall require as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, or operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(9) Nothing in this rule relieves governing bodies from complying with other requirements contained in the comprehensive plan or implementing land use regulations such as the requirements addressing other resource values (e.g. Goal 5) that exist on forest lands.

(10) The provisions of this rule shall apply directly to any land use decision pursuant to ORS 197.646 and 215.427(3) commencing October 12, 2000. A county may adopt provisions in its comprehensive plan or land use regulations that establish standards and criteria in addition to those set forth in this rule, or to ensure compliance with any standards or criteria.

Stat. Auth.: ORS 197.040 & 215

Stats. Implemented: ORS 184.618, 195.025, 197.040 - 197.717 & 215.750 - 215.755

Hist.: LCDD 6-2000, f. & cert. ef. 6-14-00; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0035

Fire-Siting Standards for Dwellings and Structures

The following fire-siting standards or their equivalent shall apply to all new dwelling or structures in a forest or agriculture/forest zone:

(1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impractic-

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cable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

(2) Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.

(3) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.

(4) The dwelling shall have a fire retardant roof.

(5) The dwelling shall not be sited on a slope of greater than 40 percent.

(6) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

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

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0040

Fire Safety Design Standards for Roads

The governing body shall establish road design standards, except for private roads and bridges accessing only commercial forest uses, which ensure that public roads, bridges, private roads and driveways are constructed so as to provide adequate access for fire fighting equipment. Such standards shall address maximum grade, road width, turning radius, road surface, bridge design, culverts, and road access taking into consideration seasonal weather conditions. The governing body shall consult with the appropriate Rural Fire Protection District and Forest Protection District in establishing these standards.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0050

Uses Authorized in Agriculture/Forest Zones

(1) Governing bodies may establish agriculture/forest zones in accordance with both Goals 3 and 4, and OAR chapter 660, divisions 6 and 33.

(2) Uses authorized in Exclusive Farm Use Zones in ORS Chapter 215, and in OAR 660-006-0025 and 660-006-0027, subject to the requirements of the applicable section, may be allowed in any agricultural/forest zone. The county shall apply either OAR chapter 660, division 6 or 33 standards for siting a dwelling in an agriculture/forest zone based on the predominant use of the tract on January 1, 1993.

(3) Dwellings and related structures authorized under section (2), where the predominant use is forestry, shall be subject to the requirements of OAR 660-006-0029 and 660-006-0035.

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.213, 215.283, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0055

New Land Division Requirements in Agriculture/Forest Zones

(1) A governing body shall apply the standards of OAR 660-006-0026 and 660-033-0100 to determine the proper minimum lot or parcel size for a mixed agriculture/forest zone. These standards are designed: To make new land divisions compatible with forest operations; to maintain the opportunity for economically efficient forest and agriculture practices; and to conserve values found on forest lands.

(2) New land divisions less than the parcel size established according to the requirements in section (1) of this rule may be approved for any of the following circumstances:

(a) For the uses listed in OAR 660-006-0025(3)(m) through (o) and (4)(a) through (n) provided that such uses have been approved pursuant to OAR 660-060-0025(5) and the land division created is the minimum size necessary for the use.

(b) For the establishment of a parcel for an existing dwelling on land zoned for mixed farm and forest use, subject to the following requirements:

(A) The parcel established shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;

(B) The dwelling existed prior to June 1, 1995;

(C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone; or

(ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone;

(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal;

(E) The minimum tract eligible under subsection (b) of this section is 40 acres;

(F) The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321; and

(G) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.

(c) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of section (1). Parcels created pursuant to this subsection:

(A) Shall not be eligible for siting of a new dwelling;

(B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

(C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of resource land;

(D) Shall not result in a parcel of less than 35 acres, except:

(i) Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency; or

(ii) Where the purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forestland; and

(E) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum lot or parcel size of the zone.

(d) To allow a division of a lot or parcel zoned for mixed farm and forest use if:

(A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213(1) or 215.283(1);

(C) Except for one lot or parcel, each lot or parcel created under this section is between two and five acres in size;

(D) At least one dwelling is located on each lot or parcel created under this section; and

(E) The landowner of a lot or parcel created under this section provides evidence that a restriction prohibiting the landowner and the land owner's successors in interest from further dividing the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel is located. A restriction imposed under this section shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the lot or parcel is located indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to Goal 4 (Forest Lands) or unless the land division is subsequently authorized by law or by a change in Goal 4 (Forest Land);

(e) To allow a proposed division of land as provided in ORS 215.783.

(3) A county planning director shall maintain a record of lots and parcels that do not qualify for division under the restrictions imposed by OAR 660-006-0055(2)(d) and (4). The record shall be readily available to the public.

(4) A lot or parcel may not be divided under OAR 660-006-0055(2)(d) if an existing dwelling on the lot or parcel was approved under:

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(a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (Forest Lands).

(5)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this rule shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under section (2) of this rule.

(b) A restriction imposed under this section shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this section. The record shall be readily available to the public.

(6) A landowner allowed a land division under section (2) of this rule shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

Stat. Auth.: ORS 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.213, 215.283, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780, 215.783 & Ch. 792, 1993 OL
Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0057

Rezoning Land to an Agriculture/Forest Zone

Any rezoning or plan map amendment of lands from an acknowledged zone or plan designation to an agriculture/forest zone requires a demonstration that each area being rezoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.

Stat. Auth.: ORS 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.213, 215.283, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL
Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 2-2011, f. & cert. ef. 2-2-11

660-006-0060

Regulation of Forest Operations

The Forest Practices Act (ORS 527.620 to 527.992) as implemented through Oregon Board of Forestry rules regulates forest operations on forest lands. The relationship between the Forest Practices Act and land use planning is described in ORS 527.722 to 527.726. OAR 660-006-0025 does not authorize county governing bodies to regulate forest operations or other uses allowed by ORS 527.620 to 527.990 and Oregon Board of Forestry rules.

Stat. Auth.: ORS 197.040 & 215
Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL
Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; Renumbered from 660-006-0030; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDD 2-2011, f. & cert. ef. 2-2-11

Landscape Contractors Board Chapter 808

Rule Caption: Removes requirement to inform consumer of name of subcontractors.

Adm. Order No.: LCB 1-2011(Temp)

Filed with Sec. of State: 1-27-2011

Certified to be Effective: 1-28-11 thru 7-27-11

Notice Publication Date:

Rules Amended: 808-002-0020

Subject: The rule amendment to OAR 808-002-0020(1) removes the requirement for landscaping contracts and subcontracts to include the name and license number of any subcontractor and a description of the landscaping work to be subcontracted.

Rules Coordinator: Kim Gladwill-Rowley—(503) 378-5909

808-002-0020

Minimum Standards for Written Contracts and Billings

(1) Landscaping contracts and subcontracts shall include, but not be limited to, the following:

(a) Landscape contracting business name, license number, business address and telephone number;

(b) Consumer's name and address;

(c) Address or location of work to be performed if different from the consumer's address;

(d) A list of plant materials, if any, together with the size and quantity;

(e) General description of the work to be performed;

(f) Estimated time for completion or estimated completion date;

(g) Price and payment schedule;

(h) Description of guarantee; if no guarantee such a statement shall be included;

(i) Signatures of the business licensee and consumer;

(j) Statement that the business is licensed by the State Landscape Contractors Board and the current address and phone number of the board.

(2) All billings by a licensed landscape contracting business shall include the following:

(a) Name, address and telephone number of the licensed landscape contracting business;

(b) Name and address of the consumer;

(c) Total contract price and amount paid to date;

(d) The amount now due and the work performed for the amount due.

Stat. Auth.: ORS 183, 671.670 & 670.310

Stats. Implemented: ORS 671.625

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-020-0010 & 808-020-0020; LCB 1-1991, f. & cert. ef. 7-22-91; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 7-2010, f. & cert. ef. 10-25-10; LCB 8-2010(Temp), f. 10-25-10, cert. ef. 10-26-10 thru 4-24-11; LCB 1-2011(Temp), f. 1-27-11, cert. ef. 1-28-11 thru 7-27-11

Rule Caption: Permanent adoption of temporary rule that repeals rule that allows an expired business license to be reinstated retroactively.

Adm. Order No.: LCB 2-2011

Filed with Sec. of State: 1-27-2011

Certified to be Effective: 1-27-11

Notice Publication Date: 12-1-2010

Rules Amended: 808-003-0130

Subject: Amended to conform to ORS 671.660. The Landscape Contractors Board current rules allow an expired landscaping contracting business license to be reinstated retroactively if the bonding and liability insurance requirement have been continuously in place. This rule does not take into consideration the other licensing requirements and is not consistent with Oregon law.

Rules Coordinator: Kim Gladwill-Rowley—(503) 378-5909

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:

(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. The reinstatement date will be the date the agency updates the record.

(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. The reinstatement date will be the date the agency updates the record.

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(11) If a Landscape contracting business license expires, 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 agency updates the record.

(12) 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.

(13) 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; LCB 5-2010(Temp), f. & cert. ef. 7-20-10 thru 1-16-11; LCB 6-2010, f. 8-12-10, cert. ef. 8-13-10; LCB 2-2011, f. & cert. ef. 1-27-11

Oregon Department of Education Chapter 581

Rule Caption: Allows Superintendent of Public Instruction to grant timeline extensions for charter approvals and renewals.

Adm. Order No.: ODE 1-2011

Filed with Sec. of State: 1-31-2011

Certified to be Effective: 2-1-11

Notice Publication Date: 12-1-2010

Rules Amended: 581-020-0345

Subject: Currently the Superintendent of Public Instruction or designees may grant extensions of timelines for approvals of charter proposals. The rule amendments would also allow for extensions of timelines for the charter renewal process.

Rules Coordinator: Diane Roth—(503) 947-5791

581-020-0345

Timeline Extensions

Consistent with ORS 326.111, the State Board of Education delegates to the Superintendent of Public Instruction or the Superintendent's designee the authority to grant extensions of timelines. The Superintendent or designee may grant an extension, upon request from a school district, if the district has good cause for requesting an extension of the timeline for:

- (1) The charter approval process under ORS 338.055; or
- (2) The charter renewal process under ORS 338.065.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.111

Hist.: ODE 22-2000(Temp), f. & cert. ef. 7-27-00 thru 1-22-01; ODE 4-2001, f. & cert. ef. 1-29-01; ODE 1-2011, f. 1-31-11, cert. ef. 2-1-11

Rule Caption: Changes which health care professionals may grant a student with a concussion a medical release.

Adm. Order No.: ODE 2-2011

Filed with Sec. of State: 1-31-2011

Certified to be Effective: 2-1-11

Notice Publication Date: 12-1-2010

Rules Amended: 581-022-0421

Subject: The rule amendments add psychologists to those health care professionals who may release a child with a concussion to play sports. The amendments also describe the role of an athletic trainer.

Rules Coordinator: Diane Roth—(503) 947-5791

581-022-0421

Safety of School Sports — Concussions

(1) As used in this rule:

(a) "Annual training" means once in a twelve month period.

(b) "Coach" means a person who instructs or trains members on a school athletic team and may be:

(A) A school district employee;

(B) A person who volunteers for a school district

(C) A person who is performing services on behalf of a school district pursuant to a contract.

(c) "Concussion" means exhibiting signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body.

(d) "Health Care Professional" means a Physician (MD), Physician's Assistant (PA), Doctor of Osteopathic (DO) licensed by the Oregon State Board of Medicine, nurse practitioner licensed by the Oregon State Board of Nursing, or Psychologist licensed by the Oregon Board of Psychologist Examiners.

(e) "Proper medical treatment" means treatment provided by a licensed health care professional which is within their scope of practice.

(f) "Return to participation" means a student can rejoin the athletic event or training.

(g) "Training timeline" means every coach receives the training prior to the beginning of the season for the school athletic team they are specifically coaching.

(h) "Same day" means the same calendar day on which the injury occurs.

(2) Each school district shall:

(a) Develop a list of coaches.

(b) Identify which community (may include state or national) resources the district will use to provide the training as required in section (3) of this rule.

(c) Develop training timelines for coaches of all school athletic teams.

(d) Ensure coaches receive training once every twelve months.

(e) Develop a tracking system to document that all coaches meet the training requirements of this rule.

(f) Ensure no coach allows a member of a school athletic team to participate in any athletic event or training on the same calendar day that the member:

(A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body; or

(B) Has been diagnosed with a concussion.

(g) Ensure no coach will allow a student who is prohibited from participating in an athletic event or training, as described in section (2)(f), to return to participate in an athletic event or training no sooner than the day after the student experienced a blow to the head or body. The student may not return to participate in an athletic event or training until the following two conditions have been met:

(A) The student no longer exhibits signs, symptoms or behaviors consistent with a concussion; and

(B) The student receives a medical release form from a health care professional.

(3) In school districts which have the services of an athletic trainer registered by the Oregon Board of Athletic Trainers, that athletic trainer may determine that an athlete has not suffered a concussion and return the athlete to play. Athletic trainers may also work in consultation with a Health Care Professional in determining when an athlete is able to return to play following a concussion.

(4) The training required of coaches under this rules shall include the following:

(a) Training in how to recognize the signs and symptoms of a concussion;

(b) Training in strategies to reduce the risk of concussions;

(c) Training in how to seek proper medical treatment for a person suspected of having a concussion; and

(d) Training in determination of when the athlete may safely return to the event or training.

Stat. Auth.: ORS 336.485

Stat. Implemented: ORS 336.485

Hist.: ODE 13-2010, f. & cert. ef. 6-30-10; ODE 2-2011, f. 1-31-11, cert. ef. 2-1-11

Rule Caption: Modifies rules relating to food safety inspections.

Adm. Order No.: ODE 3-2011

Filed with Sec. of State: 1-31-2011

Certified to be Effective: 2-1-11

Notice Publication Date: 5-1-2010

Rules Amended: 581-051-0305, 581-051-0306

Subject: Modifies rules relating to food safety inspections that apply to public and private schools and child care institutions

Rules Coordinator: Diane Roth—(503) 947-5791

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581-051-0305

Food Safety Inspection Definitions

Definitions:

(1) "Central Kitchen" means a foodservice site where food is prepared at a facility and then some or all of the food is delivered to a meal serving site(s) at a place(s) other than the preparation site.

(2) "CNP" means Child Nutrition Programs.

(3) "Competitive Food Sales" means any foods sold in competition with the NSLP and SBP in foodservice areas during the breakfast and lunch meal periods.

(4) "Competitive Food Sales vendor" means any person or organization selling competitive foods in the Sponsor's foodservice areas during the lunch and breakfast meal periods.

(5) "Critical Violation" means a Food Safety Inspection violation that is more likely than other Food Safety Inspection violations to cause food contamination, illness or an environmental health hazard.

(6) "Finishing Kitchen" means a foodservice site that receives prepared foods for reheating, assembling, portioning, and serving.

(7) "Food Safety Inspection Annual Report" means the report of completed Sponsor site(s) Food Safety Inspections. The Annual Report is prepared by the Sponsor and submitted to ODE CNP by June 30 each school year.

(8) "Food Safety Inspection document of findings" means any form used by the state or local public health authority to document a Food Safety Inspection.

(9) "Food Safety Inspection: National School Lunch Program and School Breakfast Program Requirements" means schools shall at least twice each school year obtain a Food Safety Inspection conducted by a state or local governmental agency responsible for food safety inspections. (7 CFR 210.13 and 7 CFR 220.7)

(10) "Foodservice Area" means any area on school premises where NSLP and SBP meals are both served and eaten as well as any other areas where programs meals are served and eaten. Areas where students eat NSLP and SBP meals that are completely separate from the serving area are also part of the foodservice area.

(11) "Notice of Non-Compliance" means documentation that a Critical violation(s) has not been corrected nor has the Sponsor of Competitive Food Sales vendor implemented an alternative plan, approved by the state or local public health authority.

(12) "NSLP" means the National School Lunch Program.

(13) "ODE" means the Oregon Department of Education.

(14) On-site Preparation Kitchen" means a foodservice site where food is prepared and served at one location.

(15) "Person in Charge" means the person responsible for food safety and sanitation, and who is present at the food establishment during the NSLP, SBP, and Competitive Food Sales hours of operation. The Person in Charge is designated by Public and Private schools and RCCI Sponsors and Competitive Food Sales vendors for each meal site and each Competitive Food Sales site.

(16) "Private School" means any entity, except as provided in ORS 339.030(1)(c) and (d), that:

(a) Is not supported with state funds;

(b) Is operated by a non-governmental, religious or non-religious group or organization;

(c) Is registered as a private school under the provisions of ORS 345.505-345.565;

(d) Provides educational services to students at any level, pre-K through grade 12;

(e) Has a teacher or teachers who provide instruction;

(f) Has an administrator or head teacher; and

(g) Occupies one or more buildings.

(17) "Program meals," means the National School Lunch Program meals and School Breakfast Program meals.

(18) "Public School" means any entity that has been recognized as a school by the district school board through a resolution adopted by the board and:

(a) Is supported with public funds;

(b) Is operated by a local education agency, education service district or state education agency;

(c) Provides educational services to students at any level, pre-K through grade 12;

(d) Has a teacher or teachers to provide instruction;

(e) Has an administrator or head teacher;

(f) Provides Oregon statewide assessment to its students; and

(g) Occupies one or more buildings.

(19) "Residential Child Care Institution (RCCI)" means any Public or Nonprofit Private Residential Child Care Institution, or distinct part of such institution, which operates principally for the care of children. An RCCI is considered a school. Private RCCIs must be licensed to provide Residential Child Care services under the appropriate licensing code by the state or a subordinate level of government.

(20) "Satellite Kitchen" means a foodservice site where food is received fully prepared from another location and is ready to serve.

(21) "SBP" means the School Breakfast Program.

(22) "School Year" means a period of 12 calendar months beginning July 1 of any year and ending June 30 of the following year.

(23) "Sponsor" means Public and Private Schools and RCCIs who participate in the NSLP and SBP.

(24) "State or local public health authority" means the state or local governmental authority responsible for conducting Sponsor and Competitive Food Sales vendor Food Safety Inspections.

(25) "USDA" means the United States Department of Agriculture.

(26) "Vended Meals" means meals prepared by a facility other than the Sponsor and sold for service at a Sponsor's meal site(s); or meals prepared by the Sponsor and sold to another foodservice operation.

Stat. Auth.: ORS 326

Stats. Implemented: 7 CFR210 & 7 CFR220.7

Hist.: EB 15-1987, f. & ef. 7-30-87; EB 2-1996, f. & cert. ef. 1-29-96; ODE 5-2002(Temp), f. & cert. ef. 2-1-02 thru 6-30-02; ODE 15-2002, f. & cert. ef. 6-10-02; ODE 3-2011, f. 1-31-11, cert. ef. 2-1-11

581-051-0306

Food Safety Inspection Requirements

(1) Sponsors must have at least two Food Safety Inspections for every kitchen and meal-serving site in their foodservice operation each school year.

(2) Vended Meal Sponsors must have at least two Food Safety Inspections for the receiving and sending food preparation and serving meal sites each school year.

(3) Competitive Food Sales vendors may be subject to a Food Safety Inspection every school year as determined by the state or local public health authority.

(4) The Food Safety Inspection standards are set forth in the School Food Safety Inspection Requirements for Sponsors and Competitive Food Sales vendors that are adopted by reference.

(5) The Sponsor "Person in Charge" requirements for Responsibility, Knowledge and Duties as stated in the School Food Safety Inspection Requirements will be effective July 1, 2003.

(6) The Competitive Food Sales vendor "Person in Charge" requirements for Responsibility, Knowledge and Duties as stated in the School Food Safety Inspection Requirements will be effective July 1, 2003.

(7) New Sponsors must have a Food Safety Inspection conducted by the state or local public health authority and must meet school food safety inspection requirements before starting the NSLP and SBP.

Stat. Auth.: ORS 326

Stats. Implemented: 7 CFR210 & 7 CFR220.7

Hist.: ODE 5-2002(Temp), f. & cert. ef. 2-1-02 thru 6-30-02; ODE 15-2002, f. & cert. ef. 6-10-02; ODE 3-2011, f. 1-31-11, cert. ef. 2-1-11

Oregon Health Authority, Addictions and Mental Health Division: Addiction Services Chapter 415

Rule Caption: Health Professionals' Services Program.

Adm. Order No.: ADS 1-2011(Temp)

Filed with Sec. of State: 2-11-2011

Certified to be Effective: 2-11-11 thru 8-5-11

Notice Publication Date:

Rules Amended: 415-065-0055

Subject: This rule activity adds one sub-section to existing rules related to a statewide health professionals' monitoring program for licensees of participating health licensing boards, as required by ORS 676.190, who are unable to practice with professional skill and safety due to substance abuse use disorders, mental health disorders, or both types of disorders.

The sub-section being added will authorize the treatment vendor, upon receipt of a court order, to release identifying information to a licensee's board, including a report of substantial non-compliance,

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if a license has revoked his or her previous consent to release information.

Rules Coordinator: Richard Luthe—(503) 947-1186

415-065-0055

Program Requirements

The vendor shall:

(1) Inform the licensee about the program services, requirements, benefits, risks, and confidentiality limitations and ensure that the licensee has signed a consent for services. The consent for services explains:

(a) Information the vendor will give to the board or to the monitoring entity and under what circumstances;

(b) Information the monitoring entity will give to the board and under what circumstances; and

(c) That the board may take action to suspend, restrict, modify, or revoke the licensee's license or end the licensee's participation in the program based on information from the vendor or the monitoring entity.

(2) Enter into a monitoring agreement with the licensee;

(3) Assess the licensee's compliance with his or her monitoring agreement;

(4) Assess the ability of the licensee's employer, when an employer exists to supervise the licensee, and require the employer to establish minimum training requirements for the licensee's supervisor;

(5) Report the licensee's substantial noncompliance with his or her monitoring agreement to the monitoring entity within one business day after the vendor learns of any substantial noncompliance; and

(6) At least weekly, submit a list to the monitoring entity of licensees who are enrolled in the program and a list of licensees who successfully completed the program.

(7) Seek a court order authorizing the vendor to release identifying information to a licensee's board, including a report of substantial noncompliance as that is described in OAR 415-065-0060, if a self-referred licensee enrolled in the program, or a provisionally enrolled licensee with a qualifying diagnosis, revokes his or her consent to report substantial noncompliance to the licensee's board.

(a) The vendor shall file documents with the court seeking a court order as soon as possible but no later than three (3) business days from the date it was notified that the licensee revoked consent to report substantial noncompliance.

(b) The vendor shall comply with 42 USC & 290dd-2(b)(2)(C); 42 CFR Part 2; the Health Insurance Portability and Accountability Act (HIPPA), Public Law 104-191, 45 CFR Parts 160, 162 and 164 and ORS 179.505, ORS 192.518-192.524 in seeking such a court order.

(c) The vendor shall disclose to the licensee's board, within one (1) business day, any information the court authorizes it to disclose.

Stat. Auth.: ORS 409.050 & 676.190

Stats. Implemented: ORS 676.185 - 676.200

Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 1-2011(Temp), f. & cert. ef. 2-11-11 thru 8-5-11

Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services Chapter 309

Rule Caption: Repeal rules relating to Early Intervention Services and Intermediate Care Facilities for MR/DD.

Adm. Order No.: MHS 2-2011

Filed with Sec. of State: 2-1-2011

Certified to be Effective: 2-1-11

Notice Publication Date: 1-1-2011

Rules Repealed: 309-041-0200, 309-041-0205, 309-041-0210, 309-041-0215, 309-041-0220, 309-041-0225, 309-041-0230, 309-041-0235, 309-041-0240, 309-041-0245, 309-041-0250, 309-041-0255, 309-043-0000, 309-043-0005, 309-043-0010, 309-043-0015, 309-043-0020, 309-043-0025, 309-043-0030, 309-043-0035, 309-043-0040, 309-043-0045, 309-043-0050, 309-043-0055, 309-043-0060, 309-043-0065, 309-043-0070, 309-043-0075, 309-043-0080, 309-043-0085, 309-043-0090, 309-043-0095, 309-043-0100, 309-043-0105, 309-043-0110, 309-043-0115, 309-043-0120, 309-043-0125, 309-043-0130, 309-043-0135, 309-043-0140, 309-043-0145, 309-043-0150, 309-043-0155, 309-043-0160, 309-043-0165, 309-043-0170, 309-043-0175, 309-043-0180, 309-043-0185, 309-043-0190, 309-043-0195, 309-043-0200

Subject: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is permanently repealing:

OAR 309-041-0200 to 309-041-0255 relating to early intervention services (EIS). SPD no longer provides EIS and the statutory authority for EIS was transferred to the Department of Education (DOE) DOE adopted OAR 581-015-2700 to 581-015-2910 relating to EIS in 1992.

OAR 309-043-0000 to 309-043-0200 relating to intermediate care facilities for mentally retarded and other developmentally disabled persons (ICF/MR) SPD no longer has an ICF/MR to offer and is currently working on statutory revisions to remove references of ICF/MRs.

Rules Coordinator: Christina Hartman—(503) 945-06398

Rule Caption: Amend the "Children's Emergency Safety Intervention Specialist" (CESIS) rules.

Adm. Order No.: MHS 3-2011

Filed with Sec. of State: 2-4-2011

Certified to be Effective: 2-4-11

Notice Publication Date: 8-1-2010

Rules Adopted: 309-034-0500

Rules Amended: 309-034-0400, 309-034-0410, 309-034-0420, 309-034-0430, 309-034-0440, 309-034-0450, 309-034-0460, 309-034-0470, 309-034-0480, 309-034-0490

Rules Repealed: 309-034-0150, 309-034-0160, 309-034-0170, 309-034-0180, 309-034-0190, 309-034-0205, 309-034-0210, 309-034-0240, 309-034-0250, 309-034-0260, 309-034-0270, 309-034-0290, 309-034-0310, 309-034-0320

Subject: The Addictions & Mental Health Division is amending the "Children's Emergency Safety Intervention Specialist" (CESIS) rules to reflect changes made to service delivery by the new "Integrated Services & Supports" Rule (ISSR), which has been developed in conjunction with these rule revisions.

Rules Coordinator: Richard Luthe—(503) 947-1186

309-034-0400

Purpose and Statutory Authority

(1) Purpose. These rules prescribe procedures relating to licensing Children's Emergency Safety Intervention Specialist (CESIS). A licensed CESIS is authorized to order, monitor and evaluate the use of seclusion and personal restraint in certified facilities providing intensive mental health treatment services to individuals under 21 years of age. The CESIS license is for the purpose of licensing Qualified Mental Health Professionals (QMHPs) who are not licensed by any other healthcare licensing board. It is not to be issued as an additional credential to currently licensed practitioners such as licensed clinical social workers, licensed registered nurses, licensed psychologists, licensed professional counselors, licensed marriage and family therapist or licensed physicians.

Stat. Auth.: ORS 409.050 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHD 5-2001(Temp), f. & cert. ef. 7-20-01 thru 1-15-02; MHD 1-2002, f. 1-14-02 cert. ef. 1-15-02; MHS 3-2010(Temp), f. & cert. ef. 3-4-10 thru 8-28-10; Administrative correction 9-22-10; MHS 3-2011, f. & cert. ef. 2-4-11

309-034-0410

Definitions

As used in these rules:

(1) "Chemical Restraint" means the administration of medication for the acute management of potentially harmful behavior. Chemical restraint is prohibited in the services regulated by these rules.

(2) "Children's Emergency Safety Intervention Specialist" (CESIS) means a Qualified Mental Health Professional (QMHP) who is licensed to order, monitor and evaluate the use of seclusion and personal restraint in certified facilities providing intensive mental health treatment services to individuals under 21 years of age.

(3) "Division" means the Addictions and Mental Health (AMH) Division of the Oregon Health Authority.

(4) "Emergency safety intervention" means the use of seclusion and personal restraint under OAR 309-032-1540(9) as an immediate response to an unanticipated threat of violence or injury to an individual or others.

(5) "Emergency Safety Intervention Training" means a Division approved course that teaches students to safely manage emergency safety situations and methods for reducing the need for emergency safety inter-

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ventions. The minimum requirements for a Division approved course is one that has an established curriculum, includes an identified instructor, requires an identified number of face to face instruction hours, teaches students how to safely manage emergency safety situations, includes methods to de-escalate volatile clients and has an evaluation component to assess the student's competency of the course materials.

(6) "Emergency safety situation" means an unanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention as defined in this section.

(7) "Intensive Mental Health Treatment Services" (ITS) means the range of services in the system of care comprised of Psychiatric Residential Treatment Facilities (PRTF) and Psychiatric Day Treatment Services (PDTS) or other services as determined by the Division, that provide active psychiatric treatment for children with severe emotional disorders and their families.

(8) "Mechanical restraint" means any device attached or adjacent to the resident's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. Mechanical restraint is prohibited in the services regulated by these rules.

(9) "Personal Restraint" means the application of physical force without the use of any device, for the purposes of restraining the free movement of a resident's body to protect the individual or others from immediate harm. Personal restraint does not include briefly holding without undue force, an individual to calm or comfort him or her or holding an individual's hand to safely escort him or her from one area to another. Personal restraint can be used only in approved ITS programs as an emergency safety intervention under OAR 309-032-1540(9).

(10) "Qualified Mental Health Professional" (QMHP) means a Licensed Medical Practitioner (LMP) or any other person meeting one or more of the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Holds any of the following educational degrees:

- (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, music or art therapy;
- (F) Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(b) Whose education and experience demonstrate the ability to:

- (A) Conduct an assessment, including identifying precipitating events, gathering histories of mental and physical health, alcohol and other drug use, past mental health services and criminal justice contacts, assessing family, cultural, social and work relationships;
- (B) Conducting a mental status examination;
- (C) Complete a five-axis DSM diagnosis; and
- (D) Write and supervise the implementation of a ISSP and provide individual, family or group therapy within the scope of their training.

(12) "Seclusion" means the involuntary confinement of an individual to a room or an area from which the individual is physically prevented from leaving. Seclusion can be used only in approved ITS programs as an emergency safety intervention specified in OAR 309-032-1540(9).

Stat. Auth.: ORS 409.050 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHD 5-2001(Temp), f. & cert. ef. 7-20-01 thru 1-15-02; MHD 1-2002, f. 1-14-02 cert. ef. 1-15-02; MHS 3-2010(Temp), f. & cert. ef. 3-4-10 thru 8-28-10; Administrative correction 9-22-10; MHS 3-2011, f. & cert. ef. 2-4-11

309-034-0420

Application for Licensure as a Children's Emergency Safety Intervention Specialist (CESIS)

In order to obtain a license as a CESIS, an agency that is certified by the Division to provide intensive mental health treatment services for individuals under 21 years of age shall make an application on behalf of the licensure applicant. The Division shall issue a license as a CESIS to each applicant who furnishes satisfactory evidence to the Division that the applicant meets the following qualifications:

(1) Is employed by or providing services under contract with a provider that is certified by the Division to provide intensive mental health treatment services for individuals under 21 years of age;

(2) Meets qualifications established by the Division by rule for Qualified Mental Health Professionals;

(3) Has successfully completed an emergency safety intervention training program approved by the Division within the past 12 months;

(4) Demonstrates the ability to assess the psychological and physical well-being of individuals under 21 years of age;

(5) Demonstrates knowledge of federal and state rules governing the use of seclusion and personal restraint in intensive mental health treatment programs for individuals under 21 years of age.

Stat. Auth.: ORS 409.050 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHD 5-2001(Temp), f. & cert. ef. 7-20-01 thru 1-15-02; MHD 1-2002, f. 1-14-02 cert. ef. 1-15-02; MHS 3-2010(Temp), f. & cert. ef. 3-4-10 thru 8-28-10; Administrative correction 9-22-10; MHS 3-2011, f. & cert. ef. 2-4-11

309-034-0430

Scope of Licensure

(1) A licensed CESIS is authorized to:

(a) Order the least restrictive intervention, including seclusion and personal restraint that is most likely to be effective in resolving an emergency safety situation if the treatment team physician is not available.

(b) Provide the federally mandated face-to-face assessment of an individual under 21 years of age's well-being within one hour of the initiation of the emergency safety intervention; and

(c) Accept verbal orders for seclusion and personal restraint from a physician or licensed practitioner who is authorized to order seclusion and personal restraint.

(2) Exclusions to Licensure:

(a) A licensed CESIS is not authorized to order or receive orders for the use of mechanical or chemical restraint.

(b) A CESIS license is only valid while the licensee is employed or contracted to provide services with the intensive mental health treatment services program that submitted the application on behalf of the licensee.

Stat. Auth.: ORS 409.050 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHD 5-2001(Temp), f. & cert. ef. 7-20-01 thru 1-15-02; MHD 1-2002, f. 1-14-02 cert. ef. 1-15-02; MHS 3-2010(Temp), f. & cert. ef. 3-4-10 thru 8-28-10; Administrative correction 9-22-10; MHS 3-2011, f. & cert. ef. 2-4-11

309-034-0440

Application Process

(1) Application for licensure as a CESIS shall be made to the Division and be on forms prescribed by the Division.

(2) Application for licensure shall be accompanied by a formal written request from a provider that is certified by the Division to provide intensive mental health treatment services for individuals under 21 years of age with which the applicant is employed or contracted. The request must include:

(a) Official transcripts and supporting documentation as necessary showing the applicant meets qualifications established by rule for a QMHP;

(b) Verification that an emergency safety intervention course approved by the Division has been successfully completed within the past 12 months;

(c) Verification of certification in CPR and First Aid by a recognized training agency;

(d) A signed Background Check Request form as described in OAR chapter 407 division 007. The Criminal Record Check form will request information regarding criminal history and other information;

(e) Verification of employment or contracted services with a provider that is certified by the Division to provide intensive mental health treatment services for individuals under 21 years of age;

(f) A copy of the completed examination or evaluation the provider used to determine the applicant's competence to assess the psychological and physical well being of individuals under 21 years of age; and

(g) A copy of the completed examination or evaluation the provider used to determine the applicants knowledge of the federal and state rules governing the use of seclusion and personal restraint in intensive mental health treatment programs for individuals under 21 years of age.

Stat. Auth.: ORS 409.050 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHD 5-2001(Temp), f. & cert. ef. 7-20-01 thru 1-15-02; MHD 1-2002, f. 1-14-02 cert. ef. 1-15-02; MHS 3-2010(Temp), f. & cert. ef. 3-4-10 thru 8-28-10; Administrative correction 9-22-10; MHS 3-2011, f. & cert. ef. 2-4-11

309-034-0450

Issuance of a License

(1) The Division shall issue a license within 30 days of the submission of a completed application. The license shall state the name of the licensee, the provider and expiration date.

(2) The license shall be placed in the licensee's personnel file and be easily visible.

(3) An initial license is valid from the time of issuance until the expiration date, which will be September 30th of the following calendar year.

Stat. Auth.: ORS 409.050 & 426.415

Stats. Implemented: ORS 426.415

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Hist.: MHD 5-2001(Temp), f. & cert. ef. 7-20-01 thru 1-15-02; MHD 1-2002, f. 1-14-02 cert. ef. 1-15-02; MHS 3-2010(Temp), f. & cert. ef. 3-4-10 thru 8-28-10; Administrative correction 9-22-10; MHS 3-2011, f. & cert. ef. 2-4-11

309-034-0460

Renewal and Expiration of License

(1) A license issued under these rules is subject to renewal every 2 years.

(a) All licenses will expire on September 30th. The issuance date of the licensee's first license will determine if the license expires on an odd or even year.

(b) At least 30 days prior to the expiration of a license, a reminder notice will be sent by the Division to the licensee and the provider.

(c) A licensee seeking renewal of a license shall have a provider with whom they are employed or contracted submit on their behalf:

(A) Proof of fulfillment of the following requirements;

(i) Verification of current certification in CPR and First aid by a recognized training agency;

(ii) A copy of the evaluation completed within the last year of the applicants competence to assess the psychological and physical well-being of individuals under 21 years of age.

(iii) A copy of the evaluation completed within the last year demonstrating the applicants knowledge of federal and state rules governing the use of seclusion and personal restraint in intensive mental health treatment services programs for individuals under 21 years of age.

(B) Proof of continued employment or contract with a facility certified by the Division to provide intensive mental health treatment services for individuals under 21.

(2) A licensee may not continue to practice as a licensed CESIS after expiration of the license.

(3) A licensee may not continue to practice as a licensed CESIS upon discontinuation of employment or contract with the provider of intensive mental health treatment services specified on the license.

(4) If the person's previous license has expired, the person must apply and qualify for a new license in the same manner as a person who has never been licensed.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHD 5-2001(Temp), f. & cert. ef. 7-20-01 thru 1-15-02; MHD 1-2002, f. 1-14-02 cert. ef. 1-15-02; MHS 3-2010(Temp), f. & cert. ef. 3-4-10 thru 8-28-10; Administrative correction 9-22-10; MHS 3-2011, f. & cert. ef. 2-4-11

309-034-0470

Complaint

(1) Any person who believes these rules have been violated may file a complaint with the Division.

(2) The Division shall establish a protocol for investigation of complaints and make that information available to anyone who files a complaint or has a complaint filed against them. Following the Divisions investigation of a complaint, the Division may take action to:

(a) Dismiss the complaint;

(b) Issue a letter of reprimand;

(c) Direct the Provider to draft a plan of correction with the licensee;

or

(d) Institute disciplinary action.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHD 5-2001(Temp), f. & cert. ef. 7-20-01 thru 1-15-02; MHD 1-2002, f. 1-14-02 cert. ef. 1-15-02; MHS 3-2010(Temp), f. & cert. ef. 3-4-10 thru 8-28-10; Administrative correction 9-22-10; MHS 3-2011, f. & cert. ef. 2-4-11

309-034-0480

Denial, Suspension, Revocation or Non-renewal of License

(1) The Division may deny, suspend, revoke or refuse to issue or to renew any license issued under these rules upon proof that the applicant for licensure or the licensee:

(a) Has been convicted of one or more crimes described in the Criminal Records Check under OAR 407-007-0200 through 407-007-0380;

(b) Is unable to perform the duties of a CESIS by reason of mental illness, physical illness, drug addiction or alcohol abuse;

(c) Has been grossly negligent in the duties of a CESIS;

(d) Has violated one or more of the rules of the Division pertaining to the licensure of a CESIS;

(e) Has practiced outside the scope of activities for which the licensee has individual training and qualification; or

(f) Has been disciplined by a state licensing board or program in this or any other state for violation of competency or conduct standards.

(2)(a) The Division may reprimand or impose probation on a licensee upon proof of any of the grounds for discipline provided in subsection (1) of this Section.

(b) If the Division elects to place a licensee on probation, the Division may impose:

(A) Restrictions on the scope of practice of the licensee;

(B) Requirements for specific training;

(C) Supervision of the practice of the licensee; or

(D) Other conditions the Division finds necessary for the protection of the public.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHD 5-2001(Temp), f. & cert. ef. 7-20-01 thru 1-15-02; MHD 1-2002, f. 1-14-02 cert. ef. 1-15-02; MHS 3-2010(Temp), f. & cert. ef. 3-4-10 thru 8-28-10; Administrative correction 9-22-10; MHS 3-2011, f. & cert. ef. 2-4-11

309-034-0490

Appeal Process

(1) An appeal of a denial, suspension, probation or revocation of a license may be requested in writing to the Division from a provider of intensive mental health treatment services for children under 21 years of age on behalf of their employee or contractor.

(2) Within 10 days of the receipt of the appeal, the Division's Assistant Director or designee shall review all material relating to the denial, suspension, revocation or non-renewal, including any written documentation submitted by the licensee and provider within that time frame. The Division shall determine, based on review of the material, whether to sustain the decision. If the Division does not sustain the decision, the denial, suspension, revocation or non-renewal shall be rescinded immediately. The decision of the Division is subject to a contested case hearing under ORS Chapter 183 if requested within 90 days.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHD 5-2001(Temp), f. & cert. ef. 7-20-01 thru 1-15-02; MHD 1-2002, f. 1-14-02 cert. ef. 1-15-02; MHS 3-2010(Temp), f. & cert. ef. 3-4-10 thru 8-28-10; Administrative correction 9-22-10; MHS 3-2011, f. & cert. ef. 2-4-11

309-034-0500

Effective Date

OAR 309-034-0400 through 309-034-0490 is prospective as well as retroactive to August 29, 2010. Such prospective and retroactive effect is each severable of the other.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHS 3-2011, f. & cert. ef. 2-4-11

Oregon Health Authority, Division of Medical Assistance Programs Chapter 410

Rule Caption: Renumber of Oregon Prescription Drug Program rules.

Adm. Order No.: DMAP 1-2011

Filed with Sec. of State: 2-10-2011

Certified to be Effective: 3-1-11

Notice Publication Date:

Rules Renumbered: 409-030-0000 to 410-121-2000, 409-030-0005 to 410-121-2005, 409-030-0010 to 410-121-2010, 409-030-0020 to 410-121-2020, 409-030-0030 to 410-121-2030, 409-030-0050 to 410-121-2050, 409-030-0065 to 410-121-2065

Subject: Renumber of Oregon Prescription Drug Program rules to update references consistent with agency organization from the Office of Oregon Health Policy and Research (409) to the Division of Medical Assistance Programs (410).

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-2000

Definitions

(1) "340B" means Section 340B of the Public Health Service Act, "Limitation on Prices of Drugs Purchased by Covered Entities," and any and all related rules, guidance, interpretations, and operational directives adopted by the federal Health Resources and Services Administration (HRSA) or any other governmental agency with jurisdiction over the enforcement of Section 340B.

(2) "Administrator" means the Administrator of the Oregon Prescription Drug Program (OPDP).

ADMINISTRATIVE RULES

(3) "Critical Access Pharmacy (CAP)" means a sole Oregon pharmacy in a community within a ten-mile radius from other pharmacies. If a pharmacy's ten-mile radius intersects with another sole pharmacy's ten-mile radius, both shall be considered a CAP if either pharmacy's closure could result in impaired access for rural communities.

(4) "Department" means the Department of Human Services.

(5) "Designated Entity" means an entity contracted by the Department to perform administrative duties of the program including but not limited to determining program prices, processing and paying claims, issuing identification cards, maintaining eligibility files, and performing replenishment administration. Designated entities may include but are not limited to pharmacy benefits managers, third party administrators, insurance carriers, health maintenance organizations (HMOs), mail order and specialty drug suppliers, replenishment administrators, group purchasing organizations, and wholesalers.

(6) "Group Enrollee" means any individual who is issued an OPDP identification card through a participating group.

(7) "Group Purchasing Organization (GPO)" means any organization purchasing on a group basis for purchasers whose drug purchasing is exempt from the federal price discrimination law known as the Robinson Patman Act, 15 USC 13 and satisfies the Nonprofit Institutions Act, 15 USC 13c, or is that of a governmental entity performing traditional government functions.

(8) "Enrollee" means an individual who meets the eligibility requirements of the OPDP according to ORS 414.312(e), pays the applicable enrollment fee, and is issued an enrollment card.

(9) "Participating Group" means agencies or institutions eligible to participate in the OPDP according to ORS 414.312(4).

(10) "Pharmacy Benefit Manager (PBM)" means an entity that negotiates and executes contracts with pharmacies, manages preferred drug lists (PDL), negotiates rebates with prescription drug manufacturers, and serves as an intermediary between the Administrator, prescription drug manufacturers, and pharmacies.

(11) "Pharmacy Provider" means retail drug outlets that volunteer to participate in the OPDP and that contract with the Department or a designated entity as a pharmacy provider.

(12) "Prescription Drug" means drugs whose sale without a prescription is prohibited by law.

(13) "Prescription Drug Claims Processor" means an entity that processes and pays prescription drug claims, transmits prescription drug prices and claims data between pharmacies and the OPDP, and processes payments to pharmacies.

(14) "Program Price" means the reimbursement rates and prescription drug prices established by the OPDP Administrator directly or through a contract with a designated entity, including program cost, dispensing fee, and all applicable manufacturers discounts and rebates.

(15) "Rebate" means promotional or volume related refunds prearranged with manufacturers on certain prescription drugs used to reduce the cost to the purchaser.

(16) "Replenishment Administration" means tracking GPO or 340B program usage by pharmacy and ordering replacement inventory including associated reporting; GPO and 340B retail and mail order pharmacy contracting; GPO and 340B contracting; or as otherwise defined by contract.

(17) "Third Party Administrator (TPA)" means an entity that, in addition to being a prescription drug claims processor, facilitates program management including processing and paying prescription drug claims; transmitting prescription drug prices and claims and enrollment data between pharmacies and the OPDP and its groups; maintaining enrollment and issuing identification cards; and processing payments to pharmacies. The TPA may be contracted through the Department or PBMs, or other designated entities.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0000 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11

410-121-2005

General Administration

(1) The Administrator, or designee, may:

(a) Negotiate price discounts and rebates on prescription drugs with prescription drug manufacturers;

(b) Purchase prescription drugs on behalf of enrollees and participating groups;

(c) Contract with a prescription drug claims processor or PBM to adjudicate pharmacy claims and transmit program prices to pharmacies;

(d) Determine program prices and reimburse pharmacies for prescription drugs;

(e) Adopt and implement a preferred drug list for the program;

(f) Develop a system for allocating and distributing the operational costs of the program and any rebates obtained to participants of the program; and

(g) Cooperate with any state or regional consortia in bulk purchasing of prescription drugs.

(2) The Administrator shall oversee the implementation of the OPDP, including review of enrollee eligibility information, participating group information, and pharmacy provider compliance with program requirements. The Administrator, or designated entity, shall review records or other information, including health information, necessary to perform oversight responsibilities.

(3) The Administrator shall establish processes, terms, and conditions describing how the entities identified in ORS 414.312(4) may participate in the OPDP as a participating group, including entities otherwise subject to ORS 731.036(6).

(4) The Administrator may contract with a pharmacy benefit manager directly or indirectly for pharmacy networks that provide statewide access for OPDP members including consideration for CAP providers.

(5) The Administrator may contract with replenishment administrators, GPO's or 340B providers as necessary to utilize discount purchasing programs.

(6) Annually, no later than November 1, the Office of Rural Health shall determine any Oregon pharmacies that meet CAP status and report them to the OPDP for CAP designation. OPDP shall send the current list of all Oregon retail pharmacies to the Office of Rural Health no later than October 1 each year.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; Administrative Correction, 6-16-07; OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0005 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11

410-121-2010

Pharmacy Providers

(1) The pharmacy shall contract with the Department, or its designated entity, and must be licensed with their state Board of Pharmacy to be a pharmacy provider under the OPDP.

(2) The pharmacy provider shall sign a pharmacy provider contract and comply with all applicable state and federal laws, regulations, rules, and the terms and conditions of the contract. The contract authorizes the pharmacy to serve enrollees in the OPDP and outlines program compliance requirements.

(3) A contract may be issued to a qualified pharmacy provider upon:

(a) Completion and signature of the contract by the pharmacy provider or a person authorized by the pharmacy provider to bind the organization;

(b) Verification of pharmacy licensing with the Oregon Board of Pharmacy; and

(c) Approval of the contract by the Department or its designated entity.

(4) To contract for the OPDP, the pharmacy provider must:

(a) Accept the program price in effect on the date of the transaction as established by the Administrator including but not limited to dispensing fees which may be charged to the enrollee;

(b) Maintain sufficient documentation of transactions to resolve disagreements with the enrollee about the amount charged for the prescription drugs;

(c) Reimburse the enrollee or participating group directly for overcharges as determined by program price in effect on the date of the transaction;

(d) Provide access to records and data required by the designated entity to administer claims, reimbursement, and other tasks as necessary for OPDP claims processing; and

(e) Not charge enrollees for costs incurred by the pharmacy provider for the electronic transmittal of the program price from the Department to the pharmacy.

(5) Pharmacy providers may advertise participation in the OPDP;

(a) Advertising or marketing materials must be accurate and not misleading or confusing to enrollees or the public about participation in the OPDP or the savings offered by the pharmacy provider.

(b) The pharmacy provider must cease all advertisements pertaining to participation in the program if the Department suspends or terminates the contract.

ADMINISTRATIVE RULES

(6) The Administrator shall, at its discretion, suspend or remove a pharmacy provider from the OPDP if the pharmacy provider loses licensure or fails to comply with applicable state and federal laws, rules, and regulations, and the terms and conditions of the contract.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0010 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11

410-121-2020

Program Price

(1) The price for a prescription drug a pharmacy provider may charge an enrollee under the OPDP is the lesser of the following on the date of the transaction:

(a) The program price, or

(b) The pharmacy provider's usual and customary price, including program cost and dispensing fee.

(2) The designated entity shall transmit the price of the prescription drugs to the pharmacy providers electronically.

(3) The OPDP is limited to prescription drugs prescribed in the name of and for the use by the enrollee, except as otherwise provided in section (7) of this rule.

(4) Prescription drug benefits shall be outlined on enrollee and group enrollee identification cards.

(5) The OPDP does not include prescriptions for over-the-counter drugs.

(6) The Administrator, or designated entity, may establish different program prices for CAP providers in rural areas to maintain statewide access to the OPDP.

(7) Certain participating groups may receive the program price based on other reimbursement arrangements with the OPDP, where the prescription drug is not being dispensed by a pharmacy provider to a group enrollee. The designated entity shall approve and arrange such reimbursement.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0020 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11

410-121-2030

Preferred Drug List

(1) The Office for Oregon Health Policy and Research shall develop and recommend to the Administrator a PDL that identifies preferred choices of prescription drugs within therapeutic classes for particular diseases and conditions, including generic alternatives, for use in the OPDP by participating groups.

(2) The OPDP shall develop a PDL that participating groups may choose to adopt for beneficiaries of their prescription drug benefit program. The PDL shall include the most effective prescription drugs at the lowest possible prices, taking into account negotiated price discounts and rebates available to the OPDP, while allocating and distributing the operational costs of the OPDP.

(3) If a participating group uses the PDL developed by the OPDP, it must be used in conjunction with that group's benefit plan including all pharmacy management programs the group has or adopts.

(4) The PDL shall also be made available to individuals enrolled in the OPDP.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0030 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11

410-121-2050

Enrollment

(1) Participating groups shall enroll for participation through the designated entity chosen by the OPDP to administer the participating group's enrollment and claims processing.

(a) Eligibility for group enrollees of a participating group shall be maintained electronically between the group and designated entity.

(b) Participating groups shall issue identification cards to group enrollees at initial enrollment and renewal, and to group enrollees between those times as needed.

(2) Residents of Oregon who do not have prescription drug coverage or who are underinsured for prescription drug coverage may be individually enrolled by the designated entity.

(a) The designated entity shall issue Identification cards to enrollees.

(b) Individuals who are eligible for Medicare Part D prescription drug coverage may participate in the program.

(3) The OPDP may charge a nominal fee to participate in the program.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0050 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11

410-121-2065

Contracted Services

(1) The Administrator may procure goods and services to perform any of the functions of OPDP.

(2) The Administrator shall delegate procurement authority to the Department's Designated Procurement Officer for OPDP goods and services, except as the Administrator determines to retain such authority in a particular case and as otherwise provided in section (4) of this rule.

(3) The Administrator shall act as the Department's representative for each contract. The Administrator may delegate in writing the representative's responsibilities to a designee. The agency's representative may participate with the Department's Designated Procurement Officer in all aspects of procurement.

(4) OPDP's mechanism for and administration of the enrollment of participating groups shall not constitute procurements subject to this rule.

Stat. Auth.: ORS 409.050 & 414.312

Stats. Implemented: ORS 414.312, 414.314, 414.316 & 414.318

Hist.: OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; OHP 2-2010(Temp) f. 4-20-10, cert. ef. 4-21-10 thru 10-17-10; OHP 6-2010, f. 9-23-10, cert. ef. 10-1-10; Renumbered from 409-030-0065 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11

Oregon Health Authority, Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Pain Management Commission Rules.

Adm. Order No.: OHP 1-2011

Filed with Sec. of State: 1-26-2011

Certified to be Effective: 2-1-11

Notice Publication Date: 1-1-2011

Rules Ren. & Amend: 407-020-0000 to 409-050-0100, 407-020-0005 to 409-050-0110, 407-020-0010 to 409-050-0120, 407-020-0015 to 409-050-0130

Subject: The Office for Oregon Health Policy and Research needs to amend and renumber 407-020-0000 through 407-020-0015. The rule is being moved from Chapter 407 (Administrative Services Division) to Chapter 409 (Office for Oregon Health Policy and Research) to align and update references consistent with agency reorganization. Language has been clarified to show that material is reviewed every two years and updated as needed.

Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-050-0100

Purpose

The Pain Management Commission is established within the Oregon Health Authority for the purpose of developing pain management educational programs, recommendations and curriculum; representing patient concerns to the Governor and Legislative Assembly; and creating ways to improve pain management in Oregon through research, policy analysis, and model projects. In addition, the Pain Management Commission is charged with developing a specific pain management educational program for required completion by health care professionals under specified Licensing Boards.

Stat. Authority: ORS 409.570

Stats. Implemented: ORS 409.500 - 409.570

Hist.: DHSD 1-2007, f. & cert. ef. 2-1-07; Renumbered from 407-020-0000, OHP 1-2011, f. 1-26-11, cert. ef. 2-1-11

409-050-0110

Definitions

For the purposes of this Division 407-020, the following definitions apply:

(1) "Commission" means the Oregon Pain Management Commission.

(2) "Licensed health care professionals" means those specifically identified licensees that report to the following Licensing Boards:

ADMINISTRATIVE RULES

(a) Oregon Board of Medical Examiners, which includes: physicians, physician assistants and acupuncturists (with the exception of those listed under OAR chapter 847.677, identified as waived);

(b) Oregon State Board of Nursing, which includes: all registered nurses, licensed practical nurses and nurse practitioners;

(c) Oregon Board of Psychologist Examiners, which includes: all licensed psychologists;

(d) Oregon Board of Chiropractic Examiners, which includes: all licensed chiropractors;

(e) Oregon Board of Naturopathic Examiners, which includes: all licensed naturopathic physicians; and

(f) Oregon Board of Pharmacy, which includes: all licensed pharmacists.

(3) "Curriculum" means a recommended list of educational topics, compiled by the Commission, for medical professionals treating pain.

(4) "Pain management education program" means a specific one-hour web-based program developed by the Commission, in addition to six accredited hours of continuing education in pain management, end of life care or a combination of both.

Stat. Authority: ORS 409.570

Stats. Implemented: ORS 409.500 - 409.570

Hist.: DHSD 1-2007, f. & cert. ef. 2-1-07; Renumbered from 407-020-0005, OHP 1-2011, f. 1-26-11, cert. ef. 2-1-11

409-050-0120

Commission Positions

(1) The Commission consists of:

(a) Nineteen members -- seventeen voting members and two non-voting ex-officio members from the Oregon legislature; and

(b) Members that have experience or a demonstrated interest in pain management issues.

(2) In order to apply for a position on the Commission, an individual must:

(a) Complete a Commission interest form; and

(b) Submit the interest form to the Pain Management Program.

(3) Voting member appointments to the Commission are:

(a) Made by the Director of the Oregon Health Authority; and

(b) Must comply with the approved Commission bylaws.

(4) Oregon Health Authority staff shall include a Pain Management Coordinator, who shall staff and facilitate Commission meetings, provide daily organization of Commission business and perform other duties as directed by the Commission.

Stat. Authority: ORS 409.570

Stats. Implemented: ORS 409.500 - 409.570

Hist.: DHSD 1-2007, f. & cert. ef. 2-1-07; Renumbered from 407-020-0010, OHP 1-2011, f. 1-26-11, cert. ef. 2-1-11

409-050-0130

Pain Management Education Program Requirements

(1) Licensed health care professionals must complete a pain management education program in order to improve the care and treatment of individuals with painful conditions. The program includes:

(a) Six accredited hours of continuing education in pain management, end of life care or a combination of both; and

(b) The web-based training offered by the Commission.

(2) For out of state health care professionals obtaining Oregon licensure or newly licensed health care professionals within Oregon, the pain management education program must be completed within 24 months of their first license renewal.

Example: If an individual becomes newly licensed in Oregon on June 15, 2009, their first renewal will be June 15, 2011. The individual may obtain their training from June 15, 2009 through June 15, 2013 under section (2) to comply with this requirement.

(3) If the licensing board for a licensed health care professional adopts, by rule, a pain management education program with topics substantially similar to the topics in the Commission's curriculum, that program satisfies this rule for the continuing education portion of the requirement, as long as the total number of hours is the same.

(4) The Commission shall review its curriculum every two years and update as needed.

Stat. Authority: ORS 409.570

Stats. Implemented: ORS 409.500 - 409.570

Hist.: DHSD 1-2007, f. & cert. ef. 2-1-07; Renumbered from 407-020-0015, OHP 1-2011, f. 1-26-11, cert. ef. 2-1-11

Rule Caption: Amendments to Safety Net Capacity Grant Program Rules.

Adm. Order No.: OHP 2-2011

Filed with Sec. of State: 1-26-2011

Certified to be Effective: 2-1-11

Notice Publication Date: 1-1-2011

Rules Amended: 409-110-0000, 409-110-0005, 409-110-0010, 409-110-0015, 409-110-0020

Subject: The Office for Oregon Health Policy and Research (OHPR) is amending rules to align and update references consistent with agency reorganization and simplify the process for considering and making recommendations on submitted proposals and notification of applicants.

Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-110-0000

Scope

These rules (OAR 409-110-0000 to 409-110-0020) establish criteria for awarding grants under the Health Care for All Oregon's Children, Safety Net Capacity Grant Program, which was established to ensure that safety net providers have capacity to serve vulnerable and underserved children in Oregon.

Stat. Auth.: 2009 HB 2116

Stats. Implemented: 2009 HB 2116

Hist.: OHP 2-2009, 9-30-09 cert. ef. 10-1-09; OHP 2-2011, f. 1-26-11, cert. ef. 2-1-11

409-110-0005

Definitions

The following definitions apply to OAR 409-110-0000 to 409-110-0020:

(1) "Community-sponsored Clinic" means a non-profit, community-based clinic that does not receive state or federal funding and is sponsored by the local community in the form of grants and donations, including in-kind donations of goods and services.

(2) "Culturally and Linguistically Appropriate Services" means health care services that are respectful of and responsive to cultural and linguistic needs. Please refer to the "National Standards on Culturally and Linguistically Appropriate Services" (CLAS), United States Department of Health and Human Services, Office of Minority Health.

(3) "OHPR" means the Office for Oregon Health Policy and Research.

(4) "Primary Healthcare Service" means physical, oral, mental, behavioral, and vision health services that are delivered in a manner that reflects the state's emphasis on patient-centered primary care medical homes.

(5) "Program" means the Safety Net Capacity Grant Program, as part of the Health Care for All Oregon's Children Program.

(6) "Safety Net Advisory Council" means the entity responsible for supporting vulnerable populations who experience barriers to care and providing specific policy recommendations to the Governor and policy makers to ensure a safety net of health services.

(7) "Safety Net Provider" means a public or non-profit federally qualified health center, school-based health center, tribal health clinic, rural health clinic, or community-sponsored clinic that provides primary care physical, oral, mental, behavioral and vision health services to low-income patients without charge or using a sliding scale.

(8) "Target Population" refers to children who meet the criteria for Health Care for All Oregon's Children Program (2009 House Bill 2116, sections 27 and 28 ORS 414.231), except for immigration status.

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

Stat. Auth.: ORS 413.225

Stats. Implemented: ORS 413.225, 414.231

Hist.: OHP 2-2009, 9-30-09 cert. ef. 10-1-09; OHP 2-2011, f. 1-26-11, cert. ef. 2-1-11

409-110-0010

Program Administration

(1) The program is intended to ensure that the target population has access to primary physical, oral, mental, behavioral, and vision health services.

(2) OHPR shall award grants to safety net providers through the program.

(3) Services covered through the program are limited to primary care, oral, mental, behavioral, and vision health services.

(4) Children in the target population through the age of 18 are eligible to receive services through the program.

(5) The grant amount awarded shall take into consideration the distribution and concentration of the target population in the proposed service area.

(6) The program is competitive and proposals that include collaboration with community partners may be given preference.

ADMINISTRATIVE RULES

(7) OHPR shall administer the program including soliciting, reviewing, evaluating, and selecting successful grant proposals. OHPR shall also provide project monitoring, technical assistance and submit periodic status reports to interested parties.

(8) The Safety Net Advisory Council shall provide advisory recommendations to program staff.

(9) Grant funding shall be awarded for up to a two-year period. Fund awards may be renewable.

(10) OHPR shall distribute safety net grant funds to successful applicants on an incremental basis.

(11) All funds provided separately for the planning, development, establishment, and certification of new school-based health centers shall be awarded to local public health authorities in accordance with the current competitive grant process in use and funding formula as established and administered by the Office of Family Health, Public Health Division.

Stat. Auth.: ORS 413.225
Stats. Implemented: ORS 413.225, 414.231
Hist.: OHP 2-2009, 9-30-09 cert. ef. 10-1-09; OHP 2-2011, f. 1-26-11, cert. ef. 2-1-11

409-110-0015

Grant Award Process

(1) OHPR shall advertise grant proposals through publication on its website and through communication to eligible entities.

(2) All proposals must be submitted in a form specified by the program and by the date specified in the solicitation document.

(3) OHPR shall document receipt of all proposals.

(4) To qualify for a grant through the Program, applicants must be able to credibly estimate the number of new and existing children in the target population they will serve, as well as the number of estimated visits for the target population.

(5) OHPR shall evaluate all proposals based upon but not limited to the following evaluation elements:

(a) Demonstrated capacity to provide primary health care services.

(b) Demonstrated capacity or description of a credible plan to serve the target population.

(c) Demonstrated capacity or description of a credible plan to assure that services are culturally and linguistically competent.

(d) Demonstrated capacity or description of a credible plan to identify, contact, and provide primary care to the target population.

(e) Demonstrated readiness to be operational within 90 days of grant award.

(f) Maintenance of operating hours and locations to ensure accessibility.

(g) Demonstrated ability to partner with community-based and other community organizations and to leverage funds, where possible.

(h) Submission of a proposed work plan, including timeline, discrete programs and products, evaluation outcomes, and budget.

(i) Demonstrated capacity or description of a credible plan for implementing data systems that can report on delivery of services and health outcomes, preferably through the utilization of electronic health records that are Certification Commission for Health Information Technology certified. Responses that indicate participation in or willingness to participate in efforts to assure interoperability of electronic health records may be scored more highly.

(j) A commitment to continuous quality improvement demonstrated by the inclusion of an annual quality improvement plan, identification of quality improvement activities with reporting of outcomes and the incorporation of evidence based practices. Responses that incorporate meaningful elements of a primary care medical home may be scored more highly.

(6) OHPR shall form a committee to consider and make recommendations on the submitted proposals.

(7) OHPR shall notify applicants, in writing, whether their proposal was selected for funding. OHPR shall provide a question and answer opportunity through electronic or telephone communication both before and after the selection of proposals.

Stat. Auth.: ORS 413.225
Stats. Implemented: ORS 413.225, 414.231
Hist.: OHP 2-2009, 9-30-09 cert. ef. 10-1-09; OHP 2-2011, f. 1-26-11, cert. ef. 2-1-11

409-110-0020

Monitoring and Reporting Requirements

(1) A grantee shall:

(a) Submit grant reports to OHPR on a periodic basis. Grant reports will indicate progress to achieve grant benchmarks and goals and report on the expenditure of grant dollars. Failure to comply with reporting requirements may result in grant suspension or termination; and

(b) Report specific data or information, to be determined by OHPR

(2) Grant disbursements are contingent on grantee achieving proposed service delivery levels. Failure to achieve proposed service levels or benchmarks may result in grant reduction or termination.

(3) Periodically grantee and OHPR staff shall jointly review progress.
Stat. Auth.: ORS 413.225
Stats. Implemented: ORS 413.225, 414.231
Hist.: OHP 2-2009, 9-30-09 cert. ef. 10-1-09; OHP 2-2011, f. 1-26-11, cert. ef. 2-1-11

Rule Caption: Amendments to Health Care Facility Financial Reporting.

Adm. Order No.: OHP 3-2011

Filed with Sec. of State: 2-8-2011

Certified to be Effective: 3-1-11

Notice Publication Date: 9-1-2010

Rules Amended: 409-015-0010

Subject: The Department of Human Services is updating to accurately reflect certain data is now submitted electronically versus paper form. When original notice was filed in the September 1, 2010 Bulletin for Chapter 409-015, everyone received opportunity to comment regarding paper versions of Forms FR1 and FR2 being eliminated as that data is now submitted electronically.

Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-015-0010

Report Forms

(1) All health care facilities shall file the required reports and data on forms provided or approved by the office.

(2) The Patient Revenue and Unreimbursed Care form, Form FR-3, is adopted by the office.

(3) Obsolete forms will not be accepted.

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

Stat. Auth.: ORS 442.405(1), 442.420(3)(d) & 442.425

Stats. Implemented: ORS 442.425

Hist.: SHPD 1-1979, f. & ef. 6-1-79; SHPD 6-1981, f. & ef. 10-2-81; SHPD 9-1982(Temp), f. & ef. 12-30-82; SHPD 21-1983, f. & ef. 6-28-83; SHPD 18-1984, f. & ef. 12-20-84; SHPD 12-1986, f. & ef. 7-7-86; HP 2-1988, f. & cert. ef. 3-25-88; HP 2-1990, f. & cert. ef. 2-12-90; HP 2-1992, f. & cert. ef. 10-19-92; HP 2-1994, f. & cert. ef. 4-22-94; HP 1-1996, f. & cert. ef. 1-2-96; OHP 1-1997, f. & cert. ef. 8-25-97; OHP 1-1999, f. 10-22-99, cert. ef. 10-23-99; OHP 1-2002, f. & cert. ef. 1-2-02; OHP 3-2011, f. 2-8-11, cert. ef. 3-1-11

Oregon Health Authority, Office of Private Health Partnerships Chapter 442

Rule Caption: Adopt and amend administrative rules for the Healthy KidsConnect program.

Adm. Order No.: OPHP 2-2011

Filed with Sec. of State: 1-18-2011

Certified to be Effective: 1-18-11

Notice Publication Date: 1-1-2011

Rules Adopted: 442-010-0200, 442-010-0210, 442-010-0220, 442-010-0230, 442-010-0240, 442-010-0250, 442-010-0260, 442-010-0270, 442-010-0280

Rules Amended: 442-010-0010, 442-010-0020, 442-010-0030, 442-010-0040, 442-010-0055, 442-010-0060, 442-010-0070, 442-010-0080, 442-010-0100, 442-010-0110, 442-010-0120, 442-010-0130, 442-010-0140, 442-010-0150, 442-010-0160, 442-010-0170, 442-010-0180, 442-010-0190

Subject: The Office of Private Health Partnerships is amending administrative rules for the Healthy KidsConnect program. Rules include: Purpose and Statutory Authority, Definitions, Carrier and Plan Selections, Member Eligibility, Premium Rates, Premium Assistance Levels, Enrollment in Healthy KidsConnect (HKC), Member Billing, Member Payments, Carrier Payments, Member Refunds, Enrollment in Healthy KidsConnect Employer Sponsored Insurance (HK ESI), Vendor Set-up/State Accounting System, Employer Verification (HK ESI), Subsidy Payment (ESI), Cobra/Portability, Adding Family Members, Member Reporting, HKC or HK ESI Member Termination. These rules, 442-010-0010 through 442-010-0190, apply to all Healthy KidsConnect and Healthy Kids Employer Sponsored Insurance plans issued on or after February 1, 2010.

OPHP is also adopting additional administrative rules for the Healthy KidsConnect Program. Rules include: Misrepresenta-

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tion/Civil Penalty, Overpayments, Payment Plans, Collections, Audits, Appeals, Contested Case Hearings, Member/HKC Carrier – Grievances and Appeals, Rule Authorizing Agency Representative. These Rules 442-010-0200 through 442-010-2-0280 apply to all Healthy KidsConnect and Healthy Kids Employer Sponsored Insurance plans issued on or after February 1, 2010.

Rules Coordinator: Margaret Moran—(503) 378-5664

442-010-0010

Purpose and Statutory Authority

(1) OAR 442-010-0010 to 442-010-0190 are adopted to carry out the purpose of ORS 414.231 and 414.826, establishing within the Office of Private Health Partnerships (OPHP) the Healthy Kids (HK) private health options. Healthy KidsConnect (HKC) and Employer Sponsored Insurance (ESI) options are for Oregon children who are residents and whose families earn from zero up to and including 300 percent of the federal poverty level (FPL). Two subsidy program options are available:

(a) Healthy Kids Employer Sponsored Insurance (HK ESI) for children in families who earn from zero up to and including 300 percent FPL.

(b) Healthy KidsConnect (HKC) private insurance for children in families who are over 200 up to and including 300 percent FPL.

(2) Children in families who are over 300 percent FPL may enroll in a HKC plan but will pay full cost. OPHP will not pay subsidies to families at this income level.

(3) OAR 442-010-0010 to 442-010-0280 are adopted pursuant to the general authority of the Oregon Health Authority under ORS 414.231 and the specific authority in ORS 414.231 and 414.826.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.8331-10

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0020

Definitions

(1) “Appeal” means a process for requesting a formal change to an official decision (ref. 442-010-0250).

(2) “Benchmark” means a specific minimum level of health insurance benefits that qualify for subsidy. The benchmark is:

(a) Established by the Office in agreement with the Health Insurance Reform Advisory Committee; and

(b) Sent to and approved by the federal government.

(3) “Carrier” means an insurance company or health care service contractor holding a valid certificate of authority from the Director of the Department of Consumer and Business Services that authorizes the transaction of health insurance. Carrier also includes the Oregon Medical Insurance Pool established under ORS 735.610.

(4) “Citizen” for the purpose of HKC and HK ESI means:

(a) A native or naturalized member of the United States who can show proof of identity and citizenship as required in the Deficit Reduction Act (DRA) of 2005 (Pub. L. No. 109-171), or

(b) A baby born in the United States to a HKC member.

(5) “Contracted HKC carrier” means a carrier hired by OPHP (see OAR 442-010-0030 “Carrier and Plan Selection”) to take part in the HKC program.

(6) “Federal poverty level” means the poverty income guidelines as defined by the United States Department of Health and Human Services. The Oregon Health Authority adopts these guidelines no later than May 1 each year.

(7) “Health insurance producer” (aka agent) means a person who holds a current, valid license pursuant to ORS 774.052 to 774.089 as an insurance producer, where such producer is authorized to transact health insurance.

(8) Healthy Kids (HK) is also known as the Health Care for All Oregon Children program. (ref. ORS 414.231)

(9) Healthy KidsConnect (HKC) is part of the Oregon Healthy Kids program providing health care to Oregon children through the private insurance market. HKC also refers to the benefit plans offered through the HK private insurance option. The benefit plans must for subsidized members:

(a) Meet or exceed the requirements for a federal standard benchmark described in ORS 414.856;

(b) Be comparable to the health services provided to children receiving Oregon Health Plan Plus medical assistance, including mental health, vision, pharmacy, and dental services;

(c) Not exclude or delay coverage for preexisting conditions;

(d) Limit subsidized family’s cost sharing to no more than 5 percent of the family’s annual income;

(e) Qualify for federal financial participation.

(10) HK ESI means employer sponsored insurance that is subsidized by HK funds. It is also known as group insurance for families eligible for HK ESI.

(11) “Member” means a child enrolled in HKC or a HK ESI plan or the child’s parent or adult representative.

(12) “Member share” means the portion of the health insurance premium a family pays.

(13) “Misrepresentation” means making an inaccurate or deliberately false statement of material fact, by word, action, or omission.

(14) “OHP” means the Oregon Health Plan Medicaid program and other programs that include medical assistance provided under 42 U.S.C. section 396a (section 1902 of the Social Security Act).

(15) “Open Enrollment” means the HKC enrollment period for children over 300 percent FPL. Children in families above 200 percent up to and including 300 percent FPL may apply and enroll each month.

(16) “Overpayment” means any subsidy payment paid to, received by, or on behalf of the member that exceeds the amount for which the member is eligible. Overpayment also includes any civil penalty assessed by the OPHP or the Office of Payment and Recovery (OPAR).

(17) “Premium” means the amount charged for health insurance.

(18) “Subsidy” means the amount OPHP pays on behalf of the member to offset monthly premium costs. Subsidy is also known as “premium assistance.”

(a) HKC subsidies are paid directly to the HKC carriers; and

(b) HKC ESI subsidies are paid by reimbursing the member’s portion of the premium.

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

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0030

HKC Carrier and Plan Selection

(1) OPHP selects health insurance carriers to offer Healthy KidsConnect benefit plans through a competitive bidding process. The process includes releasing a request for proposal (RFP). Selection criteria may include, but is not limited to:

(a) Administrative and Online Services;

(b) Case, Disease, Utilization and Pharmacy Management;

(c) Member Access and Provider Network Capacity;

(d) Information Services and Reporting;

(e) References; and

(f) Premium rates.

(2) HKC benefit plans for families receiving subsidies must:

(a) Be comparable to the health services provided to children receiving the Oregon Health Plan (OHP Plus) benefit package, including medical, mental health, vision, dental, and pharmacy services;

(b) Not exclude or delay coverage for preexisting conditions;

(c) Limit the subsidized family’s cost sharing to no more than 5 percent of the family’s annual income; and

(d) Qualify for federal financial participation.

(3) HKC benefit plans for full cost families (over 300 percent FPL):

(a) Are not required to be comparable to OHP Plus;

(b) Do not limit the family’s cost sharing;

(c) Do not exclude or delay coverage for preexisting conditions.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: IPGB 1-2005, f. & cert. ef. 3-1-05; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0040

Member Eligibility and Redetermination

(1) The Department of Human Services (DHS) determines whether children are eligible for HKC or HK ESI based on family size, income, Oregon residency, citizenship and other criteria. DHS will complete annual redeterminations for families over 200 percent FPL and up to and including 300 percent FPL.

(2) HKC and HK ESI applicants must be uninsured for two months prior to completing the application. This requirement can be waived if the individual has a condition that is not covered under their current coverage and this condition would be life threatening or would cause permanent loss of function or disability if not treated.

(3) OPHP will complete annual redeterminations for families with income over 300 percent FPL. If the family’s income level or situation has changed, OPHP will let the member know they will have to submit a medical application to DHS.

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Stat. Auth.: ORS 414.231 & 414.826
Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839
Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0055

Subsidy Levels

(1) HK ESI subsidies are on a sliding scale based on household income and federal poverty level. Members:

(a) Zero up to and including 200 percent of the federal poverty level will receive 100 percent subsidy;

(b) Over 200 up to and including 250 percent of the federal poverty level will receive about 90 percent subsidy;

(c) Over 250 up to and including 300 percent of the federal poverty level will receive about 85 percent subsidy; and

(d) Over 300 percent of the federal poverty level will not receive a subsidy.

(2) HKC is an option for families with or without access to ESI. Subsidies are on a sliding scale based on household income and federal poverty level. Members:

(a) Zero up to and including 200 percent of the federal poverty level are not eligible for HKC;

(b) Over 200 up to and including 250 percent of the federal poverty level will receive about 90 percent subsidy;

(c) Over 250 up to and including 300 percent of the federal poverty level will receive about 85 percent subsidy;

(d) Over 300 percent of the federal poverty level will not receive a subsidy.

(3) Eligible American Indian/Alaska Native (AI/AN) children over 200 percent FPL up to and including 300 percent FPL will receive 100 percent subsidy and will pay no coinsurance or copayments. AI/AN families above 300% FPL are not eligible for subsidy, and will pay full premium per child, and pay all regular out of pocket expenses.

(4) Subsidy levels will be reevaluated once each year at redetermination except when:

(a) Changes are a result of administrative error;

(b) An audit identifies an error that changes the subsidy level; or

(c) The family circumstances change and DHS redetermines eligibility. If the family requests it, DHS will recalculate the member's FPL based on the family circumstance change:

(A) If the new FPL results in a better subsidy or direct coverage (OHP), the change may be made no earlier than the first of the following month.

(B) If the new FPL results in less or no subsidy, no change is made until the end of the 12-month eligibility period, unless the member requests that it be changed.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0060

Enrollment In HKC

(1) An applicant must enroll in a Healthy KidsConnect plan within the program's timeframes to remain eligible for the subsidy.

(a) Subsidized members have at least 45 days to choose a plan. If the member does not choose a plan within the established timeframe, DHS will close the eligibility case file. OPHP may request that DHS extend the enrollment timeframe for administrative issues.

(b) Children approved for HKC must select a plan by the 23rd of the month or the last business day before the 23rd of the month for insurance to be effective the 1st of the following month. OPHP may approve an extension for administrative issues.

(2) A family may choose to enroll approved children into HKC or HK ESI. Families are not required to enroll all their children in health insurance. Those who receive a state subsidy, however, must choose a plan within the same market (not split between HKC and HK ESI) for all enrolled children. Subsidized and non-subsidized families choosing HKC must choose the same plan for all eligible children.

(3) Newborn children are covered on the date of birth if the child is born to a:

(a) Covered HKC member; or

(b) Family in which there is a covered HKC sibling.

(4) A newborn will not be covered any earlier than children from the same family enrolled in the plan.

(a) Premiums are due for the full birth month no matter what date the child was born. Premiums will not be prorated.

(b) OPHP will pay the first month's premium for children in subsidized families.

(5) Non-member pregnant teens who want their unborn to be covered effective the date of birth, must:

(a) Apply for HK;

(b) Be determined eligible and enroll in HKC; and

(c) Be covered under the selected HKC plan before the child is born.

(6) Adults who want their unborn child to be covered on the date of birth, must:

(a) Apply for HK for the unborn child;

(b) Be determined eligible for HKC contingent on a live birth; and

(c) Choose a plan and complete enrollment documents by the 23rd of the month or the last business day prior to the 23rd.

Coverage for newborns who have been pre-enrolled will be effective the first of the month following enrollment or the date of birth, whichever is later.

(7) HKC members may not be enrolled in or receiving benefits from other private, government, or public health options while receiving benefits from a HKC plan, except:

(a) During the brief overlap period when the child is moving between OHP and HKC; or

(b) If the child has end stage renal disease and needs dialysis or a kidney transplant.

(A) These children may enroll in both Medicare and a Healthy KidsConnect plan

(B) It is not mandatory for the child to be enrolled in Medicare. If there is coordination of benefits, the HKC carrier is secondary.

(8) Members over 300 percent FPL may only enroll during HKC open enrollment periods except for children born to currently enrolled members. These unborn children are considered eligible and conditionally covered under HKC from their date of birth. The request to enroll in HKC and any necessary premium must be received within 31 days of birth.

(9) HKC has two open enrollment periods each year. Once referred to OPHP, members must enroll by the end of the next full open enrollment period will have to reapply through DHS.

(10) If a carrier elects to discontinue participation in HKC, members served by that carrier will have to select another HKC carrier within 60 days of notification. Members who do not enroll within 60 days must reapply through DHS.

(a) Members electing coverage through a new plan must select the plan by the 23rd of the month to be covered the first of the following month. OPHP may extend the enrollment timeframe for administrative issues.

(b) Carriers who elect to discontinue participation in HKC will not be responsible for any claims incurred after the HKC contract period ends.

(c) If a member does not timely enroll in a new plan, the member will be responsible to pay for services received during any period of uninsurance.

(11) Members may only switch to another HKC carrier:

(a) At their next eligibility determination;

(b) If they move out of the carrier's service area; or

(c) If their carrier terminates as an OPHP contractor.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0070

Member Billing — HKC

Subsidies are available for members who choose HKC and are over 200 percent and up to and including 300 percent of the federal poverty level. OPHP will bill members for their share of the monthly premium.

(1) OPHP pays the first full month's premium to the carrier for each subsidized child.

(2) OPHP pays the first full months premium for new members on a one-time basis only. If a member terminates and then reapplies for coverage, the member will be responsible for their share of the first month's premium.

(3) Beginning the second month, after initial enrollment, OPHP will only pay the carrier once the agency receives the member's portion of the premium.

(4) OPHP mails bills to members at least one month before the HKC carrier due date to ensure timely payment.

(5) Members must pay their share of the premiums by the monthly billing due date.

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(6) Members are given a minimum of 30 days from the due date to pay.

(7) OPHP mails a final premium reminder notice about 15 days after the due date.

(8) Members are given at least 7 calendar days to pay their portion of the premium after the final premium reminder has been mailed.

(9) OPHP mails a reminder to members with unpaid balances greater than \$5.00.

(10) OPHP sends a subsidy cancellation notice at the end of the 30-day grace period if the member payment is not received by the due date.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0080

Member Payments — HKC

(1) OPHP will process member payments at least once each business day.

(2) OPHP will notify members of payments returned by the bank for non-sufficient funds (NSF):

(a) OPHP considers NSF checks the same as non-payment.

(b) Members must replace funds by the premium due date or within 10 calendar days of the notification letter date if the account is past due.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0100

Carrier Refunds — HKC

(1) OPHP will resolve premiums overpaid by the member by requesting a refund from the carrier.

(a) OPHP will not process refunds for overpaid premiums that are older than 3 months unless the carrier approves an exception.

(b) OPHP will not process refunds resulting from member misrepresentation or NSF checks.

(2) OPHP will request a refund from the HKC carrier for the first full month's premium for new members who were enrolled in error.

(3) OPHP will request carrier refunds within 60 days of an overpayment determination.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0110

Member Refunds — HKC

(1) Active member:

(a) Refunds for amounts not yet paid to the HKC carrier will be:

(A) Processed for amounts over \$25.00;

(B) Processed at least once weekly; and

(C) Sent to members only for their share of the premiums.

(b) Amounts under \$25.00 will be applied as a credit to future premiums.

(2) Terminated member:

(a) Refunds for amounts not yet paid to the carrier will be:

(A) Processed at least once weekly; and

(B) Sent to members for their share of the premiums only. Members are not eligible for a refund for the first month's premium if paid by OPHP.

(b) Refunds for amounts already paid to the HKC carrier will be paid once the carrier refunds OPHP.

(c) There is no minimum balance required for a refund on a terminated account except if the refund includes money from both OPHP and the HKC carrier. Then the amounts will be combined and refunded together.

(d) At the member's request, OPHP will refund the agency's portion separately as long as the agency and carrier refund amounts are each over \$25.00.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0120

Enrollment in Healthy Kids — ESI

(1) Subsidies are available to eligible members who choose to enroll in their ESI.

(2) Subsidies will only be paid for children enrolled in an ESI plan that meets the federal benchmark including benefit and cost sharing standards.

(3) Subsidized families have at least 45 days to enroll in their employer plan. If the family does not enroll in an approved plan within the established timeframe, DHS will close the eligibility case file. OPHP may request that DHS extend the enrollment timeframe for administrative purposes.

(4) If the referred member is unable to enroll in the employer plan for a period of time, the member may enroll in a HKC plan while they wait for the ESI enrollment period. If the member later enrolls in their employer plan, and then loses coverage during the same eligibility period, the member must re-enroll with the same HKC carrier. The member may choose a new HKC carrier their next eligibility period.

(5) The subsidy effective date will be determined based on the referral date and ESI enrollment date. If an approved child is able to enroll in the family's ESI plan the same month the case is referred to OPHP, the agency will begin paying subsidies for that month.

(6) In no case will subsidies be paid until the employer plan has been benchmarked. If the benchmark process delays subsidy payment, OPHP will retroactively reimburse the member's portion of the premium back to the referral month as long as the plan meets the federal benchmark. If the plan does not meet the federal benchmark, OPHP will not subsidize the premiums.

(7) Subsidy reimbursement is based on the coverage month, not when the premium is paid. Examples:

(a) Insurance premium deductions are taken in advance for the coverage month (e.g. the member's portion of the premium is paid in October for November coverage) — If the child is referred to OPHP in November and enrolled and covered by the ESI plan in that same month, OPHP will reimburse the October premium payment if it is for November coverage.

(b) Insurance premium payments are taken after the coverage month (e.g. the member's portion of the premium is paid in November for October coverage). OPHP will begin subsidy payments in December for the November coverage month.

(8) Subsidy will be paid for the full referral month no matter what day in the month the referral was made. Premiums and subsidies will not be prorated.

(9) If an applicant or member loses their ESI coverage due to loss of employment, or the employer discontinues the ESI plan, OPHP will subsidize various coverage options as referenced in 442-010-0160.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0130

Vendor Set-up/State Accounting System

Subsidy payments may be payable to:

(1) The member or member's employed spouse from whose paycheck the premium is being deducted.

(2) Parents or adult representative of member children.

(3) Carriers.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0140

Employer Verification — HK ESI

(1) Employer contribution changes — members must report plan changes or changes in circumstances to OPHP per 442-010-0180.

(2) Subsidy changes — OPHP will request a new employer verification form annually or if the payroll deduction amount changes. OPHP will continue to subsidize the member at the established rate until new rates are received. Adjustments will be made when changes are approved.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0150

Subsidy Payments — ESI

(1) OPHP will subsidize the member's monthly insurance premium minus any employer's contribution.

(2) OPHP will reimburse the eligible member's portion of the ESI premium using submitted payment verification. Verification can include,

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but is not limited to payroll records, paycheck stubs, employer letters, carrier invoices, receipts, and cancelled check copies.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0160

Continuing Coverage Options

Eligible members who lose their insurance coverage may choose COBRA, Portability, State Continuation, OMIP, or HKC. OPHP will subsidize premiums for any of these options. Not all options are available to all members depending on the member's individual circumstances. Eligible plans must meet the Federal benchmark.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0170

Adding Family Members

(1) Subsidized families may add members to their HKC or HK ESI enrollment at any time throughout the 12-month eligibility period as long as the family member applies through DHS and meets the eligibility requirements.

(2) HKC premium rates and the member's portion of the premium may change as a result of adding new family members. The reimbursement amount may change for ESI members.

(3) DHS will recalculate the member FPL based on family circumstance changes. If the new FPL results in a better subsidy or direct coverage (OHP) the change can be effective immediately. If the new FPL results in less or no subsidy, no change will be made until the end of the 12-month eligibility period.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0180

Member Reporting

(1) Members must report changes in circumstance to OPHP or DHS within 10 calendar days of the change by phone or in writing. Changes include:

- (a) Name;
- (b) Employer;
- (c) Family size including pregnancy, birth or death of a child, or if a child moves out of state;
- (d) Home or mailing address, even if temporarily away (more than 30 days);
- (e) Loss of health insurance;
- (f) New or additional health insurance including ESI;
- (g) Any family member who becomes ineligible for their health insurance; and
- (h) Employer contribution amounts for OPHP members receiving subsidy in ESI.

(2) Failure to report any of the above changes may result in termination from the program, subsidy suspension, loss of insurance coverage or an overpayment.

(3) If the member reports a change to OPHP, OPHP must notify DHS of the change in writing within 10 calendar days of receiving notice from the member.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0190

HKC or HK ESI Plan Termination

(1) Termination may occur when:

- (a) Payment of the member's share of the premium is not received by the due date;
- (b) The member is no longer an Oregon resident;
- (c) The member loses their HK ESI and fails to notify OPHP;
- (d) DHS determines the member to be ineligible at redetermination or any time during the eligibility year;
- (e) Members found to be currently enrolled in another private, public, or government sponsored health insurance plan, qualified employer-sponsored health insurance plan, or any other insurance plan while enrolled in

HKC and fail to timely terminate from one program after being notified by OPHP that they must do so;

(f) An HK ESI member fails to provide monthly verification of coverage, premiums, and employer contribution within 30 days from the date OPHP requests documentation;

(g) The member fails to pay an overpayment amount as per OAR 442-010-0210;;

(h) A member is found to have committed misrepresentation. A civil penalty may be imposed;

(i) Projected program costs exceed the funding available to cover subsidy payments for those enrolled; or

(j) The member turns 19 years old;

(A) The coverage is terminated at the end of the member's birthday month.

(B) DHS will notify the member prior to the change in their benefits.

(C) The member may have the right to apply for medical assistance or other DHS programs.

(D) OPHP will notify the family 60 days in advance of the pending termination.

(2) If OPHP terminates a subsidized member for non-payment of premium, the member must wait 2 months to re-enroll in a HKC plan. Once a member is terminated, they must reapply through DHS. HKC members over 300 percent must wait at least 2 months to re-enroll and can only re-enroll during full open enrollment period.

(3) If a member is terminated for non-payment of premium, any outstanding premium balance due must be paid before the member can re-enroll in HKC or ESI.

(4) If a member is terminated with an outstanding balance, the balance will be handled per OAR 442-010-0230 (Collections). Terminated members with an unpaid balance who re-qualify for the program must establish a payment plan per OAR 442-010-0220 in order to be eligible to re-enroll.

(5) Members will be notified of their right to appeal decisions made by HKC.

(6) HKC terminations resulting from a DHS referral administrative error will be effective the first of the month following when the paid coverage month ends.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2010(Temp), f. & cert. ef. 3-23-10 thru 9-18-10; OPHP 4-2010, f. & cert. ef. 8-31-10; OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0200

Misrepresentation/Civil Penalty

(1) OPHP may investigate any member or former member for misrepresentation in obtaining subsidy benefits. Such investigations may be through random file audits or by management request.

(2) OPHP may ask appropriate legal authorities to start civil or criminal action under Oregon laws when, in its judgment, available evidence allows such action.

(3) OPHP will notify a member of the agency's intent to take action against them.

(4) When OPHP decides a member has committed misrepresentation the member is:

(a) Terminated from HKC/HKC ESI;

(b) Legally responsible to repay OPHP the full amount of the overpayment OPHP has established, regardless of any reimbursement amount ordered by a court;

(c) Legally responsible for any civil penalty set by OPHP up to a statutory limit of \$1,000. The civil penalty amount will be set by using a sliding scale based on the amount of subsidy paid on the member's behalf.

Stat. Auth.: ORS 414.231 & 414.826

Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839

Hist.: OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0210

Overpayments

(1) Any overpayment amount is a debt owed to the State of Oregon and may be subject to collection. An overpayment may result from member error, misrepresentation, or civil penalty.

(2) An overpayment is a member error if it is caused by the member's misunderstanding. Examples include, but are not limited to, instances where the member intentionally or unintentionally:

(a) Did not provide correct or complete information to OPHP;

(b) Did not report changes in circumstances to OPHP ;

(c) Claimed and was reimbursed for an ineligible subsidy period.

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(3) A misrepresentation error includes but is not limited to the member sending false information that results in an incorrect or ineligible subsidy payment. Misrepresentation may result in civil penalty.

(4) An overpayment may occur when a member is enrolled in a Healthy KidsConnect program and another state medical or private insurance plan during the same benefit period.

(5) OPHP will notify members in writing of overpayments. This written notice will inform members of:

- (a) The amount of and the reason for the overpayment;
- (b) Their appeal and contested case hearing rights.

(6) OPHP will collect overpayment amounts in one lump sum if the member is financially able to repay the overpayment amount in that manner.

(7) If the member is financially unable to pay the amount due in one lump sum, OPHP will accept regular installment payments as outlined in 442-010-0230 - Payment Plans.

(8) If OPHP is unable to recover the overpayment amount from the member within overpayment guidelines:

(a) OPHP may renegotiate the payment plan agreement or refer the balance to the Department of Revenue, the Department of Justice, or another outside agency for collection. If an account is referred to an outside agency for collection, any expenses incurred for collection will be added to the member's balance due.

(b) OPHP may file civil action to obtain a court ordered judgment for the amount of the debt. OPHP may also declare a claim for costs and fees associated with obtaining a court judgment for the debt. When a judgment for costs is awarded, OPHP will collect this amount in addition to the overpayment amount, using the methods of recovery allowable under state law and administrative rule.

(9) If the member submits an appeal or contested case hearing request, OPHP will discontinue any attempts at collection until the conclusion of the appeal or hearing.

(10) If the appeal decision is in the member's favor, OPHP will refund any money collected as overpayment recovery as outlined in OAR 442-010-0210, 442-010-0220 and 442-010-0230.

(11) In order to re-enroll any former HKC or HK ESI member with an outstanding overpayment balance must agree to pay the overpayment amount using one of the following options:

- (a) In one lump sum;
- (b) A minimum of \$10 per month;
- (c) The amount necessary to collect the balance due in one year; or
- (d) An approved payment plan as referenced in 442-005-0220.

Stat. Auth.: ORS 414.231 & 414.826
Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839
Hist.: OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0220 Payment Plans

Subsidy overpayments that are paid on the member's behalf are the member's responsibility. Members may be eligible to establish a payment plan to reimburse OPHP.

(1) Payment plans may be established for currently enrolled members. Members will have an option to either repay the overpayment in full or through a payment arrangement.

(2) Once a payment plan is approved, OPHP sends the member a letter that:

- (a) Outlines the agreed upon payment arrangement; and
- (b) Informs the member of OPHP's method for collecting the overpayment. OPHP will:

(A) Bill HKC members for the overpayment amount in addition to the normal monthly billed amount; or

(B) Deduct the overpayment amount from subsidy payments made to HK ESI members.

(3) If the member does not follow the payment plan, OPHP will terminate the account for non-payment. Enrollment and Billing will transfer the unpaid balance to the Fiscal Recovery Unit for collection. See Collections section 442-010-0230.

(4) Terminated members with an unpaid balance who re-qualify for the program must establish a payment plan in order to be eligible to re-enroll.

442-010-0230 Collections

(1) OPHP staff will reconcile terminated accounts with unpaid balances.

(2) OPHP staff will notify the member in writing of the collection amount. The terminated member may appeal the collection decision, ref. (442-010-0250).

(3) Terminated members may be eligible to establish a payment plan as outlined in OAR 442-010-0220.

(4) If OPHP is unable to recover the unpaid balance from the terminated member or no payment is made within 90 days, OPHP may:

(a) Renegotiate the collection agreement or refer the balance to the Department of Revenue, the Department of Justice, or another outside agency for collection. If an account is referred to an outside agency for collection, any expenses incurred for collection will be added to the member's balance due; or

(b) File civil action to obtain a court ordered judgment for the amount of the debt. OPHP may also file a claim for costs and fees associated with obtaining a court judgment for the debt. When a judgment for costs is awarded, OPHP will collect this amount in addition to the overpayment amount, using the methods of recovery allowable under state law and administrative rule.

Stat. Auth.: ORS 414.231 & 414.826
Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839
Hist.: OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0240 Audits

(1) Quality assurance audits will be performed to verify that State and Federal laws, rules, policies and procedures are followed correctly.

(2) As a result of an audit:

(a) A member or former member may be determined ineligible for a HK subsidy.

(b) A member or former member may be determined ineligible for a prior subsidy period.

(c) OPHP may adjust the subsidy level for a current or previous subsidy period.

(3) An audit determination could result in an overpayment or underpayment to a member or former member.

(4) The member or former member must submit additional verification when OPHP requests it. OPHP may verify any factors affecting program eligibility, subsidy levels or any reported information. This information includes, but is not limited to:

- (a) Any information submitted by the member that is inconsistent;
 - (b) Information provided by DHS; and
 - (c) Any other information needed.
- (d) OPHP may decide to verify other information.

(e) OPHP may end ongoing subsidy when requested verification is not provided.

(5) If additional information is requested during an audit, the member has 30 days from the date of the Request for Information letter to submit the information. If a member fails to cooperate with an OPHP audit, the member may be disenrolled.

(6) If a decision is different than the original eligibility determination, OPHP will notify the member in writing of the reason for the denial or change in determination, the effective date of the action, and the member's appeal and contested case hearing rights.

Stat. Auth.: ORS 414.231 & 414.826
Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839
Hist.: OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0250 Appeals

(1) All HKC and HK ESI notices that inform members of decisions or actions will include appeal language and instructions for filing an appeal.

(2) A member may appeal any OPHP decision or action.

(3) The member must advise OPHP of the appeal in writing. The written appeal must be received within 30 days of the notice date. OPHP may approve an extension for administrative issues if failure to meet the deadline was caused by circumstances beyond the member's reasonable control.

(4) The written appeal must include reasons for the appeal. The reasons must be limited to the decision or actions cited in the notice.

(5) OPHP will acknowledge the appeal in writing within 10 days of receipt.

(6) OPHP may consider additional information during the appeal process.

(7) If OPHP requests information, the member has 15 days from the request date to provide the information.

(8) OPHP will notify the member in writing of the appeal decision within 30 days of the appeal request. Appeal decision notices will include information on how to request a contested case hearing.

ADMINISTRATIVE RULES

(9) OPHP will not take any adverse action or pursue collection of any overpayment during the appeal process.

(10) If an account remains open during the appeal process, the member must continue to pay premiums in order for the health coverage and subsidy to remain active.

(11) If an account is closed and the appeal decision results in reinstatement of health coverage, the member must pay premiums back to the last payment date. OPHP may agree to payment arrangements. (See OAR 442-010-0230)

Stat. Auth.: ORS 414.231 & 414.826
Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839
Hist.: OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0260

Contested Case Hearings

(1) A member may request a hearing in lieu of appealing a decision or action. A member may also request a hearing about an OPHP appeal decision.

(2) A member must request a hearing in writing. The member or the member's attorney must sign the request.

(3) If the member requests a hearing in lieu of filing an appeal, the member has 30 days from the notice date to request the hearing. If the member requests a hearing about an appeal decision, the member has 10 days to request a hearing about an appeal decision or action.

(4) The hearing request must include the reasons for the hearing. The reasons must be limited to the decision or action cited in the notice or appeal decision.

(5) OPHP will conduct a contested case hearing according to ORS 183.413 to 183.470.

(6) OPHP may conduct the hearing in cooperation with DHS.

(7) Once a hearing is requested, OPHP will not pursue collection of any overpayment until the Administrative Law Judge (ALJ) has issued a final order that confirms the overpayment.

Stat. Auth.: ORS 414.231 & 414.826
Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839
Hist.: OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0270

Member/HKC Carrier — Grievances and Appeals

A member appealing a HKC carrier decision or action will follow the Grievances and Appeal process outlined in the carrier contracts and member handbooks.

Stat. Auth.: ORS 414.231 & 414.826
Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839
Hist.: OPHP 2-2011, f. & cert. ef. 1-18-11

442-010-0280

Rule Authorizing Agency Representative

(1) OPHP adopts by reference OAR's 137-003-0000 to 137-003-0700.

(2) With the Attorney General's approval, OPHP may use an employee to represent the agency in contested case hearings.

Stat. Auth.: ORS 414.231 & 414.826
Stats. Implemented: ORS 414.231, 414.826, 414.828 & 414.839
Hist.: OPHP 2-2011, f. & cert. ef. 1-18-11

Oregon Health Authority, Oregon Educators Benefit Board Chapter 111

Rule Caption: Amended to include new definitions related to the federal healthcare Reform Act.

Adm. Order No.: OEGB 1-2011

Filed with Sec. of State: 2-11-2011

Certified to be Effective: 2-11-11

Notice Publication Date: 12-1-2010

Rules Amended: 111-010-0015

Rules Repealed: 111-010-0015(T)

Subject: OAR 111-010-0015 includes rule amendments needed to respond to the new rescission of coverage provisions and expanded eligibility for dependent children under age 26 under the federal Health Care reform Act.

Rules Coordinator: April Kelly—(503) 378-6588

111-010-0015

Definitions

Unless the context indicates otherwise, as used in OEGB administrative rules, the following definitions will apply:

(1) "Actuarial value" means the expected financial value for the average member of a particular benefit plan.

(2) "Adverse Benefit Determination" means a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part), for a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on but not limited to:

- (a) A determination of a member's eligibility to participate in the plan;
- (b) A determination that the benefit is not a covered benefit; or
- (c) A rescission of coverage, whether or not, in connection with rescission, there is an adverse effect on any particular benefit.

(3) "Affidavit of Domestic Partnership" means a document that attests the eligible employee and one other eligible individual meet the criteria in section (15)(b).

(4) "Benefit plan" includes, but is not limited to, insurance or other benefits including:

- (a) Medical;
- (b) Dental;
- (c) Vision;
- (d) Life, disability and accidental death;
- (e) Long term care;
- (f) Flexible spending accounts;
- (g) Supplemental medical, dental and vision;
- (h) Any other remedial care recognized by state law, and related services and supplies;
- (i) Comparable benefits for employees who rely on spiritual means of healing; and
- (j) Self insurance programs managed by the Board.

(5) "Benefits" means goods and services provided under benefit plans.

(6) "Board" means the ten-member board established in the Department of Administrative Services as the Oregon Educators Benefit Board under chapter 00007, Oregon Laws 2007.

(7) "Child" means and includes the following:

(a) An eligible employee's, spouse's, or domestic partner's biological son, daughter, stepson, or stepdaughter; adopted child, child placed for adoption, or legally placed child, who is 25 or younger on the first day of the month. An eligible employee must provide the required custody or legal documents to their Educational Entity showing proof of adoption, legal guardianship or other court order if enrolling a child for whom the employee, spouse, or domestic partner is not the biological parent

(b) A person who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. 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 Educational Entity or OEGB that (1) the person had health plan coverage, group or individual, prior to attaining age 26, and (2) health plan coverage continued without a gap until the OEGB health plan effective date.

(C) The person's attending physician must submit documentation of the disability to the eligible employee's OEGB health insurance plan for review and approval. If the person receives health plan approval, the health plan may review the person's health status at any time to determine continued OEGB coverage eligibility.

(D) The person must not have terminated from OEGB health plan coverage after attaining the age of 26.

(c) Eligibility for coverage under this rule includes people who may not be dependents under federal or state tax law and may require an Educational Entity to adjust an Eligible Employee's income based on the imputed value of the benefit.

(8) "Comparable cost (Medical, Dental and Vision)" means that the total cost to a district for enrollment in OEGB plans comparable in design to the district's plan(s) do not exceed the total cost to a district for enrollment in the district's plan(s) using the rate(s) in effect or proposed for the benefit plan year.

(9) "Comparable cost (Basic and Optional Life Insurance, Accidental Death & Dismemberment, and Short and Long Term Disability)" means that the premium rates of an OEGB plan design option do not exceed the

ADMINISTRATIVE RULES

average, aggregate premium rates of a district's pre-OEBB plan design in effect the year prior to implementation.

(10) "Comparable plan design (Medical, Dental and Vision)" means that the actuarial values of two plan designs are within 2.5 percent higher or lower of each other.

(11) "Comparable plan design (Basic and Optional Life Insurance and Accidental Death & Dismemberment)" means that 90 percent of district employees can obtain a maximum benefit through an OEBB plan design that is within \$2,500 of the maximum benefit obtained through a pre-OEBB plan design in effect the year prior to implementation.

(12) "Comparable plan design (Short and Long Term Disability)" means 90 percent of the district employees can obtain the same elimination period, percentage of covered compensation, definition of covered compensation, coverage period duration, and maximum payment per benefit period through an OEBB plan design as through a pre-OEBB plan design in effect the year prior to implementation.

(13) "Dependent" means and includes the Employee's Spouse or Domestic Partner, or child as defined by OAR 111-010-0010(7) or other person having a relation to the subscriber as defined by the Contractor.

(14) "Documented district policies" means Educational Entities' policies and practices that apply to an employee group and are submitted to the Oregon Educators Benefit Board during the plan selection process. Educational Entities' policies and practices must be identified and submitted with the applicable employee group plan selections.

(15) "Domestic partner;" unless otherwise defined by a collective bargaining agreement or documented district policy in effect on January 31, 2008, means and includes the following:

(a) An unmarried individual of the same sex who has entered into a "Declaration of Domestic Partnership" with the eligible employee that is recognized under Oregon law; or

(b) An unmarried individual of the same or opposite sex who has entered into a partnership that meets the following criteria:

(A) Both are at least 18 years of age;

(B) Are responsible for each other's welfare and are each other's sole domestic partners;

(C) Are not married to anyone and have not had a spouse or another domestic partner within the prior six months. If previously married, the six-month period starts on the final date of divorce;

(D) Share a close personal relationship and are not related by blood closer than would bar marriage in the State of Oregon;

(E) Have jointly shared the same regular and permanent residence for at least six months immediately preceding the date the Affidavit of Domestic Partnership is signed and submitted to the Educational Entity; and

(F) Are jointly financially responsible for basic living expenses defined as the cost of food, shelter and any other expenses of maintaining a household. Financial information must be provided if requested.

(G) The eligible employee and domestic partner must jointly complete and submit to the Educational Entity an Affidavit of Domestic Partnership form, within five business days of the electronic enrollment date or the date the Educational Entity received the enrollment/change form. If the affidavit is not received, coverage will terminate for the domestic partner retroactive to the effective date.

(c) The domestic partner must notify the Educational Entity within 31 days of meeting all criteria as defined in 111-010-0015 (15)(b) or obtaining the "Declaration of Domestic Partnership" which is recognized under Oregon law.

(d) Educational Entities' must calculate and apply applicable imputed value tax for domestic partners covered under OEBB benefit plans.

(16) "Educational Entity" means public school districts (K-12), education service districts (ESDs), community colleges and public charter schools participating in OEBB.

(17) "Eligible employee" means and includes:

(a) "Active eligible employee" means an employee of an OEBB participating organization who is employed or is in a job-sharing position on a half time or greater basis or meets the definition of an eligible employee under a separate OEBB rule or under a collective bargaining agreement or documented district policy in effect on January 31, 2008.

(b) "Retired eligible employee" means a previously active eligible employee, who is:

(A) Receiving a service or disability retirement allowance or pension under the Public Employees Retirement System (PERS) or under any other retirement or disability benefit plan or system offered by an OEBB participating organization for its employees;

(B) Eligible to receive a service retirement allowance under PERS and has reached earliest retirement age under ORS Chapter 238;

(C) Eligible to receive a pension under ORS 238A.100 to 238A.245 and has reached earliest retirement age as described in ORS 238A.165; or

(D) Eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by an OEBB participating organization and has reached earliest retirement age under the plan or system.

(18) "Employee Group" means employees of a similar employment type, for example administrative, represented classified, non-represented classified, confidential, represented licensed, or non-represented licensed, within an Educational Entity. If one or more collective bargaining unit exists within an employee group, each unit will be considered a separate employee group.

(19) "Members" means and includes the following:

(a) "Eligible employee" as defined by OAR 111-010-0015(17)

(b) "Child" as defined by OAR 111-010-0015(7)

(c) "Domestic Partner" as defined by OAR 111-010-0015(15)

(d) "Spouse" as defined by OAR 111-010-0015(25)

(20) "Non-subject District" means a community college, district or a charter school if the employees are not considered employees of a school district.

(21) "Oregon Educators Benefit Board or OEBB" means the program created under chapter 00007, Oregon Laws 2007.

(22) "OEBB participating organization" means a Subject District, Non-subject District, or Provisional Non-subject District that participates in benefit plans provided by the Oregon Educators Benefit Board (OEBB).

(23) "Provisional Non-subject District" means a common school district, a union high school district, or an education service district that:

(a) Was self-insured on December 31, 2006;

(b) Had an independent health insurance trust established and functioning on December 31, 2006; or

(c) Can provide comparable plan designs at a comparable cost as defined by sections (8) and (10) of this Rule.

(24) "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.

(25) "Spouse" means a person of the opposite sex who is a husband or wife. Except as provided in Oregon Constitution Article XV, Section 5a, a relationship recognized as a marriage in another state 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.

(26) "Subject District" means a common school district, a union high school district, or an education service district that:

(a) Did not self-insure on January 1, 2007;

(b) Did not have a health trust in effect on January 1, 2007; or

(c) Does not provide comparable plan designs at a comparable cost as defined by sections (8) and (10) of this Rule.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.860(1)(a)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 2-2008, f. & cert. ef. 1-4-08; OEBB 10-2008(Temp), f. & cert. ef. 8-13-08 thru 2-6-09; OEBB 1-2009, f. & cert. ef. 1-30-09; OEBB 5-2009(Temp), f. & cert. ef. 3-10-09 thru 9-4-09; OEBB 8-2009, f. & cert. ef. 5-1-09; OEBB 12-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 19-2009, f. & cert. ef. 12-17-09; OEBB 7-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 11-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 1-2011, f. & cert. ef. 2-11-11

Rule Caption: Amends and adopts changes to the Oregon Educators Benefit Board's rules on plan design development and selection.

Adm. Order No.: OEBB 2-2011

Filed with Sec. of State: 2-11-2011

Certified to be Effective: 2-11-11

Notice Publication Date: 12-1-2010

Rules Adopted: 111-030-0010, 111-030-0035, 111-030-0040, 111-030-0045, 111-030-0050

Rules Amended: 111-030-0005

Rules Repealed: 111-030-0030, 111-030-0005(T), 111-030-0010(T), 111-030-0035(T), 111-030-0040(T), 111-030-0045(T), 111-030-0050(T)

Subject: Amendments to OAR 111-030-0005 removes specific benefit plan references and makes the rule applicable to all benefit plans offered by OEBB. This rule details the selection process through

ADMINISTRATIVE RULES

OEBB. 111-030-0010, 111-030-0035, 111-030-0040 and 111-030-0045 establishes the benefit selection criteria in rule, which previously existed in OEBB board approved policy. 111-030-0050 establishes OEBB's Premium Rate Structure Selection Process and Limitations, which previously existed in OEBB board approved policy.

Rules Coordinator: April Kelly—(503) 378-6588

111-030-0005

Benefit Plans Selection through OEBB

(1) As used in this section, "benefit plans" includes medical, dental, pharmaceutical, dental, basic life and accidental death and dismemberment, optional life and AD&D, short and long term disability, long term care and employee assistance program.

(2) OEBB will offer a range of benefit plans that provide the flexibility to choose between a number of high quality plan options.

(3) The process for benefit plans selection includes:

(a) Release of preliminary designs and costs for all benefit plan options to Educational Entities no later than 45 days prior to final selection date. The total number offered may vary each year.

(b) Educational Entities select, or allow each Employee Group to select, the benefit plan options to be offered to each Employee Group unless otherwise specified in an OEBB administrative rule.

(c) Benefit plan selections for each Employee Group must be submitted through the MyOEBB Educational Entity plan management section or an approved electronic format to OEBB no later than June 30 each year. Plan selection submissions must be authorized by an official with the Educational Entity.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a), 243.868 (1) & 243.872(2)

Hist.: OEBB 8-2008, f. 6-25-08, cert. ef. 6-26-08; OEBB 13-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 20-2009, f. & cert. ef. 12-17-09; OEBB 8-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 2-2011, f. & cert. ef. 2-11-11

111-030-0010

Medical, Pharmaceutical, Dental and Vision Plan Selection Criteria

(1) Educational Entities may choose or allow up to four medical plans per Employee Group.

(2) Educational Entities must choose or allow one pharmaceutical plan for each OEBB Medical Plans 3 through 8 with the following restrictions:

(a) Pharmacy Plan A only;

(b) Pharmacy Plan B only;

(c) Pharmacy Plan C only;

(d) A combination of Pharmacy Plan A and Pharmacy Plan C;

(e) A combination of Pharmacy Plan B and Pharmacy Plan C.

(f) The pharmacy benefits are included in OEBB Medical Plan 9.

(g) An Educational Entity cannot offer the same OEBB medical plan to an Employee Group as more than one medical plan option, even if it is matched with different pharmacy plans.

(3) Educational Entities may choose or allow up to three OEBB dental plans with or without orthodontia coverage per Employee Group with the following restrictions:

(a) The orthodontia option must be included in all or none of the dental plan selections, with the exception of plans 7 and 8 offered through Willamette Dental.

(b) The HMO dental plan offered through Kaiser Permanente is only available to an Employee Group that selects a medical HMO plan offered through Kaiser Permanente.

(4)(a) Educational Entities may choose or allow one vision plan per Employee Group with the following exception:

(b) An Educational Entity may choose or allow the addition of a vision plan offered through the HMO if the Employee Group selects the medical HMO plan.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a), 243.868(1) & 243.872(2)

Hist.: OEBB 8-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 2-2011, f. & cert. ef. 2-11-11

111-030-0035

Optional Benefit Plans Selection Criteria

(1) Basic Life Insurance — Educational Entities may select or allow one Basic Life plan per Employee Group unless otherwise specified in an OEBB administrative rule. Note: Employee Groups may select one Basic Life amount and offer optional life. Basic Life requires 100 percent enrollment if selected.

(2) Basic Accidental Death and Dismemberment (AD&D) — Educational Entities may select or allow one Basic AD&D plan per Employee Group unless otherwise specified in an OEBB administrative rule. Note: Employee Groups can select one Basic AD&D plan and offer optional AD&D if desired. The Employee Group must select Basic Life coverage to select a Basic AD&D plan. Basic AD&D requires 100 percent enrollment if selected.

(3) Optional Employee Life Insurance and Optional Employee AD&D — Educational Entities may select or allow Optional Employee Life and Optional AD&D for each Employee Group unless otherwise specified in an OEBB administrative rule. No minimum enrollment requirement.

(4) Optional Spouse/Partner Life Insurance and Optional Spouse/Partner AD&D — Educational Entities may select or allow Optional Spouse/Partner Life and Optional Spouse/Partner AD&D coverage for each Employee Group unless otherwise specified in an OEBB administrative rule. No minimum enrollment requirement. The Employee Group must offer Optional Employee Life and Optional AD&D to offer this coverage. The Optional Employee Life Insurance and Optional Employee AD&D must be greater or equal to Optional Spouse/Partner Life Insurance and Optional Spouse/Partner AD&D.

(5) Optional Child Life Insurance and Optional Child AD&D — Educational Entities may select or allow Optional Child Life and Optional Child AD&D coverage for each Employee Group unless otherwise specified in an OEBB administrative rule. No minimum enrollment requirement. The Employee Group must offer Optional Employee Life and Optional AD&D to offer this coverage. Optional Child Life Insurance and Optional Child Life AD&D requires enrollment in the minimum amount of Optional Employee Life and Optional AD&D by the employee.

(6) Optional Early Retiree Life Insurance and Optional Early Retiree AD&D — Educational Entities may select or allow Optional Early Retiree Life and Optional Early Retiree AD&D coverage unless otherwise specified in an OEBB administrative rule. No minimum enrollment requirement, but enrollment is limited to initial open enrollment period only and subject to the following restrictions:

(a) Optional Early Retiree Life and Optional Early Retiree AD&D are only available to early retirees who had this coverage as an active employee.

(b) The Educational Entity must offer this coverage for the early retiree to continue enrollment.

(c) When an employee moves from active to retiree status they may select coverage up to the amount they had as an active employee, or decrease coverage. Increases in coverage are not allowed.

(7) Voluntary Short Term Disability (STD) — Educational Entities may select or allow one Voluntary STD plan per Employee Group unless otherwise specified in an OEBB administrative rule. No minimum enrollment requirement. The employee pays all or part of the premium. An Employee Group cannot select more than one STD Plan (Voluntary, Mandatory, or Mandatory/Employee-paid).

(8) Mandatory Short Term Disability (STD) — Educational Entities may select or allow one Mandatory STD plan per Employee Group unless otherwise specified in an OEBB administrative rule. This plan requires 100 percent enrollment if selected and the premium is employer-paid. An Employee Group cannot select more than one STD Plan (Voluntary, Mandatory, or Mandatory/Employee-paid).

(9) Mandatory/Employee-paid Short Term Disability (STD) — Educational Entities may select or allow one Mandatory/Employee-paid STD plan per Employee Group unless otherwise specified in an OEBB administrative rule. This plan requires 100 percent enrollment and the premium is paid by the employee. An Employee Group cannot select more than one STD Plan (Voluntary, Mandatory, or Mandatory/Employee-paid).

(10) Voluntary Long Term Disability (LTD) — Educational Entities may select or allow one Voluntary LTD plan per Employee Group unless otherwise specified in an OEBB administrative rule. No minimum enrollment requirement. The employee pays all or part of the premium. An Employee Group cannot select more than one LTD Plan (Voluntary, Mandatory, or Mandatory/Employee-paid).

(11) Mandatory Long Term Disability (LTD) — Educational Entities may select or allow one Mandatory LTD plan per Employee Group unless otherwise specified in an OEBB administrative rule. This plan requires 100 percent enrollment and the premium is employer-paid. An Employee Group cannot select more than one LTD Plan (Voluntary, Mandatory, or Mandatory/Employee-paid).

(12) Mandatory/Employee-paid Long Term Disability (LTD) — Educational Entities may select or allow one Mandatory/Employee-paid

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LTD plan per Employee Group unless otherwise specified in an OEBB administrative rule. This plan requires 100 percent enrollment and the premium is paid by the employee. An Employee Group cannot select more than one LTD Plan (Voluntary, Mandatory, or Mandatory/Employee-paid).

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a), 243.868(1) & 243.872(2)

Hist.: OEBB 8-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 2-2011, f. & cert. ef. 2-11-11

111-030-0040

Long Term Care (LTC) Benefit Plan Selection Criteria

Educational Entities may select or allow LTC options to be available for or to each Employee Group unless otherwise specified in an OEBB administrative rule. OEBB offers employer-paid and employee-paid LTC options.

(1) Employee-paid LTC is a voluntary plan where members can choose to enroll. No minimum enrollment requirement.

(2) Employer-paid LTC requires 100 percent eligible employee enrollment if selected.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a), 243.868(1) & 243.872(2)

Hist.: OEBB 8-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 2-2011, f. & cert. ef. 2-11-11

111-030-0045

Employee Assistance Program (EAP) Plan Selection Criteria

(1) Educational Entities may select or allow an EAP option to be available to all Entity employees including, but not limited to, OEBB benefit-eligible employees and their dependents.

(2) Enrollment will happen automatically if selected by an Educational Entity.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a), 243.868(1), 243.872(2)

Hist.: OEBB 8-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 2-2011, f. & cert. ef. 2-11-11

111-030-0050

Premium Rate Structure Selection Process and Limitations

(1) Educational Entities may choose a composite or tiered rate structure for each Employee Group for medical, dental and vision coverage unless otherwise specified in an OEBB administrative rule. The rate structure selected for each coverage type applies to all individuals electing to participate as active employees within an Employee Group.

(2) Educational Entities may select a composite or tiered rate structure for early retirees unless otherwise specified in an OEBB administrative rule.

(3) Educational Entities may select a composite or tiered rate structure for part-time employees of an Employee Group unless otherwise specified in an OEBB administrative rule. If a different rate structure is selected for part-time employees that structure must apply to all participating part-time employees within that Employee Group.

(4) Rate structures must be selected during the plan selection process.

(5) Once an Educational Entity elects a change in rate structure for a type of coverage within an Employee Group, the rate structure selection cannot be changed for at least three plan years. The rate structure change will go into effect on the first day of the next plan year, October 1.

(6) Educational Entities who offered LTD on a composite rate structure prior to moving to OEBB coverages can continue to do so for two plan years, 2009–2010 and 2010–2011. This composite rate structure is available on the mandatory LTD plan which require 100 percent enrollment.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a), 243.868(1) & 243.872(2)

Hist.: OEBB 8-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 2-2011, f. & cert. ef. 2-11-11

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Rule Caption: Amended to update terms used by OEBB and include revisions related to the federal Healthcare Reform Act.

Adm. Order No.: OEBB 3-2011

Filed with Sec. of State: 2-11-2011

Certified to be Effective: 2-11-11

Notice Publication Date: 12-1-2010

Rules Amended: 111-040-0001, 111-040-0005, 111-040-0015, 111-040-0020, 111-040-0025, 111-040-0030, 111-040-0040, 111-040-0050

Rules Repealed: 111-040-0001(T), 111-040-0005(T), 111-040-0015(T), 111-040-0020(T), 111-040-0025(T), 111-040-0030(T), 111-040-0040(T), 111-040-0050(T)

Subject: OAR 111-040-0001 is amended to clarify the effective date of certain optional benefit plans that are subject to Evidence of Insurability by the carrier and update terms used by OEBB. 111-040-0025, 111-040-0030 and 111-040-0050 updates terms used by OEBB. 111-040-0040 is amended to specify when a QSC can be used for Long Term Care. other amendments include revisions that are needed to respond to the new rescission law of coverage provisions and the expanded eligibility for the dependent children under age 26 under the federal Health Care Reform Act.

Rules Coordinator: April Kelly — (503) 378-6588

111-040-0001

Effective Dates

(1) Benefit plan changes or initial elections, unless otherwise specified in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective on the later of:

(a) The first of the month following a completed online enrollment in the OEBB benefit management system or submission of a paper enrollment or change form, or

(b)(A) The first of the month following the date of hire or the date of eligibility; with the following exception:

(B) The first of the month following approval of Evidence of Insurability for Optional Life Insurance above the guarantee issue amount, Long Term Disability, or Long Term Care insurance.

(2) Covered dependent changes are effective the first of the month following the date of the event causing the dependent to be eligible under OEBB administrative rules with the following exceptions:

(a) Coverage for a newborn child is effective on the date of birth. The active eligible employee must add the newborn child to their benefit plans within 60 calendar days from the date of birth in order for the newborn child to be eligible for benefit coverage.

(b) Coverage for a newly adopted child is effective the date of the adoption decree or date of placement for adoption. The active eligible employee must add the adopted child to their benefit plans within 60 calendar days from the date of the decree or placement in order for the newly adopted child to be eligible for benefit coverage; and

(A) The active eligible employee must submit the adoption agreement with the enrollment forms to the Educational Entity.

(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.

(C) The first of the month following approval of Evidence of Insurability for Optional Spouse/Domestic Partner Life insurance above the guaranteed issue amount, if applicable, or Long Term Care Insurance.

(3) Elections made during an open enrollment period are effective on the first day of the new plan year. There will be a 12-month waiting period for services other than preventive dental exams and cleanings and/or routine vision exams for coverage added during the open enrollment period if enrolling in a dental or vision plan in which the employee and/or dependents were previously eligible.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 21-2009, f. & cert. ef. 12-17-09; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. & cert. ef. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11

111-040-0005

Termination Dates

(1) Effective October 1, 2010, benefit coverage for an active eligible employee, a spouse, a domestic partner, or a child ends on the last day of the month that eligibility is lost with the following exceptions:

(a) If the employee's eligibility terminates due to termination of employment, death, reduction in hours, leave, or other alteration of the employee's employment, coverage will end on the last day of the month in which OEBB receives notification of the event from the Educational Entity. No retroactive terminations or adjustments are allowed.

(b) If the active eligible employee notifies the Educational Entity within 31 days after an event terminating eligibility of the employee's spouse, domestic partner, or child, coverage for the spouse, domestic partner, or child will end on the last day of the month in which OEBB receives notification of the event from the Educational Entity. No retroactive terminations or adjustments are allowed.

(2) Effective October 1, 2010, if the active eligible employee fails to notify the employee's Educational Entity within 31 days after an event terminating eligibility of the employee's spouse, domestic partner or child, this may be considered intentional misrepresentation and OEBB may ter-

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minate coverage retroactively to the end of the month in which eligibility was lost. If benefits are to be terminated retroactively, OEBB shall give the affected individual 30 days notice of the termination and an opportunity to appeal before the retroactive termination takes effect.

(3) Benefit coverage for active eligible employees ends on the last day of the month that they retire, unless otherwise determined in a collective bargaining agreement or documented district policy in effect on June 30, 2008. Benefit coverage may be continued based on the requirements and limitations in OARs 111-050-0001 through 111-050-0050.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11

111-040-0015

Removing an Ineligible Individual from Benefit Plans

(1) An active eligible employee is responsible for removing ineligible spouses, domestic partners and children from their OEBB-sponsored benefit plans by submitting completed, applicable forms to their Educational Entity benefits administrator within 31 calendar days after the date the individual becomes ineligible. Coverage ends on the date identified under OAR 111-040-0005.

(2) An active eligible employee ending a domestic partnership must complete and submit a Termination of Domestic Partnership form and enrollment update forms to the Educational Entity benefits administrator within 31 calendar days after the event for removal of the domestic partner and domestic partner's children from their benefit plan. Benefit coverage for the domestic partner and domestic partner's children ends on the date identified in OAR 111-040-0005.

(3) An Educational Entity is responsible for removing ineligible individuals from the OEBB benefits management system. The Educational Entity must complete such removal within 14 calendar days after:

(a) An event resulting in loss of the employee's eligibility, or

(b) The receipt of notification of an event resulting in loss of eligibility of the employee's spouse, domestic partner or child.

(4) If coverage of an employee's spouse, domestic partner or child is terminated retroactively under OAR 111-040-0005(2), then:

(a) The active eligible employee may be responsible for claims previously paid by the benefit plans to the providers during the period of ineligibility at the carrier's discretion; and

(b) Premium adjustments will be made retroactively based on the coverage end date as identified in OAR 111-040-0005(2), not to exceed three months of premium dollars.

(5) OEBB shall conduct audits to monitor compliance with OEBB administrative rules governing eligibility and enrollment.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11

111-040-0020

Open Enrollment

(1) Active eligible employees may make benefit plan changes or elections and add or remove eligible dependents during open enrollment periods as designated by OEBB.

(2) Coverage under OEBB-sponsored benefits plans for an eligible individual added during open enrollment begins on the first day of the new plan year. Dental and vision coverage added during the open enrollment period will be limited to preventive dental exams and cleanings and routine vision exams for the first 12 months of coverage, if the eligible individual and/or their eligible dependents were previously eligible for the coverage. Coverage for an individual terminated during open enrollment ends on the last day of the month of the current plan year.

(3) An active eligible employee hired after the open enrollment period and before the start of the new plan year has open enrollment rights.

(4) Benefit plan elections are irrevocable for the new plan year except as specified in OAR 111-040-0040.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11

111-040-0025

Correcting Enrollment and Processing Errors

(1) Employee Enrollment Errors. Enrollment errors occur when an active eligible employee provides incorrect information or fails to make correct selections when making benefit plan elections. The active eligible employee is responsible for identifying enrollment errors or omissions.

(a) OEBB authorizes Educational Entities to correct enrollment errors reported by the active eligible employee within 60 calendar days of the original eligibility date, open enrollment period end date, or Qualified Status Change date.

(b) Enrollment errors identified after 60 calendar days of the eligibility date, open enrollment period end date or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030.

(2) Benefit Administrator Processing Errors. Processing errors or omissions occur when benefit plan elections are processed incorrectly in the benefit system or when a newly-eligible active eligible employee does not receive correct enrollment information or materials within 31 calendar days of the eligibility date.

(a) OEBB authorizes Educational Entities to correct processing errors identified within 60 calendar days of the eligibility date, open enrollment period end date, or Qualified Status Change date. The Educational Entity must reconcile all premium discrepancies.

(b) Processing errors identified after 60 calendar days of the eligibility date, open enrollment period end date, or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030. The Educational Entity must reconcile all premium discrepancies within 30 calendar days of any adjustments made in the system.

(3) The effective date for the correction of either an employee enrollment error or benefit administrator error is:

(a) Retroactive to the original effective date as identified in OAR 111-040-0001 if the error was made while adding a coverage type, dependent, or 111-040-0005(2) if the error is a failure to notify after an event which terminates eligibility; or

(b) Prospective to the first of the following month as identified in OAR 111-040-0005(1)(a)(b).

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 21-2009, f. & cert. ef. 12-17-09; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11

111-040-0030

Late Enrollment

(1) Late enrollment occurs when an active eligible employee fails to enroll for benefits within 31 calendar days of:

(a) The date of hire or other benefit eligibility date as identified in OAR 111-040-0001;

(b) The date a spouse, domestic partner, or child gains eligibility;

(c) The date of marriage to a spouse who was most recently enrolled as a domestic partner; or

(d) The date of birth of the employee's biological newborn child.

(2) OEBB authorizes Educational Entities to approve late enrollment requests for active eligible employees and dependents when the request is reported within 60 calendar days of the eligibility dates referenced in sections (1)(a), (1)(b), (1)(c) and (1)(d).

(3) OEBB must review and approve all late enrollment requests based on OAR 111-080-0030 when the request is made more than 60 calendar days after the eligibility dates referenced in sections (1)(a), (1)(b), (1)(c) and (1)(d).

(4) Approved late enrollment requests, unless determined otherwise in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective the first of the month following the date the request is received by a district benefits administrator or OEBB, except for approved requests to add newborn children which are retroactive to the month the child was born along with any premium adjustments.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 21-2009, f. & cert. ef. 12-17-09; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11

111-040-0040

Qualified Status Changes (QSC)

(1) Active eligible employees experiencing a change in family or work status as noted below after annual enrollment, or anytime during the plan year, have 31 calendar days beginning on the date of the event to make changes. If the event is gaining a child, as defined by 111-040-0040(2)(c), or results in a loss of eligibility, the eligible employee has 60 calendar days after the event to make changes.

(2) The eligible employee can only make changes that are consistent with the event for themselves and/or dependents.

(3) The employee must report the Qualified Status Change (QSC) to the employee's Educational Entity within the specified timeframe. Failure

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to report a QSC that will result in removal of a spouse, domestic partner, or child within the timeframe stated in 111-040-0040(1) may be considered intentional misrepresentation, and OEBB may retroactively terminate the individual's coverage back to the last day of the month in which the individual lost eligibility. Please refer to the QSC matrix for details on what changes can occur with each event.

(4) Qualified Status Changes which allow the employee to make changes to his or her coverage are:

(a) Gain spouse by marriage or domestic partner by meeting domestic partner eligibility;

(b) Loss of spouse or domestic partner by divorce, annulment, death or termination of domestic partnership,

(c) Gain a child by birth, placement for/or adoption, or Domestic Partner's children (by affidavit of domestic partnership),

(d) Active eligible employee starts new employment and gains eligibility;

(e) Change in employment status by active eligible employee which affects eligibility;

(f) Active eligible employee ends employment or other change in employment status resulting in a loss of eligibility;

(g) Spouse or domestic partner starts new employment or other change in employment status which affects eligibility;

(h) Spouse or domestic partner's employment ends or other change in employment status resulting in a loss of eligibility under their employer's plan;

(i) Event by which a child satisfies eligibility requirements under OEBB plans (for a list of requirements see 111-010-0015);

(j) Event by which a child ceases to satisfy eligibility requirements under OEBB plans (for a list of requirements see 111-010-0015);

(k) Changes in the residence of the active eligible employee, spouse, domestic partner, or child (i.e., moving out of the service area of an HMO);

(l) Reinstatement of coverage. Reinstatement can be used in the following situations:

(A) Military (USERRA)

(B) When coverage was continued under COBRA

(C) When coverage was terminated in error and there is no lapse in coverage.

(m) Significant changes in cost of the eligible employee's or early retiree's current plan and tier level that result in a negative impact of 10 percent or more to:

(A) The amount an active eligible employee or early retiree must contribute toward benefits.

(B) The amount a spouse or domestic partner must contribute toward his or her group health insurance plan cost.

(n) Related laws or court orders. For example: Qualified Medical Child Support Order (QMSCO), Medicare, HIPAA, or Family Health Insurance Assistance Program (FHIAP). Changes are determined by the applicable law or court order.

(5) Changes in coverage, or contribution amounts that result in a reduced amount that an employee or eligible dependent must contribute toward benefits, do not constitute a Qualified Status Change.

(6) The following applies to the Long Term Care benefit plans only:

(a) Employees can cancel the plan at anytime without a QSC event.

(b) Plan additions or changes require a QSC event as defined 111-040-0040(2). The addition of a plan, or change in plans, with a QSC is subject to a medical evidence review by the LTC carrier.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 10-2009(Temp), f. 5-4-09, cert. ef. 5-5-09 thru 10-31-09; OEBB 11-2009, f. & cert. ef. 7-31-09; OEBB 17-2009(Temp), f. & cert. ef. 10-7-09 thru 4-4-10; OEBB 22-2009, f. & cert. ef. 12-17-09; OEBB 2-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; OEBB 6-2010, f. & cert. ef. 8-3-10; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11

111-040-0050

Declaration of Coverage

(1) As used in this section:

(a) "Opting out of coverage" means that an individual elects not to enroll in a medical plan and is eligible to receive a portion of the cash contribution or other type of remuneration as provided for under a collective bargaining agreement, documented district policy, or employment contract.

(b) "Waiving benefits" means that an individual elects not to enroll in any one of the benefit plans available under the OEBB-sponsored benefits program and is not eligible to receive any portion of a cash contribution or other type of remuneration.

(2) Unless otherwise specified in a collective bargaining agreement, documented district policy or employment contract in effect on July 1, 2008, an eligible employee may opt out of the OEBB-sponsored medical benefit plans. Eligible employees electing to opt out must:

(a) Maintain coverage under another employer-sponsored group medical benefit plan;

(b) Meet the requirements of the district opt out program in which they are participating;

(c) Submit their election to opt out through the OEBB benefit management system; and

(d) If requested, provide proof of current coverage under another employer-sponsored group medical benefit plan.

(3) Eligible employees electing to opt out of the OEBB-sponsored medical benefit plans may enroll in the dental benefit plans, vision benefit plans, and optional benefit plans.

(4) The level and type of funds and allowances retained by eligible employees and districts as a result of opt out programs are determined through collective bargaining agreements and documented district policies.

(5) An Educational Entity will provide OEBB with a written description of its opt out program upon request.

(6) An eligible employee may waive medical, dental and vision or any combination of benefits provided under the OEBB-sponsored benefits program.

(7) Elections to opt out of the medical benefit plans or waive benefits must be made at the time of hire, when initially meeting eligibility, during an open enrollment period, or following a QSC event.

(8) An eligible employee previously opting out of coverage or waiving benefits may enroll in benefit plans consistent with a QSC event or during an open enrollment period.

(a) Coverage for previously OEBB-eligible employees or a previously OEBB-eligible dependent enrolling in the dental and/or vision plans during an open enrollment period will be limited to routine and preventive care for the first 12 months and subject to a 12-month waiting period for orthodontia coverage.

(b) Eligible employees who enroll in the dental or vision plans, or add previously OEBB-eligible dependents to the dental and vision plans, due to a QSC event will not be subject to waiting periods.

(9) Eligible employees electing to not enroll when initially eligible for optional insurance plans will have to go through a medical review process to obtain optional life insurance.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 9-2008, f. 6-25-08, cert. ef. 6-26-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 21-2009, f. & cert. ef. 12-17-09; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11

Rule Caption: Amendments include rule revisions related to updating terminology, clarifying language and the federal Healthcare Reform Act.

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Rules Amended: 111-050-0001, 111-050-0010, 111-050-0015, 111-050-0016, 111-050-0020, 111-050-0025, 111-050-0030, 111-050-0035, 111-050-0045, 111-050-0050, 111-050-0060, 111-050-0065, 111-050-0070, 111-050-0075, 111-050-0080

Rules Repealed: 111-050-0001(T), 111-050-0010(T), 111-050-0015(T), 111-050-0016(T), 111-050-0020(T), 111-050-0025(T), 111-050-0030(T), 111-050-0035(T), 111-050-0045(T), 111-050-0050(T), 111-050-0060(T), 111-050-0065(T), 111-050-0070(T), 111-050-0075(T), 111-050-0080(T)

Subject: Amendments include revisions that are needed to respond to the new rescission of coverage provisions of the federal Healthcare Reform Act on coverages continued under COBRA and early retiree plans. Other amendments clarify language relating to retired eligible employees, add Long Term Care and update terminology used by OEBB.

Rules Coordinator: April Kelly — (503) 378-6588

ADMINISTRATIVE RULES

111-050-0001

Continuation of Group Medical and Dental Insurance Coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA)

COBRA allows an eligible individual losing group health plan coverage due to a qualifying event to continue their coverage for a limited time on a self-pay basis.

(1) OEGB will issue or cause the issuance of an initial COBRA notice explaining the right to continue medical and dental insurance plans to all newly eligible employees and individuals.

(a) The notice must be mailed to the eligible employee's known address immediately following enrollment in OEGB medical or dental insurance plans. The notice must include all known eligible individuals residing at the address. Known eligible individuals residing separately from the eligible employee must be mailed a separate notice at their known address.

(b) The initial COBRA notice must be mailed to individuals becoming newly eligible due to marriage or the formation of a domestic partnership.

(2) A COBRA triggering event must cause the loss of benefit coverage. COBRA triggering events include:

- (a) An involuntary reduction in hours or layoff;
- (b) A strike or lockout;
- (c) The beginning of an unpaid leave of absence;
- (d) The termination of employment;
- (e) Retirement;
- (f) A child no longer satisfying eligibility requirements;
- (g) The loss of employer-sponsored group coverage for dependents due to Medicare eligibility;

(h) A divorce or termination of a domestic partnership; and
(i) The death of the employee.

(3) All individuals losing eligibility due to a triggering event must receive a COBRA continuation notice.

(4) An eligible employee or dependent has 60 days from the receipt of the COBRA notice to activate their COBRA rights of continuation and 45 days from the election date to pay the initial premium. Generally, OEGB-sponsored insurance coverage must be continuous.

(5) Generally, medical plans may be continued under COBRA provisions for the following basic maximum coverage periods:

(a) 18 months after the date of the triggering events specified in section (2)(a)–(e) above; and

(b) An 11 month extension is provided to COBRA participants when there is a disability determination by the Social Security Administration and the plan is notified within the required timeline, resulting in a 29 month coverage period; or

(c) 36 months after the date of the triggering events specified in section (2)(f)–(i) above.

(6) An eligible employee's spouse or domestic partner who is 55 years of age or older and who loses benefit coverage due to events specified in section (2)(h) and (i) above, may continue OEGB medical insurance coverage for themselves and their children beyond the general 36-month COBRA continuation period. An eligible individual may continue their OEGB medical insurance coverage until they are entitled to Medicare, are covered under another group medical insurance plan or otherwise lose eligibility.

(7) An eligible individual continuing OEGB medical insurance coverage only or medical and dental insurance coverage under COBRA provisions has the same rights as active eligible employees for making changes midyear and during the open enrollment period.

(8) COBRA coverage will terminate on the last day of the month for which premiums are paid in full.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEGB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEGB 7-2008, f. & cert. ef. 4-15-08; OEGB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEGB 3-2009, f. & cert. ef. 1-30-09; OEGB 13-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEGB 4-2011, f. & cert. ef. 2-11-11

111-050-0010

Eligibility for Retiree Insurance Coverage

(1) An eligible retired employee and their eligible dependents enrolled in an OEGB benefit plan or district benefit plan for active employees may continue participation in any OEGB retiree, dental, vision, life or accidental death and dismemberment insurance plan or plans available to his or her Employee Group if selected by an Educational Entity. Insurance coverage under the OEGB or district active benefit plans, as an employee

or as a dependent of an employee, and retiree benefit plans must be continuous.

(2) Eligible retired employees and eligible dependents not yet eligible for Medicare due to age or a disability will have the option to continue enrollment in an OEGB retiree medical plan. Insurance coverage under the OEGB or district active benefit plan, as an employee or as a dependent of any employee, and the retiree benefit plan must be continuous.

(3) A retired employee must be:

(a) Receiving a service or disability retirement allowance or pension under the Public Employees Retirement System (PERS) or under any other retirement or disability benefit plan or system offered by an OEGB participating organization for its employees;

(b) Eligible to receive a service retirement allowance under PERS and has reached earliest retirement age under ORS Chapter 238;

(c) Eligible to receive a pension under ORS 238A.100 to 238A.245 and has reached earliest retirement age as described in ORS 238A.165; or

(d) Eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by an OEGB participating organization and has reached earliest retirement age under the plan or system.

(4) A retired eligible employee may continue medical, dental, vision, optional life and accidental death and dismemberment coverage for themselves only or may continue to cover any eligible dependents who were enrolled in the employee's active plan immediately prior to the retirement as long as the coverage and plan options are included in the plans offered by the Educational Entity.

(5) Basic life and basic accidental death and dismemberment requires 100 percent mandatory enrollment unless otherwise specified in a collective bargaining agreement in effect on or before September 30, 2009, and the Educational Entity can provide documentation that supports the administration of this benefit.

(6) A former eligible employee who elects COBRA and is also eligible for retiree benefits or later becomes eligible as a retired employee will have the right to transfer the COBRA medical, dental, and vision insurance coverage to the OEGB retiree benefit plans at any time during COBRA or within 30 days of the COBRA end date. Insurance coverage under the OEGB active, COBRA and retiree benefit plans must be continuous.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEGB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEGB 7-2008, f. & cert. ef. 4-15-08; OEGB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEGB 3-2009, f. & cert. ef. 1-30-09; OEGB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEGB 1-2010, f. & cert. ef. 2-1-10; OEGB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEGB 4-2011, f. & cert. ef. 2-11-11

111-050-0015

Medical, Dental and Vision Termination Dates for Retirees

(1) A retiree enrolled in OEGB retiree insurance plan that becomes eligible for Medicare coverage may not continue on an OEGB medical or vision plan, unless they are eligible as a result of end-stage renal disease. OEGB benefits end the last day of the month prior to the Medicare effective date. The retiree is responsible for reporting to their Educational Entity and to OEGB when the retiree is covered by Medicare within 31 days after the Medicare coverage effective date. Failure to report within this timeframe may be considered intentional misrepresentation by OEGB and OEGB may retroactively terminate OEGB coverage back to the last day of the month prior to the Medicare effective date.

(2) If a retiree becomes eligible for Medicare coverage, but his or her currently-enrolled eligible dependents are not, these eligible individuals may continue OEGB medical, dental and vision insurance coverage until such time as they no longer meet OEGB eligibility requirements or become eligible for Medicare coverage for reasons other than end-stage renal disease, whichever occurs first. The eligible individuals must confirm intent to continue coverage with the retiree plan administrator within 31 days after the retiree's eligibility for Medicare.

(3) Eligible dependents who were covered on a plan at the time of retirement who are eligible for Medicare, or who become eligible for Medicare, may not continue coverage on an OEGB medical or vision plan unless it is stated in a collective bargaining agreement or documented district policy in effect on or before February 1, 2010, that they may continue on OEGB medical plans until the retiree becomes eligible for Medicare with the following exception: OEGB coverage must end for Medicare-eligible dependents of a retiree enrolled on a Kaiser Permanente medical plan.

(4) If the retiree is responsible for self-paying all or partial premiums and fails to remit the premium amount to their Educational Entity, all coverage will terminate on the last day of the month in which premiums are paid in full to OEGB.

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(5) Dental coverage may be continued subject to the Educational Entity's documented district policy or collective bargaining agreement. Coverage is based on the OEBB dental plans that the Educational Entity offers to retired OEBB Medicare-eligible individuals.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 7-2008, f. & cert. ef. 4-15-08; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 13-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0016

Life and Accidental Death and Dismemberment Termination Dates for Retirees

(1) Retired employees may continue to participate in any or all coverage and plan options selected by the Educational Entity for his or her Employee Group until they reach age 65, unless otherwise specified in a documented district policy or collective bargaining agreement effective on or before February 1, 2010.

(2) Retirees or dependents of retirees who lose eligibility for basic or optional life insurance plans due to reaching age 65 can convert their coverage if requested within 31 days of the date the coverage ends. Requests for conversion of coverage must be made to the Life and AD&D insurance carrier.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0020

Initial Enrollment

(1) A retired eligible employee has 60 calendar days from the end date of active eligible employee insurance coverage to:

(a) Continue enrollment in OEBB-sponsored medical, dental, vision, basic life, basic accidental death and dismemberment, optional life and optional accidental death and dismemberment plans with the same eligible dependents which were included on your coverage as an active employee; provided they are offered by the Educational Entity.

(b) Disenroll eligible dependents covered during active enrollment. Dependents cannot be re-enrolled once they are dropped from coverage.

(c) Disenroll in any or all plans. Once a retiree drops coverage the retiree cannot re-enroll.

(2) All coverage and dependent enrollments must be continuous from the date the active coverage ends.

(3) Coverage not elected at the time of initial eligibility for early retiree benefits cannot be added at a later date.

(4) Retired eligible employees may choose to continue enrollment in an OEBB-sponsored medical plan, dental plan, basic life, basic accidental death and dismemberment, optional life, or optional accidental death and dismemberment plan, or any combination of these, unless determined otherwise by a collective bargaining agreement or documented district policy with the following restrictions:

(a) The retiree must enroll in an OEBB-sponsored medical plan to continue an OEBB-sponsored vision plan; and

(b) The retiree must enroll in an OEBB-sponsored optional life or optional accidental death and dismemberment plan to continue optional spouse or dependent life or accidental death and dismemberment, respectively.

(c) The Educational Entity offers the plan(s) to their retiree group.

(5) **Plan Change Periods:** OEBB will offer an annual plan change period for retired eligible employees.

(6) A retired eligible employee can change benefit plans consistent with members of their former active Employee Group.

(7) A retired eligible employee may not add dependents or enroll in coverage(s) he or she did not select during the initial enrollment period.

(8) A retired eligible employee may choose to reduce the amount of optional life and optional accidental death and dismemberment coverage for themselves and/or their dependents, but may not increase coverage in these plans.

(9) **Qualified Status Changes (QSC):** A retired eligible employee may make changes consistent with the OEBB QSC Matrix.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0025

Effective Dates

(1) Benefit plan changes or initial elections, unless otherwise specified in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective on the later of:

(a) The first of the month following a completed online enrollment in the OEBB benefit management system or submission of a paper enrollment or change form,

(b) The first of the month following the date of eligibility; or

(c) The first of the month following the approval date of additional optional life insurance requested above the guarantee issue amount.

(2) Covered dependent changes are effective the first of the month following the date of the event causing the dependent to be eligible under OEBB administrative rules with the following exceptions:

(a) Coverage for a newborn child is effective on the date of birth. Retired eligible employee must add the newborn child to their benefit plans within 60 calendar days from the date of birth for the newborn child to be eligible for benefit coverage.

(b) Coverage for a newly adopted child is effective the date of the adoption decree or date of placement for adoption. Retired eligible employee must add the adopted child to their benefit plans within 60 calendar days from the date of the decree or placement for the newly adopted child to be eligible for benefit coverage; and

(A) The retired eligible employee must submit the adoption agreement with the enrollment forms to the Educational Entity.

(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0030

Correcting Enrollment and Processing Errors

(1) Employee Enrollment Errors. Enrollment errors occur when a retired eligible employee provides incorrect information or fails to make correct selections when making benefit plan changes. The retired eligible employee is responsible for identifying enrollment errors or omissions.

(a) OEBB authorizes Educational Entities to correct enrollment errors reported by the retired eligible employee within 60 calendar days of the original eligibility date, annual plan change period end date, or Qualified Status Change date. Corrections are retroactive to the original effective date as identified in OAR 111-040-0001.

(b) Enrollment errors identified after 60 calendar days of the eligibility date, annual plan change period end date or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030. If approved, corrections are retroactive to the original effective date as identified in 111-040-0001.

(2) Benefit Administrator Processing Errors. Processing errors or omissions occur when benefit plan changes are processed incorrectly in the benefit system.

(a) OEBB authorizes Educational Entities to correct processing errors identified within 60 calendar days of the eligibility date, annual plan change period end date, or Qualified Status Change date. Corrections are retroactive to the original effective date as identified in OAR 111-040-0001. The Educational Entities must reconcile all premium discrepancies.

(b) Processing errors identified after 60 calendar days of the eligibility date, annual plan change period end date, or midyear benefit plan change date must be submitted to OEBB for review and approval based on OAR 111-080-0030. If approved, corrections are retroactive to the original effective date as identified in 111-040-0001. The Educational Entity must reconcile all premium discrepancies within 30 calendar days of any adjustments made in the system.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 13-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0035

Late Enrollment

(1) Late enrollment occurs when a retired eligible employee fails to enroll for benefits within 60 days of retirement or fails to add an eligible dependent within 31 calendar days of:

(a) The date a spouse, domestic partner, or child gains eligibility;

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(b) The date of marriage to a spouse who was most recently enrolled as a domestic partner; or

(c) The date of birth of the retired eligible employee's biological newborn child.

(2) OEBB authorizes Educational Entities to approve late enrollment requests for retired eligible employees and dependents when the request is reported within 60 calendar days of the eligibility dates referenced in sections (1)(a), (1)(b), and (1)(c).

(3) OEBB must review and approve all late enrollment requests based on OAR 111-080-0030 when the request is made more than 60 calendar days after the eligibility dates referenced in sections (1)(a), (1)(b), and (1)(c).

(4) Approved late enrollment requests, unless determined otherwise in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective the first of the month following the date the request is received by a district benefits administrator or OEBB, except for approved requests to add newborn children which are retroactive to the month the child was born along with any premium adjustments.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0045

Termination Dates

(1) Effective October 1, 2010, benefit coverage for a retired eligible employee, a spouse, a domestic partner or a child ends on the last day of the month that eligibility is lost with the following exceptions:

(a) If the retired employee's eligibility terminates, coverage will end on the last day of the month in which OEBB receives notification of the event from the Educational Entity. No retroactive terminations or adjustments are allowed.

(b) If the retired eligible employee notifies the Educational Entity within 31 days after an event terminating eligibility of the employee's spouse, domestic partner, or child, coverage for the spouse, domestic partner, or child will end on the last day of the month in which OEBB receives notification of the event from the Educational Entity. No retroactive terminations or adjustments are allowed.

(2) Effective October 1, 2010, if the retired eligible employee fails to notify the employee's Educational Entity within 31 days after an event terminating eligibility of the employee's spouse, domestic partner or child, this may be considered intentional misrepresentation and OEBB may terminate coverage retroactively to the end of the month in which eligibility was lost. If benefits are to be terminated retroactively, OEBB shall give the affected individual 30 days notice of the termination and an opportunity to appeal before the retroactive termination takes effect.

(3) Benefit coverage for a spouse, domestic partner, or child ends on the last day of the month that a retired eligible employee dies, unless otherwise determined by a collective bargaining agreement or documented district policy in effect on June 30, 2008.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 13-2010(Temp), f. & cert. ef. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0050

Removing an Ineligible Individual from Benefit Plans

(1) A retired eligible employee is responsible for removing ineligible spouses, domestic partners and children from their OEBB-sponsored benefit plans by submitting completed, applicable forms to their Educational Entity benefits administrator within 31 calendar days after the date the individual becomes ineligible. Coverage ends on the date identified under OAR 111-050-0045.

(2) A retired eligible employee ending a domestic partnership must complete and submit a Termination of Domestic Partnership form and enrollment update forms to the Educational Entity benefits administrator within 31 calendar days after the event for removal of the domestic partner and domestic partner's dependent children from their benefit plan. Benefit coverage for the domestic partner and domestic partner's dependent children ends on the date identified in OAR 111-050-0045.

(3) An Educational Entity is responsible for removing ineligible individuals from the OEBB benefits management system. The Educational Entity must complete such removal within 14 calendar days after:

(a) An event resulting in loss of the retired employee's eligibility, or

(b) The receipt of notification of an event resulting in loss of eligibility of the retired employee's spouse, domestic partner or child.

(4) If coverage of an employee's spouse, domestic partner or child is terminated retroactively under OAR 111-050-0045(2), then:

(a) The retired eligible employee may be responsible for claims previously paid by the benefit plans to the providers during the period of ineligibility at the carrier's discretion; and

(b) Premium adjustments will be made retroactively based on the coverage end date as identified in OAR 111-050-0015 and 111-050-0045, not to exceed three months of premium dollars.

(5) OEBB shall conduct audits to monitor compliance with OEBB administrative rules governing eligibility and enrollment.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 13-2010(Temp), f. & cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0060

Continuation of Coverage for Eligible Employees Covered under the Federal Family Medical Leave Act

OEBB will allow Educational Entities to continue medical, dental and vision coverage for Active Eligible Employees when the employee is granted leave under the Federal Family Medical Leave Act (FMLA) as required under related federal rules and regulations.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 16-2008(Temp), f. & cert. ef. 10-16-08 thru 4-13-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0065

Continuation of Coverage for Eligible Employees Covered under the Oregon Family Leave Act

OEBB will allow Educational Entities to continue medical, dental and vision coverage for Active Eligible Employees when the employee is granted leave under the Oregon Family Leave Act (OFLA) as required under related state rules and regulations.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 16-2008(Temp), f. & cert. ef. 10-16-08 thru 4-13-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0070

Continuation of Coverage for Eligible Employees during an Approved Leave of Absence.

OEBB will allow Educational Entities to continue medical, dental and vision coverage for Active Eligible Employees when the employee is granted a leave of absence based on collective bargaining agreements and/or documented district policies in effect on or before October 1, 2008.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 16-2008(Temp), f. & cert. ef. 10-16-08 thru 4-13-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0075

Continuation of coverage for Eligible Employees on Active Military Service

OEBB will allow Educational Entities to continue medical, dental, and vision coverage for Active Eligible Employees as required under the Uniformed Services Employment and Reemployment Rights Act (USERRA) and related federal rules and regulations.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 16-2008(Temp), f. & cert. ef. 10-16-08 thru 4-13-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

111-050-0080

Portability and Conversion of Coverage

(1) OEBB medical, life and accidental death and dismemberment carrier(s) will make portability plans available to members in accordance with related state and federal laws, rules and regulations. Eligibility criteria for this coverage can be found in carrier member handbooks.

(2) OEBB life insurance carrier(s) will make conversion plans available to members in accordance with related state and federal laws, rules and regulations. Eligibility criteria for this coverage can be found in the carrier's member handbook.

(3) OEBB long term care carrier(s) will transfer the coverage from a Group Long Term Care to an Individual Long Term Care policy and premiums will be paid directly to the carrier upon request.

Stat. Auth.: ORS 243.860 - 243.886

ADMINISTRATIVE RULES

Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 16-2008(Temp), f. & cert. ef. 10-16-08 thru 4-13-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11

Rule Caption: Amended to include revisions related to the federal Healthcare Reform Act.

Adm. Order No.: OEBB 5-2011

Filed with Sec. of State: 2-11-2011

Certified to be Effective: 2-11-11

Notice Publication Date: 12-1-2010

Rules Amended: 111-070-0030, 111-070-0040

Rules Repealed: 111-070-0030(T), 111-070-0040(T)

Subject: Amendments include revisions that are needed to respond to the new rescission of coverage provisions of the federal Healthcare Reform Act as they relate to the coverage available to part-time community college and higher education employees eligible for coverage under HB 2557 (2009).

Rules Coordinator: April Kelly—(503) 378-6588

111-070-0030

Termination

(1) OEBB coverage will be terminated under the following circumstances:

(a) Premiums are not paid in full by the due date. Coverage is contingent upon the receipt of the full monthly premium payment. Coverage will be terminated on the last day of the month in which premiums were paid in full; or

(b) Upon notification and confirmation that an individual was not eligible for benefits due to adjustments that affect the individual's PERS membership. Coverage will be terminated on the last day of the month in which OEBB receives confirmation of ineligibility; or

(c) Upon notification and confirmation that an individual was not eligible for benefits due to not being a teaching or research faculty member during the calendar year upon which eligibility determination was based. Coverage will be terminated on the last day of the month in which OEBB receives confirmation of ineligibility.

(2) Eligibility for PERS membership is lost during the previous calendar year. Coverage will be terminated on the September 30th following the calendar year in which PERS membership is lost.

(3) Upon loss of OEBB coverage due to a qualifying event, HB 2557 eligible members and their eligible dependents will have COBRA rights. Cancellation due to failure to make a premium payment does not constitute COBRA rights.

Stat. Auth.: ORS 243.860 – 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 4-2010, f. & cert. ef. 3-15-10; OEBB 14-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 5-2011, f. & cert. ef. 2-11-11

111-070-0040

Qualified Status Changes (QSC's)

(1) HB 2557 eligible members experiencing a change in family status the plan year, have 31 calendar days beginning on the date of the event to make changes. If the event is gaining a child, as defined by 111-070-0040(2)(c), or results in a loss of eligibility, the eligible member has 60 calendar days after the event to make changes.

(a) The member must report the Qualified Status Change (QSC) to the Oregon Educators Benefit Board within the specified timeframe. Failure to report a QSC that would result in a removal of a spouse, domestic partner or child within the timeframe stated in 111-070-0040(1) may be considered intentional misrepresentation by OEBB and OEBB may retroactively terminate the individuals coverage back to the last day of the month in which the individual lost eligibility. If benefits are to be terminated retroactively, OEBB shall give the affected individual 30 days notice of the termination and an opportunity to appeal before the retroactive termination takes effect.

(b) The member's failure to report timely a QSC that allows the addition of a spouse, domestic partner, or child means that the individual does not have coverage. The next opportunity the HB 2557 eligible member has to add their spouse, domestic partner, or child will be during open enrollment.

(2) The HB 2557 eligible member can only make those changes that are consistent with the event for themselves and eligible dependent(s).

(3) Qualified Status Changes which allow the member to make changes to his or her coverage are:

(a) Gain spouse by marriage or domestic partner by meeting domestic partner eligibility;

(b) Loss of spouse or domestic partner by divorce, annulment, death or termination of domestic partnership;

(c) Gain child by birth, placement for/or adoption, or Domestic Partner's children (by affidavit of domestic partnership), 60 days from the event;

(d) Event by which dependent child satisfies eligibility requirements under OEBB plans (for a list of requirements see 111-010-0015);

(e) Event by which dependent ceases to satisfy eligibility requirements under OEBB plans (for a list of requirements see 111-010-0015);

(f) Changes in cost or coverage do not constitute a Qualified Status Change. All changes resulting from a change in cost or coverage must be made during Open Enrollment.

(g) Related laws or court orders. For example: Qualified Medical Child Support Order (QMSCO), Medicare, or HIPAA. Changes are determined by the applicable law or court order, and the Family Health Insurance Assistance Program (FHIAP).

Stat. Auth.: ORS 243.860 – 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 4-2010, f. & cert. ef. 3-15-10; OEBB 14-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 5-2011, f. & cert. ef. 2-11-11

Rule Caption: Revised definition of eligible employee.

Adm. Order No.: OEBB 6-2011(Temp)

Filed with Sec. of State: 2-15-2011

Certified to be Effective: 2-15-11 thru 8-13-11

Notice Publication Date:

Rules Amended: 111-010-0015

Subject: At the December Board meeting, the OEBB Board approved a required to expand eligibility to certain part-time employees. This revision to OAR 111-010-0015 includes a revised definition of eligible employee to include this group.

Rules Coordinator: April Kelly—(503) 378-6588

111-010-0015

Definitions

Unless the context indicates otherwise, as used in OEBB administrative rules, the following definitions will apply:

(1) "Actuarial value" means the expected financial value for the average member of a particular benefit plan.

(2) "Adverse Benefit Determination" means a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part), for a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on but not limited to:

(a) A determination of a member's eligibility to participate in the plan;

(b) A determination that the benefit is not a covered benefit; or

(c) A rescission of coverage, whether or not, in connection with rescission, there is an adverse effect on any particular benefit.

(3) "Affidavit of Domestic Partnership" means a document that attests the eligible employee and one other eligible individual meet the criteria in section (15)(b).

(4) "Benefit plan" includes, but is not limited to, insurance or other benefits including:

(a) Medical;

(b) Dental;

(c) Vision;

(d) Life, disability and accidental death;

(e) Long term care;

(f) Flexible spending accounts;

(g) Supplemental medical, dental and vision;

(h) Any other remedial care recognized by state law, and related services and supplies;

(i) Comparable benefits for employees who rely on spiritual means of healing; and

(j) Self insurance programs managed by the Board.

(5) "Benefits" means goods and services provided under benefit plans.

(6) "Board" means the ten-member board established in the Department of Administrative Services as the Oregon Educators Benefit Board under chapter 00007, Oregon Laws 2007.

(7) "Child" means and includes the following:

(a) An eligible employee's, spouse's, or domestic partner's biological son, daughter, stepson, or stepdaughter; adopted child, child placed for adoption, or legally placed child, who is 25 or younger on the first day of

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the month. An eligible employee must provide the required custody or legal documents to their Educational Entity showing proof of adoption, legal guardianship or other court order if enrolling a child for whom the employee, spouse, or domestic partner is not the biological parent

(b) A person who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. 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 Educational Entity or OEBB that (1) the person had health plan coverage, group or individual, prior to attaining age 26, and (2) health plan coverage continued without a gap until the OEBB health plan effective date.

(C) The person's attending physician must submit documentation of the disability to the eligible employee's OEBB health insurance plan for review and approval. If the person receives health plan approval, the health plan may review the person's health status at any time to determine continued OEBB coverage eligibility.

(D) The person must not have terminated from OEBB health plan coverage after attaining the age of 26.

(c) Eligibility for coverage under this rule includes people who may not be dependents under federal or state tax law and may require an Educational Entity to adjust an Eligible Employee's income based on the imputed value of the benefit.

(8) "Comparable cost (Medical, Dental and Vision)" means that the total cost to a district for enrollment in OEBB plans comparable in design to the district's plan(s) do not exceed the total cost to a district for enrollment in the district's plan(s) using the rate(s) in effect or proposed for the benefit plan year.

(9) "Comparable cost (Basic and Optional Life Insurance, Accidental Death & Dismemberment, and Short and Long Term Disability)" means that the premium rates of an OEBB plan design option do not exceed the average, aggregate premium rates of a district's pre-OEBB plan design in effect the year prior to implementation.

(10) "Comparable plan design (Medical, Dental and Vision)" means that the actuarial values of two plan designs are within 2.5 percent higher or lower of each other.

(11) "Comparable plan design (Basic and Optional Life Insurance and Accidental Death & Dismemberment)" means that 90 percent of district employees can obtain a maximum benefit through an OEBB plan design that is within \$2,500 of the maximum benefit obtained through a pre-OEBB plan design in effect the year prior to implementation.

(12) "Comparable plan design (Short and Long Term Disability)" means 90 percent of the district employees can obtain the same elimination period, percentage of covered compensation, definition of covered compensation, coverage period duration, and maximum payment per benefit period through an OEBB plan design as through a pre-OEBB plan design in effect the year prior to implementation.

(13) "Dependent" means and includes the Employee's Spouse or Domestic Partner, or child as defined by OAR 111-010-0010(7) or other person having a relation to the subscriber as defined by the Contractor.

(14) "Documented district policies" means Educational Entities' policies and practices that apply to an employee group and are submitted to the Oregon Educators Benefit Board during the plan selection process. Educational Entities' policies and practices must be identified and submitted with the applicable employee group plan selections.

(15) "Domestic partner," unless otherwise defined by a collective bargaining agreement or documented district policy in effect on January 31, 2008, means and includes the following:

(a) An unmarried individual of the same sex who has entered into a "Declaration of Domestic Partnership" with the eligible employee that is recognized under Oregon law; or

(b) An unmarried individual of the same or opposite sex who has entered into a partnership that meets the following criteria:

(A) Both are at least 18 years of age;

(B) Are responsible for each other's welfare and are each other's sole domestic partners;

(C) Are not married to anyone and have not had a spouse or another domestic partner within the prior six months. If previously married, the six-month period starts on the final date of divorce;

(D) Share a close personal relationship and are not related by blood closer than would bar marriage in the State of Oregon;

(E) Have jointly shared the same regular and permanent residence for at least six months immediately preceding the date the Affidavit of Domestic Partnership is signed and submitted to the Educational Entity; and

(F) Are jointly financially responsible for basic living expenses defined as the cost of food, shelter and any other expenses of maintaining a household. Financial information must be provided if requested.

(G) The eligible employee and domestic partner must jointly complete and submit to the Educational Entity an Affidavit of Domestic Partnership form, within five business days of the electronic enrollment date or the date the Educational Entity received the enrollment/change form. If the affidavit is not received, coverage will terminate for the domestic partner retroactive to the effective date.

(c) The domestic partner must notify the Educational Entity within 31 days of meeting all criteria as defined in 111-010-0015 (15)(b) or obtaining the "Declaration of Domestic Partnership" which is recognized under Oregon law.

(d) Educational Entities' must calculate and apply applicable imputed value tax for domestic partners covered under OEBB benefit plans.

(16) "Educational Entity" means public school districts (K-12), education service districts (ESDs), community colleges and public charter schools participating in OEBB.

(17) "Eligible employee" means and includes:

(a) "Active eligible employee" means an employee of an OEBB participating organization who is:

(A) Employed or is in a job-sharing position on a half time or greater basis; or

(B) Meets the definition of an eligible employee under a separate OEBB rule or under a collective bargaining agreement or documented district policy in effect on January 31, 2008; or

(C) An employee of a community college who is covered under a collectively bargained contract and has worked a class load of between 25 percent and 49 percent for a minimum period of two years and is expected to continue to work a class load of at least 25 percent. Coverage is limited to medical to include Kaiser Medical Plan 1A (where available), ODS Medical Plan 8 (with Plan C pharmacy) and ODS Medical Plan 9. The tiered rate structure will apply to all medical plans.

(b) "Retired eligible employee" means a previously active eligible employee, who is:

(A) Receiving a service or disability retirement allowance or pension under the Public Employees Retirement System (PERS) or under any other retirement or disability benefit plan or system offered by an OEBB participating organization for its employees;

(B) Eligible to receive a service retirement allowance under PERS and has reached earliest retirement age under ORS Chapter 238;

(C) Eligible to receive a pension under ORS 238A.100 to 238A.245 and has reached earliest retirement age as described in ORS 238A.165; or

(D) Eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by an OEBB participating organization and has reached earliest retirement age under the plan or system.

(18) "Employee Group" means employees of a similar employment type, for example administrative, represented classified, non-represented classified, confidential, represented licensed, or non-represented licensed, within an Educational Entity. If one or more collective bargaining unit exists within an employee group, each unit will be considered a separate employee group.

(19) "Members" means and includes the following:

(a) "Eligible employee" as defined by OAR 111-010-0015(17).

(b) "Child" as defined by OAR 111-010-0015(7).

(c) "Domestic Partner" as defined by OAR 111-010-0015(15).

(d) "Spouse" as defined by OAR 111-010-0015(25).

(20) "Non-subject District" means a community college, district or a charter school if the employees are not considered employees of a school district.

(21) "Oregon Educators Benefit Board or OEBB" means the program created under chapter 00007, Oregon Laws 2007.

(22) "OEBB participating organization" means a Subject District, Non-subject District, or Provisional Non-subject District that participates in benefit plans provided by the Oregon Educators Benefit Board (OEBB).

(23) "Provisional Non-subject District" means a common school district, a union high school district, or an education service district that:

(a) Was self-insured on December 31, 2006;

(b) Had an independent health insurance trust established and functioning on December 31, 2006; or

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(c) Can provide comparable plan designs at a comparable cost as defined by sections (8) and (10) of this Rule.

(24) "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.

(25) "Spouse" means a person of the opposite sex who is a husband or wife. Except as provided in Oregon Constitution Article XV, Section 5a, a relationship recognized as a marriage in another state 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.

(26) "Subject District" means a common school district, a union high school district, or an education service district that:

- (a) Did not self-insure on January 1, 2007;
- (b) Did not have a health trust in effect on January 1, 2007; or
- (c) Does not provide comparable plan designs at a comparable cost as defined by sections (8) and (10) of this Rule.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.860(1)(a)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 2-2008, f. & cert. ef. 1-4-08; OEBB 10-2008(Temp), f. & cert. ef. 8-13-08 thru 2-6-09; OEBB 1-2009, f. & cert. ef. 1-30-09; OEBB 5-2009(Temp), f. & cert. ef. 3-10-09 thru 9-4-09; OEBB 8-2009, f. & cert. ef. 5-1-09; OEBB 12-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 19-2009, f. & cert. ef. 12-17-09; OEBB 7-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 11-2010(Temp), f. & cert. ef. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 1-2011, f. & cert. ef. 2-11-11; OEBB 6-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11

Rule Caption: Amend OEBB's qualified status change rule.

Adm. Order No.: OEBB 7-2011(Temp)

Filed with Sec. of State: 2-15-2011

Certified to be Effective: 2-15-11 thru 8-13-11

Notice Publication Date:

Rules Amended: 111-040-0040

Subject: OAR 111-040-0040 is amended to include a qualified status change which allows an OEBB member to make a change to their benefit status selections outside of the annual open enrollment when their spouse/domestic partner's annual open enrollment or plan year is different from OEBB's.

Rules Coordinator: April Kelly—(503) 378-6588

111-040-0040

Qualified Status Changes (QSC's)

(1) Active eligible employees experiencing a change in family or work status as noted below after annual enrollment, or anytime during the plan year, have 31 calendar days beginning on the date of the event to make changes. If the event is gaining a child, as defined by 111-040-0040(2)(c), or results in a loss of eligibility, the eligible employee has 60 calendar days after the event to make changes.

(2) The eligible employee can only make changes that are consistent with the event for themselves and/or dependents.

(3) The employee must report the Qualified Status Change (QSC) to the employee's Educational Entity within the specified timeframe. Failure to report a QSC that will result in removal of a spouse, domestic partner, or child within the timeframe stated in 111-040-0040(1) may be considered intentional misrepresentation, and OEBB may retroactively terminate the individual's coverage back to the last day of the month in which the individual lost eligibility. Please refer to the QSC matrix for details on what changes can occur with each event.

(4) Qualified Status Changes which allow the employee to make changes to his or her coverage are:

- (a) Gain spouse by marriage or domestic partner by meeting domestic partner eligibility;
- (b) Loss of spouse or domestic partner by divorce, annulment, death or termination of domestic partnership;
- (c) Gain a child by birth, placement for/or adoption, or Domestic Partner's children (by affidavit of domestic partnership);
- (d) Active eligible employee starts new employment and gains eligibility;
- (e) Change in employment status by active eligible employee which affects eligibility;
- (f) Active eligible employee ends employment or other change in employment status resulting in a loss of eligibility;
- (g) Spouse or domestic partner starts new employment or other change in employment status which affects eligibility;

(h) Spouse or domestic partner's employment ends or other change in employment status resulting in a loss of eligibility under their employer's plan;

(i) Event by which a child satisfies eligibility requirements under OEBB plans (for a list of requirements see 111-010-0015);

(j) Event by which a child ceases to satisfy eligibility requirements under OEBB plans (for a list of requirements see 111-010-0015);

(k) Changes in the residence of the active eligible employee, spouse, domestic partner, or child (i.e., moving out of the service area of an HMO);

(l) Reinstatement of coverage. Reinstatement can be used in the following situations:

(A) Military (USERRA)

(B) When coverage was continued under COBRA

(C) When coverage was terminated in error and there is no lapse in coverage.

(m) Significant changes in cost of the eligible employee's or early retiree's current plan and tier level that result in a negative impact of 10 percent or more to:

(A) The amount an active eligible employee or early retiree must contribute toward benefits.

(B) The amount a spouse or domestic partner must contribute toward his or her group health insurance plan cost.

(n) Different Open Enrollment/Plan Year under a spouse/domestic partner's employer plan.

(o) Related laws or court orders. For example: Qualified Medical Child Support Order (QMSCO), Medicare, HIPAA, or Family Health Insurance Assistance Program (FHIAP). Changes are determined by the applicable law or court order.

(5) Changes in coverage, or contribution amounts that result in a reduced amount that an employee or eligible dependent must contribute toward benefits, do not constitute a Qualified Status Change.

(6) The following applies to the Long Term Care benefit plans only:

(a) Cancel the plan at anytime without a QSC event.

(b) Plan additions or changes require a QSC event as defined 111-040-0040(2). The addition of a plan or change in plans with a QSC is subject to a medical evidence review by the LTC carrier.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 10-2009(Temp), f. 5-4-09, cert. ef. 5-5-09 thru 10-31-09; OEBB 11-2009, f. & cert. ef. 7-31-09; OEBB 17-2009(Temp), f. & cert. ef. 10-7-09 thru 4-4-10; OEBB 22-2009, f. & cert. ef. 12-17-09; OEBB 2-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; OEBB 6-2010, f. & cert. ef. 8-3-10; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 7-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11

Rule Caption: Amends OEBB's Eligibility and Policy Term Violation rules.

Adm. Order No.: OEBB 8-2011(Temp)

Filed with Sec. of State: 2-15-2011

Certified to be Effective: 2-15-11 thru 8-13-11

Notice Publication Date:

Rules Amended: 111-080-0040, 111-080-0045, 111-080-0050

Subject: Amendments to 111-080-0040, 0045 and 0050 include the addition of new terminology used by OEBB to define an intentional and unintentional violation, as well as the consequences of each should they occur.

Rules Coordinator: April Kelly—(503) 378-6588

111-080-0040

Eligibility and Policy Term Violations — Definitions

For the purposes of OAR 111-080-0045 and 111-080-0050, the following definitions will apply:

(1) "Eligibility or Enrollment Violations" means and includes a violation of the Oregon Educators Benefit Board's eligibility or enrollment rules or policies including fraud or material misrepresentation. Misstatements, misrepresentations, omissions or concealments on the part of the OEBB member are not fraudulent unless they are made with intent to knowingly defraud. OEBB has primary responsibility in investigating such violations. If an Eligibility Violation is considered a violation of the insurance carrier's policy, then the violation may also be considered a Policy Term Violation, and OAR 111-080-0050 would also apply.

(A) "Intentional Violation" is a violation that has occurred in which OEBB has electronic documentation that the member took action in the MyOEBB Member Module during a New Hire event, QSC Request or Open Enrollment period which resulted in eligibility or enrollment confir-

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mation of ineligible dependents. Such action verified eligibility status or enrollment in benefit plans.

(B) "Unintentional Violation" is a violation that has occurred in which the member was not aware that such violation had occurred and there is no evidence of the member logging in and enrolling in MyOEBB Member Module during a New Hire event, QSC Request or Open Enrollment period. Due to member inactivity, the member may not be aware of previously confirmed enrollments and/or dependents.

(2) "Policy Term Violations" means and includes a violation of the insurance carrier's policy terms. The insurance carrier has primary responsibility in investigating such violations.

Stat. Auth.: ORS 243.860 – 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 16-2010, f. & cert. ef. 12-10-10; OEBB 8-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11

111-080-0045

Eligibility Violations

(1) Unintentional Violation:

(a) OEBB will remove from coverage an ineligible OEBB member due to eligibility or enrollment violations. Removal from all benefit plans will be retroactive to the date the individual is determined to have no longer been eligible, or the effective date of coverage if eligibility criteria was never met.

(b) When an eligibility or enrollment violation has been discovered and investigated, OEBB will notify the member and the Educational Entity with the outcome. If the outcome includes rescission of coverage, OEBB will give a 30 day notice of such rescission prior to terminating coverage retroactively to the date the member was no longer eligible for benefits.

(c) The member may be responsible for any claims paid during the period of time the member was enrolled inappropriately.

(2) Intentional Violation:

(a) The ineligible member shall be removed from coverage. The ineligible member's coverage will be retroactively terminated to the date the individual is determined to have no longer been eligible, or the effective date of coverage if eligibility criteria was never met.

(b) The OEBB member shall be terminated along with remaining dependents from all plans excluding basic and mandatory plans selected by the educational entity. This will be a prospective termination lasting for a period of 12 months. The prospective termination will be effective the first day of the following month that the Intentional Violation was discovered.

Stat. Auth.: ORS 243.860 – 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 16-2010, f. & cert. ef. 12-10-10; OEBB 8-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11

111-080-0050

Policy Term Violations

(1) An OEBB-contracted insurance carrier may remove from coverage and/or deny the claims of an OEBB member due to policy term violations. Removal from coverage for policy term violations is at the discretion of the insurance carrier.

(a) If a policy term violation results in a termination from the plan or carrier that the violation was committed, it will not prevent the member from continuing enrollment in other OEBB types of coverages (e.g., medical, dental, vision, life, etc.), as long as they remain an employee and eligible for these benefits.

(b) If an eligible employee commits a policy term violation and loses coverage, OEBB will remove the entire family from the insurance plan since the benefits are extended to his or her dependents through the eligible employee. If the eligible employee chooses to, and it is offered, they can enroll in a different carrier plan (if applicable) during open enrollment and cover themselves and dependents during the upcoming plan year.

(c) If a dependent commits a policy term violation, OEBB will remove only the dependent from the insurance plan. If the eligible employee chooses to and it is offered, they can enroll in a different carrier plan (if applicable) during open enrollment and cover the dependent during the upcoming plan year, or as defined by the carrier.

(d) The OEBB member who is removed from an OEBB sponsored insurance plan may appeal the decision through the carrier that terminated coverage.

(e) When a policy term violation has been discovered and investigated, the applicable insurance carrier will notify OEBB and the member with the outcome.

(2) The insurance carrier may do the following when a member has violated a provision of the policy the OEBB member has enrolled in, committed fraudulent activity or misrepresentation:

(a) The insurance carrier may retain the value of any expenditure it made related to the member who committed the fraudulent activity or misrepresentation.

(b) The insurance carrier may deny future enrollments of the individual in accordance with the carrier's policies.

Stat. Auth.: ORS 243.860 - 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 16-2010, f. & cert. ef. 12-10-10; OEBB 8-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11

Oregon Health Authority, Oregon Medical Insurance Pool Chapter 443

Rule Caption: Updates rule to be consistent to the current years benefits and benefit provisions.

Adm. Order No.: OMIP 1-2011

Filed with Sec. of State: 1-26-2011

Certified to be Effective: 1-26-11

Notice Publication Date: 1-1-2011

Rules Amended: 443-002-0070

Subject: Updates this administrative rule to be consistent with the 2011 benefits, benefit limitations, benefit exclusions, and claims administration, based on the terms of the contract, application, member handbook, and benefit and rate instructions.

Rules Coordinator: Linnea Saris—(503) 378-5672

443-002-0070

Benefits, Benefit Limitations, Benefit Exclusions and Claims Administration

Effective January 1, 2011, Benefits, Benefit Limitations, Benefit Exclusions and Claims Administration for the OMIP program are set forth in the OMIP individual benefit plan contracts as of January 1, 2011, the OMIP application as of January 1, 2011, the OMIP handbook as of January 1, 2011, the OMIP Premium Rates and Instructions pamphlet as of January 1, 2011, the OMIP Benefit Summary pamphlet as of January 1, 2011 and any applicable endorsements. These documents are hereby incorporated into this rule by reference.

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

Stat. Auth.: ORS 735.610(6) & 735.625
Stats. Implemented: ORS 735.600 - 735.650
Hist.: OMIPB 2-2004, f. 12-30-04, cert. ef. 1-1-05; OMIPB 2-2005, f. 12-30-05, cert. ef. 1-1-06; OMIPB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-5-08; OMIPB 1-2008, f. & cert. ef. 1-2-08; OMIPB 1-2008(Temp), f. & cert. ef. 2-12-09 thru 8-10-09; OMIPB 2-2009, f. 3-30-09, cert. ef. 4-15-09; OMIPB 1-2010, f. & cert. ef. 2-9-10; OMIP 1-2011, f. & cert. ef. 1-26-11

Rule Caption: Updates language to mirror enrollee's contract/policy and align with current processing procedures and administration.

Adm. Order No.: OMIP 2-2011

Filed with Sec. of State: 1-26-2011

Certified to be Effective: 1-26-11

Notice Publication Date: 1-1-2011

Rules Amended: 443-002-0190

Subject: This rule filing updates language to mirror current contract language and administration. The current language uses the terms "member", "enrolled dependent", which OMIP does not define. OMIP is replacing all of these terms with the term "enrollee". Furthermore, in 2009 OMIP updated the number of days by which an enrollee has to file for an appeal in the benefit contracts to 30 from 180 calendar days, but inadvertently did not update the rule at that time; therefore, the language in the current rule is not consistent with the language used in the current enrollee's policy/contract.

Rules Coordinator: Linnea Saris—(503) 378-5672

443-002-0190

Grievance, Appeals, External Review

(1) If an enrollee believes that a contract, action, or decision of OMIP is incorrect, the enrollee may file a written grievance or appeal.

(2) The enrollee must first submit a written statement to the Administering Insurers Customer Service Department, within 180 days after the adverse action, containing all the information necessary to explain the issue.

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(a) The Administering Insurer will respond to the enrollee within five business days to acknowledge receipt of the grievance and initiate a formal review.

(b) The Administering Insurer will send a written decision to the enrollee within 30 calendar days after receiving the grievance. In the event more extensive review is needed, the Administering Insurer will notify the applicant or member of the delay and will send a written response to the applicant or member within 45 calendar days after receiving the grievance.

(3) If, after filing a grievance, the enrollee is dissatisfied with the Administering Insurer's response to the grievance, the enrollee may file an appeal, within 30 calendar days.

(a) The Administering Insurer will respond to the enrollee within five business days to acknowledge receipt of the appeal.

(b) The Administering Insurer will mail a written decision to the enrollee within 30 calendar days after receiving the appeal.

(4) If, after filing an appeal, the enrollee is dissatisfied with the outcome of the appeal determination, the enrollee may file a second appeal directly to OMIP.

(a) The enrollee must file an appeal in writing directly to OMIP within 30 calendar days from the date of the Administering Insurer's written decision on appeal.

(b) OMIP will respond to the enrollee within five business days to acknowledge receipt of the appeal.

(c) The OMIP administrator will review the appeal. If the appeal is regarding medical necessity, experimental/investigational procedures, or continuity of care, OMIP may request an external review from an Independent Review Organization (IRO), on the enrollee's behalf.

(d) OMIP will be bound by the decision of the IRO. If an appeal goes to an IRO for an external review, it will be considered the final level of appeal.

(e) For appeals not involving and external review, OMIP will mail a written decision to the enrollee within 30 calendar days after receiving the appeal.

Stat. Auth.: ORS 735.610(6)
Stats. Implemented: ORS 735.600 - 735.650
Hist.: OMIPB 2-2004, f. 12-30-04, cert. ef. 1-1-05; OMIPB 2-2010(Temp), f. & cert. ef. 9-29-10 thru 3-27-11; OMIP 2-2011, f. & cert. ef. 1-26-11

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Provides clarification on the program requirements, program administration and monitoring.

Adm. Order No.: OHCS 1-2011

Filed with Sec. of State: 2-7-2011

Certified to be Effective: 2-7-11

Notice Publication Date: 1-1-2011

Rules Adopted: 813-230-0007

Rules Amended: 813-230-0000, 813-230-0005, 813-230-0015

Rules Repealed: 813-230-0000(T), 813-230-0005(T), 813-230-0007(T), 813-230-0015(T)

Subject: 813-230-0000 – Clarifies the terminology used within the rules.

813-230-0005 — Provides clarification on the antipoverty programs and the eligible entities that will be used to administer the programs.

813-230-0007 — Sets out the selection criteria and requirements for eligible entities.

813-230-0015 — Stipulates that the program is subject to periodic monitoring by the Department and sets out the requirements.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-230-0000

Definitions

(1) "Administrator" means the Community Services Division administrator of HCS.

(2) "CAAs" means public or private nonprofit Community Action Agencies as defined under U.S. Public Law 97-35, ORS 456.555 and Community Services Block Grant Administrative Rules.

(3) "Department" means the Oregon Housing and Community Services Department.

(4) "Director" means the Director of HCS.

(5) "Division" means the Community Services Division located in agency (HCS).

(6) "Governor" means the Governor of the State of Oregon.

(7) "OHDC" means Oregon Human Development Corporation, a private, nonprofit agency which serves migrant workers and families.

Stat. Auth.: ORS 184.082 & 458.505 - 458.515

Stats. Implemented: ORS 458.505 - 458.515

Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0000; HSG 9-1993, f. & cert. ef. 10-1-93; Administrative correction 6-17-05; OHCS 9-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; OHCS 1-2011, f. & cert. ef. 2-7-11

813-230-0005

Administration of Community Action Agencies

(1) The Housing and Community Services Department is designed by the Governor as a state agency for administering state and federal antipoverty programs. The federal antipoverty programs are the Community Services Block Grant, the Low-Income Energy Assistance Block Grant, the United States Department of Energy Weatherization Assistance Program, the Emergency Shelter Grant Program and any other federally funded program that benefits low-income programs.

(2) The Community Services Division of the Department administers the federal anti-poverty programs through subcontracts with community action agencies, the Oregon Human Development Corporation and other eligible entities.

(3) The Community Action Partnership of Oregon performs the function of providing advice and recommendations to the Department regarding administration and funding of antipoverty programs.

Stat. Auth.: ORS 184.082 & 458.505-458.515

Stats. Implemented: ORS 458.505-458.515

Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0005; HSG 9-1993, f. & cert. ef. 10-1-93; Administrative correction 6-17-05; OHCS 9-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; OHCS 1-2011, f. & cert. ef. 2-7-11

813-230-0007

Initial Requirements

(1) A community action agency, the Oregon Human Development Corporation or any other eligible entity under ORS 458.505 or 458.510 applies only if the entity has entered a contract for that purpose with the Department, on terms established by the Department.

(2) In an area of the state served by a community action agency, unless the Department determines that the agency is incapable of effective program administration, the agency has the right of first refusal in a contract for antipoverty program administration.

(3) In an area of the state not served by a community action agency, the Department may distribute federal antipoverty funds other than the Community Service Block Grant to an agency that the Department has identified as able effectively to serve low income populations because of the agency's established service delivery system.

(4) For each program, allocation of program funds to service areas is subject to a formula established by the Department prior to the allocation process. The Department in its sole discretion may modify a formula at any time.

(5) The Department may fund only one agency in a service area unless the Department in its discretion decides to allow two agencies to operate within a common service area. The two agencies may so operate only if the Department and the two agencies enter into a memorandum of agreement that ensures full access to the program services for all eligible persons in the service area and prevents duplication of services.

(6) To provide a program service or activity in the service area of an agency, the agency may subcontract with a nonprofit corporation established under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235 or a local government as defined in ORS 197.015.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 9-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; OHCS 1-2011, f. & cert. ef. 2-7-11

813-230-0015

Monitoring

(1) An agency that contracts with the Department under an antipoverty program subject to this Division is subject to periodic monitoring by the Department as stipulated by the funding source for the agency.

(2) For the purpose of this rule, monitoring of an agency includes but is not limited to the following:

(a) Specific monitoring requirements for the program in this Division;

(b) Inspection of client files, program records and reports, and fiscal records, including original receipts for expenditures;

(c) Review of compliance with contract provisions, and with state and federal regulations; and

(d) An interview at the beginning and at the end of the monitoring.

ADMINISTRATIVE RULES

(3) The Department may notify an agency of problems found in the monitoring. If the Department determines that the recordkeeping is deficient or that the agency does not comply with contract provisions or with state or federal regulations, the Department may issue preliminary findings that:

- (a) Provide specific examples of each deficiency and noncompliance;
- (b) Request corrective action on each deficiency or noncompliance;

and

- (c) Offer assistance in developing a corrective action plan.

(4) An agency shall respond to a preliminary finding not later than the 30th day after the date on which the agency received the preliminary findings. The response must include a corrective action plan that addresses each identified deficiency and noncompliance or must explain why the preliminary findings were in error. The response is subject to reply by the Department as to whether the Department accepts or rejects the response in whole or in part. The agency may submit to the Department a corrective action plan for any remaining, unresolved deficiency or noncompliance not later than the 20th day after receipt of the Department's notification.

(5) If the Department determines that any unresolved deficiency or noncompliance remains after submission of a corrective plan under section (4) of this section, the Department may transmit to the agency a finding of facts that:

- (a) Details the specific deficiencies and noncompliances and any required corrective actions; and
- (b) Establishes a time period for corrective action to take place.

(6) At the end of the time period for corrective action under section (5) of this rule, if specific corrective actions have not been effected, the agency is subject to regulatory action by the Department, including the withholding of funds, disallowance of costs, suspension of contract or termination of contract.

Stat. Auth.: ORS 184.082 & 485.505-515
Stats. Implemented: ORS 458.505-515
Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0015; HSG 9-1993, f. & cert. ef. 10-1-93; OHCS 5-2004(Temp), f. & cert. ef. 12-17-04 thru 6-14-05; Administrative correction 6-17-05; OHCS 9-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; OHCS 1-2011, f. & cert. ef. 2-7-11

Oregon Medical Board Chapter 847

Rule Caption: Adds Advanced EMT (AEMT) to the scope and adds language to clarify associated duties.

Adm. Order No.: OMB 1-2011

Filed with Sec. of State: 2-11-2011

Certified to be Effective: 2-11-11

Notice Publication Date: 11-1-2010

Rules Amended: 847-035-0001, 847-035-0030

Subject: Adopted rule add definition and scope of practice for Advanced Emergency Medical Technician (AEMT) and add language on monitoring patients who have isotonic intravenous fluids flowing in the event of Declared Mass Casualty (MCI) to the EMT-Basic scope of practice.

Rules Coordinator: Malar Ratnathicam — (971) 673-2713

847-035-0001

Definitions

(1) "Agent" means a medical or osteopathic physician licensed under ORS Chapter 677, actively registered and in good standing with the Board, a resident of or actively practicing in the area in which the emergency service is located, designated by the supervising physician to provide direction of the medical services of EMTs and First Responders as specified in these rules.

(2) "Board" means the Oregon Medical Board for the State of Oregon.

(3) "Committee" means the EMT Advisory Committee to the Oregon Medical Board.

(4) "Emergency Care" as defined in ORS 682.025(5) means the performance of acts or procedures under emergency conditions in the observation, care and counsel of the ill, injured or disabled; in the administration of care or medications as prescribed by a licensed physician, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. However, "emergency care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

(5) "Section" means the Emergency Medical Services and Trauma Systems Section of the Public Health Division of the Department of Human Services.

(6) "First Responder" means a person who has successfully completed a first responder course approved by the Section and has been examined and certified as a First Responder by an authorized representative of the Section to perform basic emergency and nonemergency care procedures.

(7) "Emergency Medical Technician-Basic (EMT-Basic)" means a person certified under ORS Chapter 682 and in good standing with the Section, who has completed an EMT-Basic course as prescribed by OAR 333, Division 265, and is certified by the Section.

(8) "Advanced Emergency Medical Technician (Advanced EMT)" means a person certified under ORS Chapter 682 by the Division as an Advanced Emergency Medical Technician (AEMT).

(9) "Emergency Medical Technician-Intermediate (EMT-Intermediate)" means a person certified under ORS Chapter 682 and in good standing with the Section, who has completed an EMT-Intermediate course as prescribed by OAR 333, division 265, and is certified by the Section.

(10) "Emergency Medical Technician-Paramedic (EMT-Paramedic)" means a person certified under ORS Chapter 682 and in good standing with the Section, who has completed an EMT-Paramedic course as prescribed by OAR 333, division 265, and is certified by the Section.

(11) "In Good Standing" means a person who is currently certified or licensed, who does not have any restrictions placed on his/her certificate or license, or who is not on probation with the certifying or licensing agency for any reason.

(12) "Nonemergency care" as defined in ORS 682.025 (11) means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24 hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a physician licensed under ORS 677, insofar as any of these acts are based upon knowledge and application of the principles of biological, physical and social science and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board in the course of providing prehospital care.

(13) "Supervising Physician" means a person licensed under ORS Chapter 677, actively registered and in good standing with the Board as a Medical Doctor or Doctor of Osteopathic Medicine, approved by the Board, and who provides direction of, and is ultimately responsible for emergency and nonemergency care rendered by EMTs and First Responders as specified in these rules. The supervising physician is also ultimately responsible for the agent designated by the supervising physician to provide direction of the medical services of the EMT and First Responder as specified in these rules.

(14) "Scope of Practice" means the maximum level of emergency and nonemergency care that an EMT or First Responder may provide as defined in OAR 847-035-0030.

(15) "Standing Orders" means the written detailed procedures for medical or trauma emergencies and nonemergency care to be performed by an EMT or First Responder issued by the supervising physician commensurate with the scope of practice and level of certification of the EMT or First Responder.

Stat. Auth.: ORS 682.245
Stats. Implemented: ORS 682.015(11)
Hist.: ME 2-1983, f. & ef. 7-21-83; ME 7-1985, f. & ef. 8-5-85; ME 11-1986, f. & ef. 7-31-86; ME 15-1988, f. & cert. ef. 10-20-88; ME 6-1991, f. & cert. ef. 7-24-91; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 10-2002, f. & cert. ef. 7-22-02; BME 18-2010, f. & cert. ef. 10-25-10; OMB 1-2011, f. & cert. ef. 2-11-11

847-035-0030

Scope of Practice

(1) The Oregon Medical Board has established a scope of practice for emergency and nonemergency care for First Responders and EMTs. First Responders and EMTs may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001(5).

(2) The scope of practice for First Responders and EMTs is not intended as statewide standing orders or protocols. The scope of practice is the maximum functions which may be assigned to a First Responder or EMT by a Board-approved supervising physician.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

ADMINISTRATIVE RULES

(4) Standing orders for an individual EMT may be requested by the Board or Section and shall be furnished upon request.

(5) No EMT may function without assigned standing orders issued by Board-approved supervising physician.

(6) An Oregon-certified First Responder or EMT, acting through standing orders, shall respect the patient's wishes including life-sustaining treatments. Physician supervised First Responders and EMTs shall request and honor life-sustaining treatment orders executed by a physician, nurse practitioner or physician assistant if available. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) A First Responder may perform the following procedures without having signed standing orders from a supervising physician:

- (a) Conduct primary and secondary patient examinations;
- (b) Take and record vital signs;
- (c) Utilize noninvasive diagnostic devices in accordance with manufacturer's recommendation;
- (d) Open and maintain an airway by positioning the patient's head;
- (e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;
- (f) Provide care for soft tissue injuries;
- (g) Provide care for suspected fractures;
- (h) Assist with prehospital childbirth; and
- (i) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior EMT with the transporting ambulance.

(8) A First Responder may perform the following additional procedures only when the First Responder is part of an agency which has a Board-approved supervising physician who has issued written standing orders to that First Responder authorizing the following:

- (a) Administration of medical oxygen;
- (b) Maintain an open airway through the use of:
 - (A) A nasopharyngeal airway device;
 - (B) A noncuffed oropharyngeal airway device;
 - (C) A Pharyngeal suctioning device.
- (c) Operate a bag mask ventilation device with reservoir;
- (d) Provision of care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia; and
- (e) Administer epinephrine by automatic injection device for anaphylaxis;
- (f) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the First Responder:
 - (A) Has successfully completed a Section- approved course of instruction in the use of the automatic or semi-automatic defibrillator; and
 - (B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Section.

(9) An Oregon-certified EMT-Basic may perform the following procedures:

- (a) Perform all procedures that an Oregon-certified First Responder can perform;
- (b) Ventilate with a non-invasive positive pressure delivery device;
- (c) Insert a cuffed pharyngeal airway device in the practice of airway maintenance. A cuffed pharyngeal airway device is:

(A) A single lumen airway device designed for blind insertion into the esophagus providing airway protection where the cuffed tube prevents gastric contents from entering the pharyngeal space; or

(B) A multi-lumen airway device designed to function either as the single lumen device when placed in the esophagus, or by insertion into the trachea where the distal cuff creates an endotracheal seal around the ventilatory tube preventing aspiration of gastric contents.

(d) Perform tracheobronchial tube suctioning on the endotracheal intubated patient;

(e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(f) Provide care for suspected shock, including the use of the pneumatic anti-shock garment;

(g) Provide care for suspected medical emergencies, including:

(A) Obtaining a capillary blood specimen for blood glucose monitoring;

(B) Administer epinephrine by subcutaneous injection or automatic injection device for anaphylaxis;

(C) Administer activated charcoal for poisonings; and

(D) Administer aspirin for suspected myocardial infarction.

(h) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;

(i) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;

(j) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician;

(k) Complete a clear and accurate prehospital emergency care report form on all patient contacts;

(l) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously prescribed by that patient's personal physician and that are in the possession of the patient at the time the EMT-Basic is summoned to assist that patient;

(m) In the event of a release of military chemical warfare agents from the Umatilla Army Depot, the EMT-Basic who is a member or employee of an EMS agency serving the DOD-designated Immediate Response Zone who has completed a Section-approved training program may administer atropine sulfate and pralidoxime chloride from a Section-approved pre-loaded auto-injector device, and perform endotracheal intubation, using protocols promulgated by the Section and adopted by the supervising physician. 100% of EMT-Basic actions taken pursuant to this section shall be reported to the Section via a copy of the prehospital emergency care report and shall be reviewed for appropriateness by Section staff and the Subcommittee on EMT Certification, Education and Discipline;

(n) In the event of a release of organophosphate agents the EMT-Basic, who has completed Section-approved training, may administer atropine sulfate and pralidoxime chloride by autoinjector, using protocols approved by the Section and adopted by the supervising physician; and

(o) In the event of a declared Mass Casualty Incident (MCI) as defined in the local Mass Casualty Incident plan, the EMT-Basic may monitor patients who have isotonic intravenous fluids flowing.

(10) An Oregon certified Advanced Emergency Medical Technician (AEMT) may perform the following procedures:

(a) Perform all procedures that an Oregon-certified EMT-Basic can perform;

- (b) Initiate and maintain peripheral intravenous (I.V.) lines;
- (c) Initiate saline or similar locks;
- (d) Draw peripheral blood specimens;
- (e) Initiate and maintain an intraosseous in the pediatric patient;
- (f) Tracheobronchial suctioning of an already intubated patient;
- (g) Administer the following medications under specific written protocols authorized by the supervising physician or direct orders from a licensed physician:
 - (A) Physiologic isotonic crystalloid solution.
 - (B) Anaphylaxis; epinephrine
 - (C) Antidotes: Naloxene hydrochloride;
 - (D) Anthihypoglycemics:

(i) Hypertonic glucose,

(ii) Glucagon

(E) Vasodilators: Nitroglycerine;

(F) Nebulized bronchodilators:

(i) Albuterol;

(ii) Ipratropium bromide;

(G) Analgesics for acute pain: nitrous oxide.

(11) An Oregon certified EMT-Intermediate may perform the following procedures:

(a) Perform all procedures that an Oregon-certified Advanced EMT can perform;

(b) Initiate and maintain an intraosseous infusion;

(c) Administer the following medications under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician:

(A) Vasoconstrictors:

(i) Epinephrine;

(ii) Vasopressin;

(B) Antiarrhythmics:

(i) Atropine sulfate;

(ii) Lidocaine;

(iii) Amiodarone;

(C) Analgesics for acute pain:

(i) Morphine;

(ii) Nalbuphine Hydrochloride;

(iii) Ketorolac tromethamine;

(iv) Fentanyl;

(D) Antihistamine: Diphenhydramine;

(E) Diuretic: Furosemide;

ADMINISTRATIVE RULES

(F) Intraosseous infusion anesthetic; Lidocaine;

(G) Anti-Emetic: Ondansetron;

(d) Administer immunizations in the event of an outbreak or epidemic as declared by the Governor of the state of Oregon, the State Public Health Officer or a county health officer, as part of an emergency immunization program, under the agency's supervising physician's standing order;

(e) Administer immunizations for seasonal and pandemic influenza vaccinations according to the CDC Advisory Committee on Immunization Practices (ACIP), and/or the Oregon State Public Health Officer's recommended immunization guidelines as directed by the agency's supervising physician's standing order.

(f) Distribute medications at the direction of the Oregon State Public Health Officer as a component of a mass distribution effort.

(g) Administer routine or emergency immunizations, as part of an EMS Agency's occupational health program, to the EMT's EMS agency personnel, under the supervising physician's standing order.

(h) Insert an orogastric tube;

(i) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, and if clear and understandable written and verbal instructions for such maintenance have been provided by the physician, nurse practitioner or physician assistant at the sending medical facility;

(j) Electrocardiographic rhythm interpretation;

(k) Perform cardiac defibrillation with a manual defibrillator.

(12) An Oregon-certified EMT-Paramedic may perform the following procedures:

(a) Perform all procedures that an Oregon-certified EMT-Intermediate can perform;

(b) Initiate the following airway management techniques:

(A) Endotracheal intubation;

(B) Cricothyrotomy; and

(C) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway.

(c) Initiate a nasogastric tube;

(d) Provide advanced life support in the resuscitation of patients in cardiac arrest;

(e) Perform emergency cardioversion in the compromised patient;

(f) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;

(g) Electrocardiographic interpretation.

(h) Initiate needle thoracocentesis for tension pneumothorax in a pre-hospital setting;

(i) Initiate placement of a femoral intravenous line when a peripheral line cannot be placed;

(j) Initiate placement of a urinary catheter for trauma patients in a pre-hospital setting who have received diuretics and where the transport time is greater than thirty minutes; and

(k) Initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

(13) The Board has delegated to the Section the following responsibilities for ensuring that these rules are adhered to:

(a) Designing the supervising physician and agent application;

(b) Approving a supervising physician or agent; and

(c) Investigating and disciplining any EMT or First Responder who violates their scope of practice.

(d) The Section shall provide copies of any supervising physician or agent applications and any EMT or First Responder disciplinary action reports to the Board upon their request.

(14) The Section shall immediately notify the Board when questions arise regarding the qualifications or responsibilities of the supervising physician or agent of the supervising physician.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & ef. 1-29-88; ME 12-1988, f. & ef. 8-5-88; ME 15-1988, f. & ef. 10-20-88; ME 2-1989, f. & ef. 1-25-89; ME 15-1989, f. & ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & ef. 7-24-91; ME 10-1993, f. & ef. 7-27-93; ME 3-1995, f. & ef. 2-1-95; ME 1-1996, f. & ef. 2-15-96; ME 3-1996, f. & ef. 7-25-96; BME 6-1998, f. & ef. 4-27-98; BME 13-1998(Temp), f. & ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & ef. 10-26-98; BME 16-1998, f. & ef. 11-24-98; BME 13-1999, f. & ef. 7-23-99; BME 14-2000, f. & ef. 10-30-00; BME 11-2001, f. & ef. 10-30-01; BME 9-2002, f. & ef. 7-17-02; BME 10-2002, f. & ef. 7-22-02; BME 1-2003, f. & ef. 1-27-03; BME 12-2003, f. & ef. 7-15-03; BME 4-2004, f. & ef. 1-27-04; BME 11-2004(Temp), f. & ef. 4-22-04 thru 10-15-04; BME 12-2004(Temp), f. & ef. 6-11-04 thru 12-8-04; BME 21-2004(Temp), f. & ef. 11-15-04 thru 4-15-05; BME 2-2005, f. & ef. 1-27-05; BME 5-2005, f. & ef. 4-21-05;

BME 9-2005, f. & ef. 7-20-05; BME 18-2006, f. & ef. 7-25-06; BME 22-2006, f. & ef. 10-23-06; BME 7-2007, f. & ef. 1-24-07; BME 11-2007, f. & ef. 4-26-07; BME 24-2007, f. & ef. 10-24-07; BME 11-2008, f. & ef. 4-24-08; BME 19-2008, f. & ef. 7-21-08; BME 10-2009, f. & ef. 5-1-09; BME 13-2009, f. & ef. 7-20-09; BME 18-2009, f. & ef. 10-23-09; BME 22-2009(Temp), f. & ef. 10-23-09 thru 4-15-10; BME 5-2010, f. & ef. 1-26-10; BME 8-2010(Temp), f. & ef. 4-26-10 thru 10-15-10; BME 12-2010, f. & ef. 7-26-10; BME 18-2010, f. & ef. 10-25-10; OMB 1-2011, f. & ef. 2-11-11

Rule Caption: Clarifies supervisory relationship termination and edits unnecessary language.

Adm. Order No.: OMB 2-2011

Filed with Sec. of State: 2-11-2011

Certified to be Effective: 2-11-11

Notice Publication Date: 11-1-2010

Rules Amended: 847-050-0027

Subject: The adopted rule amendment clarifies supervisory relationship termination and edits unnecessary language.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-050-0027

Temporary Approval of Registration and Practice Changes

(1) Under the authority of the Oregon Medical Board, the Physician Assistant Committee may grant to physician assistants registration and/or practice description changes, subject to final Board approval.

(2) Temporary approval of physician assistants currently licensed in the state who wish to add or change a supervising physician requires the following before approval may be granted:

(a) Letters of termination of previous supervision have been submitted to the Board as required in OAR 847-050-0050, if the supervisory relationship is terminating;

(b) The new supervising physician has submitted a written request to be appointed as the supervising physician;

(c) The new supervising physician is in good standing with the Board.

(3) Prescription privileges may be granted under temporary privileges only if the following conditions are met:

(a) The physician assistant has met the requirements of OAR 847-050-0020(1); or is an Oregon grandfathered physician assistant who has passed the Physician Assistant National Certifying Examination (PANCE) or other specialty examination approved by the Board prior to July 12, 1984; and

(b) The supervising physician requests prescription privileges for the physician assistant in the practice description.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.510

Hist.: ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 5-1984, f. & ef. 1-20-84; ME 8-1985, f. & ef. 8-5-85; ME 5-1986, f. & ef. 4-23-86; ME 21-1989, f. & ef. 10-20-89; ME 2-1990, f. & ef. 1-29-90; ME 5-1994, f. & ef. 1-24-94; ME 9-1995, f. & ef. 7-28-95; BME 13-2003, f. & ef. 7-15-03; OMB 2-2011, f. & ef. 2-11-11

Rule Caption: Replaces language to Health Professionals' Services Program (HPSP) per House Bill 2345.

Adm. Order No.: OMB 3-2011

Filed with Sec. of State: 2-11-2011

Certified to be Effective: 2-11-11

Notice Publication Date: 11-1-2010

Rules Amended: 847-065-0005

Subject: The adopted rule amendment replaces "Health Professionals Program" with "Health Professionals' Services Program" (HPSP) per House Bill 2345 (2009).

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-065-0005

Licenses with Mental Illness Treated in Hospital Exceeding 25 Consecutive Days

A licensee's participation in the Health Professionals' Services Program (HPSP), to include inpatient evaluations or treatment in a treatment facility that exceeds 25 consecutive days, does not require an automatic suspension of a licensee, if the licensee is in compliance with their HPSP agreement and does not practice medicine during a period of impairment. If the HPSP makes a determination that the licensee has a mental illness that affects the ability of the licensee to safely practice medicine, the HPSP will ask the licensee to immediately withdraw from practice. If the licensee declines, the HPSP will immediately report to the Board that the licensee has a mental illness that affects the ability of the licensee to safely

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practice, and with this report provide a copy of the evaluation upon which this determination is based.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.225, 677.645
Hist.: BME 20-2009, f. & cert. ef. 10-23-09; OMB 3-2011, f. & cert. ef. 2-11-11

Rule Caption: Renumbering to be included in division 8.

Adm. Order No.: OMB 4-2011

Filed with Sec. of State: 2-11-2011

Certified to be Effective: 2-11-11

Notice Publication Date:

Rules Renumbered: 847-010-0100 to 847-008-0075

Subject: Renumbering to be included in division 8.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-008-0075

Mandatory Pain Management Education

(1) All licensees of the Oregon Medical Board, except the licensees listed in section (2) of this rule, will complete mandatory continuing medical education (CME) in the subjects of pain management and/or the treatment of terminally ill and dying patients as follows:

(a) A one-hour pain management course specific to Oregon provided by the Pain Management Commission of the Department of Human Services; and

(b) A minimum of 6 (six) continuing medical education credit hours in the subjects of pain management and/or the treatment of terminally ill and dying patients. Any combination of CME coursework focusing on pain management and/or treatment of terminally ill and dying patients may be used to fulfill this requirement.

(2) Licensees holding the following types of licenses shall not be required to meet this requirement:

- (a) Lapsed license;
- (b) Limited License;
- (c) Telemedicine license;
- (d) Teleradiology license; or
- (e) Telemonitoring license.

(3) The required CME must be completed after January 1, 2000 and before January 2, 2009.

(4) Licensees must be prepared to provide documentation of CME if requested by the Board.

(5) All applicants granted a license after January 2, 2009, excepting those with a type of license listed in Section (2), must obtain the required CME coursework within no later than 12 months after the date the Board granted licensure.

(6) Licensees who are approved to reactivate a license previously in a registration status not requiring completion of the required CME must obtain the required coursework no later than 12 months after the date the Board approved reactivation of the license.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Hist.: BME 7-2005, f. & cert. ef. 7-20-05; BME 3-2009, f. & cert. ef. 1-22-09; Renumbered from 847-010-0100 by OMB 4-2011, f. & cert. ef. 2-11-11

Oregon Public Employees Retirement System Chapter 459

Rule Caption: restricts employer reporting for calendar years for which annual reconciliation is complete. Updates penalty provisions.

Adm. Order No.: PERS 1-2011

Filed with Sec. of State: 2-2-2011

Certified to be Effective: 2-2-11

Notice Publication Date: 12-1-2010

Rules Amended: 459-070-0100, 459-070-0110

Subject: The modifications to OAR 459-070-0100 establish that, beginning with calendar year 2011, when reconciliation of reports for a calendar year is completed in March of the following year, an employer may no longer submit or modify reports of the “closed” year. Any exceptions noted by PERS in a report submitted during the calendar year must be reconciled before the year is closed. The trigger for closing a year is the date PERS issues the employer a statement due in March of the following year. For example, when PERS issues a statement of contributions to an employer in March, 2012,

the employer would no longer be allowed to submit or modify reports for pay periods in calendar year 2011.

The modifications to OAR 459-070-0100 also update the penalty provisions, permitting the Director or his designee to waive penalties for reports due in calendar year 2011, but requiring employers to petition for waiver for reports due in subsequent calendar years. Other edits are for clarity and consistency.

The modifications to OAR 459-070-0110 update and clarify employer obligations to timely remit contributions and penalties, capture more comprehensively the allocation of amounts paid to PERS, and clarify penalty and waiver provisions consistent with OAR 459-070-0100. It is expected the penalty provisions of both rules will be waived for calendar year 2011 to provide substantial notice to employers and permit them to refine procedures to accommodate the restriction of late reporting effective March, 2012.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-070-0100

Employer Reporting

(1) Definition. “Pay period” means the span of time covered by an employer’s report to PERS.

(2) Unless otherwise agreed upon by the PERS Executive Director and the employer, an employer must transmit to PERS an itemized report of all information required by PERS.

(a) A report must include wage, service, and demographic data for all employees for a pay period.

(b) Except as provided in subsection (c) of this section, an employer may not submit or modify a report for a pay period within a calendar year on or after the first date in March of the subsequent calendar year on which PERS issues the employer a statement of contributions due. This subsection applies to pay periods beginning on or after January 1, 2011.

(c) PERS will permit an employer to submit or modify a report subject to the limitation of subsection (b) of this section if PERS determines the report is necessary for accurate benefit administration.

(3) The report required under section (2) of this rule must be acceptable to PERS and transmitted on forms furnished by the agency or in an equivalent format. The report must be transmitted electronically, faxed, or postmarked, as applicable, no later than three business days after the end of the pay period assigned to the employer under section (4) of this rule.

(4) PERS will assign an employer a pay period which most closely matches the employer’s pay cycle:

- (a) Monthly: the pay period ends on the last day of the month;
- (b) Semi-monthly: the pay period ends on the fifteenth of the month and the last day of the month;
- (c) Weekly: the pay period ends the Friday of every week; or
- (d) Biweekly: the pay period ends every other Friday.

(5) If a report required under section (2) of this rule is accepted by PERS, PERS will notify the employer of any exceptions and the employer must reconcile its report. The corrected report must be transmitted to PERS before the employer is subject to the limitation of subsection (2)(b) of this rule for that report.

(6)(a) An employer that fails to transmit a report as required under sections (2) and (3) of this rule must pay a penalty equal to one percent of the total amount of the prior year’s annual contributions or \$2000, whichever is less, for each month the employer is delinquent.

(b) Penalties under subsection (a) of this section continue to accrue until the earlier of the date the report is submitted or the date the limitation of subsection (2)(b) is effective.

(c) Notwithstanding subsection (b) of this section, an employer that submits or modifies a report pursuant to subsection (2)(c) of this rule must pay the penalty described in subsection (a) of this section.

(7) The PERS Executive Director or a person designated by the Director may waive the penalty described in section (6) of this rule for reports due on or after January 1, 2011 and before January 1, 2012. For reports due on or after January 1, 2012, penalties may be waived by the Director or the Director’s designee only upon written petition from the employer.

Stat. Auth.: ORS 238A.450, 238.650
Stats. Implemented: ORS 238A.050 & 238.705
Hist.: PERS 25-2003, f. 12-30-03 cert. ef. 1-1-04; PERS 29-2004, f. & cert. ef. 11-23-04; PERS 13-2005, f. & cert. ef. 7-5-05; PERS 1-2011, f. & cert. ef. 2-2-11

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459-070-0110

Employer Remittance of Contributions

(1) Definition. "Statement date" means the date a statement of contributions or penalty due is generated by PERS.

(2) When PERS issues a statement of contributions due and, if applicable, any penalty due, unless otherwise agreed upon by the PERS Executive Director and the employer, an employer must pay to PERS the total amount of contributions and penalty due no later than five business days from the statement date. Payment must be made pursuant to OAR 459-005-0225.

(3) An employer that fails to pay the total amount due on a statement within the time specified in section (2) of this rule must pay a penalty equal to one percent of the total amount of contributions due on that statement for each month the employer is delinquent.

(4) If an employer transmits an amount less than the amount required by section (2) of this rule, PERS will allocate the amount to receivables by due date, oldest first. If multiple receivables have the same due date, PERS will allocate the amount to the receivables in the following order:

- (a) The Individual Account Program;
- (b) The OPSRP Pension Program;
- (c) The Retiree Health Insurance Account and the Retiree Health Insurance Premium Account;
- (d) Police Officer and Firefighter Unit Accounts;
- (e) Judge member accounts;
- (f) The PERS Chapter 238 Program;
- (g) Penalties;
- (h) Benefit Equalization Fund invoices;
- (i) Social Security; and
- (j) Other receivables due from the employer.

(5) By agreement with an employer, PERS may allocate amounts paid by the employer to specific receivables.

(6) The PERS Executive Director or a person designated by the Director may waive the penalty described in section (3) of this rule for contributions due on or after January 1, 2011 and before January 1, 2012. For contributions due on or after January 1, 2012, penalties may be waived by the Director or the Director's designee only upon written petition from the employer.

Stat. Auth.: ORS 238A.450, 238.650
Stats. Implemented: ORS 238A.050 & 238.705
Hist.: PERS 25-2003, f. 12-30-03 cert. ef. 1-1-04; PERS 29-2004, f. & cert. ef. 11-23-04; PERS 13-2005, f. & cert. ef. 7-5-05; PERS 1-2011, f. & cert. ef. 2-2-11

Oregon University System Chapter 580

Rule Caption: To establish tuition and fees for the 2011 Summer Session including Room and Board rates.

Adm. Order No.: OUS 1-2011

Filed with Sec. of State: 1-20-2011

Certified to be Effective: 1-20-11

Notice Publication Date: 11-1-2010

Rules Amended: 580-040-0035

Subject: To establish tuition and fees for the 2011 Summer Session, including Room and Board rates.

Rules Coordinator: Lynette Hawthorne—(541) 737-0920

580-040-0035

Summer Session Fee Book

The document entitled "**Summer Session Fee Book**" dated January 7, 2011, is hereby amended by reference as a permanent rule. All prior adoptions of academic year fee documents are hereby repealed except as to rights and obligations previously acquired or incurred there under.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: HEB 2-1978, f. & ef. 5-16-78; HEB 3-1979, f. & ef. 4-27-79; HEB 4-1980, f. & ef. 4-18-80; HEB 3-1981, f. & ef. 6-4-81; HEB 3-1982, f. & ef. 4-20-82; HEB 2-1983, f. & ef. 2-11-83; HEB 2-1984, f. & ef. 3-21-84; HEB 3-1985, f. & ef. 3-4-85; HEB 9-1986, f. & ef. 4-7-86; HEB 3-1987, f. & ef. 3-9-87; HEB 3-1988, f. & cert. ef. 3-16-88; HEB 2-1989, f. & cert. ef. 2-14-89; HEB 3-1990, f. & cert. ef. 2-13-90; HEB 2-1991, f. & cert. ef. 3-12-91; HEB 1-1992, f. & cert. ef. 2-12-92; HEB 2-1993, f. & cert. ef. 2-5-93; HEB 2-1994, f. 2-9-94, cert. ef. 2-15-94; HEB 1-1995, f. & cert. ef. 2-23-95; HEB 1-1996, f. & cert. ef. 2-5-96; HEB 1-1997, f. & cert. ef. 1-28-97; OSSHE 1-1998, f. & cert. ef. 1-27-98; OSSHE 7-1998, f. & cert. ef. 12-23-98; OSSHE 7-1999, f. & cert. ef. 12-22-99; OSSHE 5-2000, f. & cert. ef. 12-21-00; OSSHE 1-2002, f. & cert. ef. 1-2-02; OSSHE 6-2003, f. & cert. ef. 12-24-03; OSSHE 2-2005, f. & cert. ef. 2-15-05; OSSHE 2-2007, f. & cert. ef. 1-11-07; OSSHE 1-2008, f. & cert. ef. 1-14-08; OSSHE 1-2009, f. & cert. ef. 1-22-09; OUS 1-2010, f. & cert. ef. 1-19-10; OUS 1-2011, f. & cert. ef. 1-20-11

Oregon University System, University of Oregon Chapter 571

Rule Caption: Revise and repeal athletic department substance abuse and drug testing rules.

Adm. Order No.: UO 1-2011

Filed with Sec. of State: 2-3-2011

Certified to be Effective: 2-7-11

Notice Publication Date: 1-1-2011

Rules Amended: 571-004-0020, 571-004-0025, 571-004-0030, 571-004-0045, 571-004-0050, 571-004-0055

Rules Repealed: 571-004-0035, 571-004-0040

Subject: These rules affect approximately 450 student-athletes at the University of Oregon and have not been revised since 1989. The amended rules will continue to permit testing of student-athletes only on the basis of individualized reasonable suspicion or on the basis of failing a laboratory-generated specimen-integrity test. Other changes reflect the improvement and standardization of testing and testing protocols since 1989 and the new emphasis on performance-enhancing substances, the privacy of the student-athlete to be protected under the revised rules.

Rules Coordinator: Deb Donning—(541) 346-3082

571-004-0020

Introduction

(1) In the interest of the personal health and safety of student-athletes competing for and against the University of Oregon in its intercollegiate athletic program and in the interest of fair and sporting competition, the Department of Intercollegiate Athletics (Athletic Department) condemns illegal drug and illegal alcohol use; the abuse of alcohol, drugs and other substances; and the use of performance-enhancing drugs.

(2) The Athletic Department has instituted a program of drug screening by urinalysis for student-athletes engaged in intercollegiate athletics. The screening process shall be initiated only on the basis of individualized reasonable suspicion or on the basis of failing a laboratory-generated specimen-integrity test in the course of a previous screening under these rules. A coach or administrator should communicate to the director of athletic medicine or team physician circumstances that give rise to an individualized reasonable suspicion. The circumstances giving rise to reasonable suspicion and the source thereof shall be recorded in writing by the team physician who shall be the only person to authorize and initiate the drug testing process. This record shall be deemed a confidential record and shall be kept in a secure place separate from and not a part of the student-athlete's educational or medical records.

(3) "Reasonable suspicion" shall not mean a mere "hunch" or "intuition." It shall instead be based upon a specific event or occurrence which has led to the belief that a student-athlete has used any drugs which are specified in OAR 571-004-0025(5) and which could have or could have had an effect during a period of organized practice, conditioning, or competition or during a period of counseling for substance abuse or, in the case of steroids, during any period of pre-season conditioning or weight training.

(a) Such belief may be engendered by, among other things, direct observation by coaches, trainers, the team physician, or other appropriate personnel of physical or mental deficiency, medically indicated symptomatology of tested-for drug use, aberrant or otherwise patently suspicious conduct, or of unexplained absenteeism.

(b) Such belief may also be engendered by, among other things, information supplied by reliable third parties, including but not limited to law enforcement officials, if the information is corroborated by objective facts, including but not limited to equivocal, contradictory, or unlikely and unsubstantiated explanation by the individual about whom the report is made or information which under the circumstances is credible based on specific articulable facts. Should information be proffered by law enforcement, prosecutorial or probation department officials, the University will use and act upon such information only if it obtains a written agreement that results of a potential test will not be used to prosecute or revoke parole for the use or ingestion of the drug disclosed by the test.

(c) Such belief may also be engendered by reasonable conclusions about observed or reliably described human behavior upon which practical people ordinarily rely.

(d) Such belief may also be engendered by a previous positive test under these procedures within the preceding twelve months.

Stat. Auth.: ORS 351 & 352

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Stats. Implemented: ORS 352.008
Hist.: UOO 7-1988(Temp), f. & cert. ef. 8-12-88; UOO 1-1989, f. 2-6-89, cert. ef. 2-9-89; UO 1-2011, f. 2-3-11, cert. ef. 2-7-11

571-004-0025 Testing Method

(1) The standard method adopted by the Athletic Department for testing for drug use shall be through independent laboratory analysis of urine samples provided by student-athletes in accordance with generally accepted standards.

(2) Results of the test shall be available only to the student athlete, the head coach in the athlete's sport, the Athletic Director, the Team Physician and to others who have a legitimate educational, health or medical reason. This record shall be deemed a confidential record and shall be kept in a secure place separate from and not a part of the student-athlete's educational or medical records. Should any challenge to the test results, consequences of the test or the test procedures be raised in relation to a particular student-athlete, other appropriate University officials may have access to the information in order to carry out their responsibilities in relation to the challenge. A record indicating that a student-athlete was tested and the basis for the decision to conduct the test shall be retained in the student-athlete's medical file.

(3) Each student-athlete shall be provided with a copy of the rules describing the Athletic Department Substance Use and Drug Testing program before the start of the playing season or when the name of the student-athlete is first entered upon the team roster, whichever is later.

(4) The substances for which the student-athlete will be tested are: any unlawful or prohibited substances and other substances that might impermissibly affect a student-athlete's performance, including but not limited to amphetamines, cocaine, anabolic steroids, peptide hormones, and marijuana, or their derivative compounds.

(6) The student-athlete need not be given prior notice that a urine sample will be collected. A student-athlete who refuses to provide a urine sample during the testing process shall be deemed to be in violation of these administrative rules.

Stat. Auth.: ORS 351 & 352
Stats. Implemented: ORS 352.008
Hist.: UOO 7-1988(Temp), f. & cert. ef. 8-12-88; UOO 1-1989, f. 2-6-89, cert. ef. 2-9-89; UO 1-2011, f. 2-3-11, cert. ef. 2-7-11

571-004-0030 Testing Protocol

The Athletic Department shall follow protocols required by the testing laboratory and the National Collegiate Athletic Association for testing student athletes that respect the student-athlete's reasonable expectation of privacy, minimize the chances of accidental error or cheating, and preserve the appropriate chain of custody and integrity of the urine sample. A copy of the protocol shall be provided to each student-athlete along with a copy of the rules describing the Athletic Department Substance Use and Drug Testing program.

Stat. Auth.: ORS 351 & 352
Stats. Implemented: ORS 352.008
Hist.: UOO 7-1988(Temp), f. & cert. ef. 8-12-88; UOO 1-1989, f. 2-6-89, cert. ef. 2-9-89; UO 1-2011, f. 2-3-11, cert. ef. 2-7-11

571-004-0045 Drug Education and Counseling Services

The Athletic Department shall provide a program of drug information and counseling referral for student-athletes.

Stat. Auth.: ORS 351 & 352
Stats. Implemented: ORS 352.008
Hist.: UOO 7-1988(Temp), f. & cert. ef. 8-12-88; UOO 1-1989, f. 2-6-89, cert. ef. 2-9-89; UO 1-2011, f. 2-3-11, cert. ef. 2-7-11

571-004-0050 Positive Test Results Sanctions

(1) The team physician, the athletic director, the head coach, and other appropriate personnel shall review a positive test result and shall, bearing in mind the type of drugs identified, the recency of use, and the medical, safety and performance-enhancing effects of the use, formulate an appropriate program for the student-athlete. Such program shall include abstinence from further use and periodic retesting and may include counseling, reduced playing time, and withdrawal from drills, scrimmages, or competitions. The program shall also describe potential sanctions for repeated use or abuse of substances for which tests are conducted. However, a student-athlete may be dismissed from the team and lose all grant-in-aid support, beginning with the next academic term after a single positive test result.

(2) Repeated positive tests, admissions, or other information that disclose continued use of impermissible substances may cause a student-ath-

lete to be dismissed from the team and lose all athletic grant-in-aid support beginning with the next academic term. A student-athlete who refuses to provide a urine sample as part of the testing process shall be deemed to have provided information that discloses continued use of impermissible substances.

(3) A student-athlete who loses a grant-in-aid under these rules may appeal that decision under the established procedures regarding non-renewal of financial aid.

Stat. Auth.: ORS 351 & 352
Stats. Implemented: ORS 352.008
Hist.: UOO 1-1989, f. 2-6-89, cert. ef. 2-9-89; UO 1-2011, f. 2-3-11, cert. ef. 2-7-11

571-004-0055 Records Security

(1) The purpose of the testing program established by these rules does not include enforcement of the criminal laws or the Student Conduct Code.

(2) The University in conducting the testing program is not acting in aid of, or as an agent for, law enforcement officials, nor are those administering the tests acting as, for, or on behalf of the Office of Student Conduct. The Student Conduct Code applies to drug or substance use by a student-athlete only under the same circumstances as other students.

(3) Test results are part of a student's educational and medical records protected from disclosure under state and federal law. However, records may be subject to disclosure pursuant to a lawfully issued subpoena or court order. In such an instance, the University will take reasonable steps to notify the record-subject in advance of compliance with any such subpoena or order. The University or the record-subject may move the court or agency to quash any portion of the subpoena which pertains to drug testing records or to withdraw or narrow any such court order.

Stat. Auth.: ORS 351 & 352
Stats. Implemented: ORS 352.008
Hist.: UOO 7-1988(Temp), f. & cert. ef. 8-12-88 UOO 1-1989, f. 2-6-89, cert. ef. 2-9-89; UO 1-2011, f. 2-3-11, cert. ef. 2-7-11

Oregon University System, Western Oregon University Chapter 574

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

Adm. Order No.: WOU 1-2011

Filed with Sec. of State: 2-2-2011

Certified to be Effective: 2-2-11

Notice Publication Date: 1-1-2011

Rules Amended: 574-050-0005

Subject: Amendments will allow for increases, additions, and revisions of special course fees and general services fees.

Rules Coordinator: Debra L. Charlton—(503) 838-8597

574-050-0005 Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

[NOTE: Publications referenced are available from the Office of the Vice President for Finance and Administration at Western Oregon University.]

Stat. Auth.: ORS 351.070 & 351.072
Stats. Implemented: ORS 351.070 & 351.072
Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. 4-1-87, ef. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert. ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. 3-12-02, cert. ef. 3-15-02; WOU 2-2002, f. 8-2-02, cert. ef. 8-15-02; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 1-2004, f. & cert. ef. 3-24-04; WOU 2-2004, f. & cert. ef. 8-4-04; WOU 1-2005, f. & cert. ef. 3-8-05; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 3-2005, f. & cert. ef. 8-12-05; WOU 1-2006, f. & cert. ef. 3-2-06; WOU 2-2006, f. & cert. ef. 8-7-06; WOU 1-2007, f. & cert. ef. 3-5-07; WOU 2-2007, f. & cert. ef. 7-31-07; WOU 4-2007, f. & cert. ef. 11-1-07; WOU 1-2008, f. & cert. ef. 2-1-08; WOU 2-2008, f. & cert. ef. 9-3-08; WOU 1-2009, f. & cert. ef. 2-13-09; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 1-2010, f. & cert. ef. 1-27-10; WOU 2-2010, f. & cert. ef. 8-4-10; WOU 1-2011, f. & cert. ef. 2-2-11

ADMINISTRATIVE RULES

Parks and Recreation Department Chapter 736

Rule Caption: The General Park Rules provide public direction and guidance on use of Oregon State Parks.

Adm. Order No.: PRD 1-2011

Filed with Sec. of State: 2-14-2011

Certified to be Effective: 2-15-11

Notice Publication Date: 9-1-2010

Rules Adopted: 736-010-0066

Subject: A new rule is being added to the General Park Area Rules to provide guidance and an approval process for requests for installing recognitions and honorary features at State Capitol State Park in response to numerous requests received from the public and state agencies.

Rules Coordinator: Vanessa DeMoe—(503) 986-0719

736-010-0066

State Capitol State Park — Recognitions and Honorary Features

(1) Purpose. The purpose of this rule is to provide guidance for honoring individuals, groups, or events that are of exceptional significance to Oregon or to the history of the nation, while respecting existing features and aesthetics of the State Capitol State Park and the Capitol Mall area, as well as the values of Oregonians, in general.

(2) Recognitions and honorary features may include installations of plantings, traditional park amenities, or features that are consistent with the department's State Capitol State Park Comprehensive Plan.

(3) Application and Approval Process.

(a) Persons interested in sponsoring recognitions or honorary feature shall make application to the director in a manner prescribed by the department.

(b) The application shall indicate how the proposal meets the criteria listed in section (4).

(c) The department will review and evaluate the application and coordinate with the applicant to obtain any additional information that the department may require to adequately review the proposal.

(d) The director shall determine whether the department deems a proposal significant or minor, taking into consideration the design, size, scope, location, construction process, and infrastructure needs of the proposal.

(e) The department will appoint a department liaison to the applicant for significant proposals. The liaison will assist the applicant with preliminary design and the review process.

(f) The application shall provide an identified estimate of costs and funding sources for design, construction, regular maintenance, and repair of the proposed feature.

(g) For significant proposals, the Assistant Director, Heritage Programs will convene a review committee that may be comprised of a representative of the State Capitol Foundation, Governor's Office, Legislative Administrative Committee, Capitol Planning Commission, City of Salem, a citizen at large, and at least one representative of an agency whose offices are located on the Capitol Mall. The review committee shall provide an opportunity to consider input from the public. It will review significant proposals to assess their compliance with criteria and objectives prescribed in this rule and make a recommendation to the director for further action that may include suggestions for changes to the design or location.

(h) Upon receiving a positive recommendation from the review committee, the director will present the proposal to the State Parks and Recreation Commission for consideration and possible approval.

(i) The department accepts no responsibility for any expenditure incurred by the applicant prior to approval by the Commission or subsequently. Construction or installation may not begin until the Commission grants approval and the applicant has obtained all necessary state and local permits.

(j) For minor proposals to place recognitions or honorary features consisting of small plantings, benches and other small installations that are consistent with the State Capitol State Park Comprehensive Plan, the director may consider and approve or deny such requests without further review or approval.

(4) Criteria for Recognitions and Honorary Features.

(a) The subject of the recognition shall be widely known and appreciated for great contributions and significance to the state of Oregon, the history of the nation, or both;

(b) The subject of the recognition, if a person, shall have been deceased for at least ten years, and if an event, shall have occurred at least ten years prior;

(c) The proposed feature shall enhance the aesthetics of the park and shall be consistent with the adopted State Capitol State Park Comprehensive Plan;

(d) The proposed feature shall not:

(A) Be located in the open, grassy areas of the Central Mall and Willson Park ovals;

(B) Disturb major trees and plantings;

(C) Interfere with traffic flows or sightlines; or

(D) Disturb other installations and structures;

(e) There shall be demonstrated, statewide, public support for the recognition or honorary feature;

(f) There shall be specific, valid reasons why other venues, that have been carefully explored, were not a suitable alternative location.

(g) The proposed feature shall not create unmitigated or significant additional liability; repair and maintenance cost; or safety and security concern, for the department;

(5) Costs. All expenses for design, fabrication, and installation shall be borne by the applicant. The department shall assist the applicant to determine the requirements for installation. Prior to installation, the applicant shall provide for deposit in the Recognition and Honorary Feature Maintenance Trust Fund an amount equal to 15 percent of the project replacement value to be expended for maintenance and repair of recognitions and honorary features in the State Capitol State Park.

(6) Design Approval and Installation.

(a) The department must approve the final design of the project. The proposed feature must meet all applicable codes and standards.

(b) For projects constructed and installed by the applicant, the department will assign a project manager to provide construction inspection and oversight. The applicant is responsible for acquiring all necessary permits prior to construction.

(c) For projects constructed and installed by the department on behalf of the applicant, the applicant shall reimburse the department for the costs of bid preparation, contracting services, permits, construction inspection and project management oversight.

(d) The applicant shall remain responsible and liable for the project until it is accepted in writing by the department.

(7) Recognitions and honorary features shall become the sole property of the department.

(8) The department shall maintain a registry of existing and future recognitions and honorary features in the agency's asset records.

(9) Maintenance.

(a) The department shall establish a Recognition and Honorary Feature Trust Fund from funds provided by applicants and donations. The fund shall be used to defray the costs of maintenance and repair of recognitions and honorary features in the State Capitol State Park.

(b) The department may relocate or remove existing recognitions or honorary features, if determined necessary. The department will consult a review committee prior to relocation or removal.

(c) If living recognitions or honorary features such as trees or plantings die, are damaged, or present a hazard to the public or adjacent buildings or structures, the department may remove or replace them at its discretion. If plaques or recognition items are associated with the removed trees or plantings, they will be offered first if possible to the family of the individual recognized, or secondarily, to the State Capitol Foundation for archiving.

Stat. Auth.: ORS 390.050, 390.121 & 390.124

Stats. Implemented: ORS 390.111

Hist.: PRD 1-2011, f. 2-14-11, cert. ef. 2-15-11

Psychiatric Security Review Board Chapter 859

Rule Caption: Establishes Procedures for Requesting/Conducting a Gun Relief Hearing for Persons with a Mental Health Disability.

Adm. Order No.: PSRB 1-2011

Filed with Sec. of State: 2-2-2011

Certified to be Effective: 2-15-11

Notice Publication Date: 11-1-2010

Rules Adopted: 859-300-0001, 859-300-0010, 859-300-0020, 859-300-0030, 859-300-0040, 859-300-0050, 859-300-0060, 859-300-0070, 859-300-0080, 859-300-0090, 859-300-0100, 859-300-0110, 859-300-0120, 859-300-0130, 859-300-0140, 859-300-0150, 859-300-0160, 859-300-0170, 859-300-0180, 859-300-0190, 859-300-0200, 859-300-0210, 859-300-0220, 859-300-0230

ADMINISTRATIVE RULES

Rules Repealed: 859-300-0001(T), 859-300-0010(T), 859-300-0020(T), 859-300-0030(T), 859-300-0040(T), 859-300-0050(T), 859-300-0060(T), 859-300-0070(T), 859-300-0080(T), 859-300-0090(T), 859-300-0100(T), 859-300-0110(T), 859-300-0120(T), 859-300-0130(T), 859-300-0140(T), 859-300-0150(T), 859-300-0160(T), 859-300-0170(T), 859-300-0180(T), 859-300-0190(T), 859-300-0200(T), 859-300-0210(T), 859-300-0220(T), 859-300-0230(T)

Subject: (1) Adopting rules for the newly created Gun Relief Program regarding Petitions for Relief for individuals who are barred from firearms possession due to a state mental health determination and who wish to petition the Psychiatric Security Review Board to restore firearm privileges. The rules include procedures for the Board to process and adjudicate these "Petitions for Relief".

(2) Repealing duplicative temporary rules OAR 859-300-0001, 859-300-0010, 859-300-0020, 859-300-0030, 859-300-0040, 859-300-0050, 859-300-0060, 859-300-0070, 859-300-0080, 859-300-0090, 859-300-0100, 859-300-0110, 859-300-0120, 859-300-0130, 859-300-0140, 859-300-0150, 859-300-0160, 859-300-0170, 859-300-0180, 859-300-0190, 859-300-0200, 859-300-0210, 859-300-0220, 859-300-0230.

Rules Coordinator: Mary Claire Buckley—(503) 229-5596

859-300-0001

Determination of Sufficient Funding

(1) The Psychiatric Security Review Board has determined that it has received sufficient legislative appropriation or other funding to carry out the provisions of Section One of Oregon Laws 2009, Chapter 826.

(2) The Psychiatric Security Review Board has determined that it has received sufficient legislative appropriation or other funding to carry out the provisions of Section Five of Oregon Laws 2009, Chapter 826.

Stat. Auth.: ORS 161.387(1); OL 2009, Ch. 826 (HB 2853)

Stats. Implemented: ORS 161.387(1); OL 2009, Ch. 826 (HB 2853)

Hist.: PSRB 1-2010(Temp), f. 8-19-10, cert. ef. 8-23-10 thru 2-18-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0010

Rulemaking Procedure; Notice

Prior to the adoption, amendment or repeal of any rule related to the gun relief program, the Psychiatric Security Review Board shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule.

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

(3) By mailing or furnishing a copy of the notice to:

- (a) The Associated Press;
- (b) Department of Human Services/Oregon Health Authority;
- (c) American Civil Liberties Union of Oregon;
- (d) Oregon District Attorneys Association;
- (e) Oregon Criminal Defense Lawyers Association;
- (f) Attorney General, including the Victim Advocate;
- (g) Friends of Forensics;
- (h) Disability Rights Oregon;
- (i) Capitol Press Room;
- (j) National Rifle Association, Oregon Consultant;
- (k) Oregon Firearms Federation;
- (l) Oregon Judicial Department;
- (m) Attorneys for Adult and Juvenile Indigent Clients
- (n) Oregon State Police;
- (o) Oregon Psychiatric Association;
- (p) Oregon Psychological Association;
- (q) Oregon State Sheriff's Association;
- (r) Oregon Association Chiefs of Police; and
- (s) Designated legislators in accordance with ORS 183.335(15)

Stat. Auth.: ORS 161.387(1), 183.335(1), (8), OL 2009, Ch. 826 (HB 2853)

Stats. Implemented: ORS 161.387(1), 183.335(1), (8), OL 2009, Ch. 826 (HB 2853)

Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0020

Cost of Administrative Rules

State employees may receive a printed copy of Oregon Administrative Rules on request at no cost. Any person not employed by the State of

Oregon shall pay \$0.25 per page for a printed copy of the Gun Relief Program Administrative Rules. Oregon Administrative Rules are available electronically at no charge from the Internet Web site of the Oregon Secretary of State.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)

Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)

Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0030

Definitions

(1) "Dangerous". A person is dangerous if the person is a threat to himself or others or is likely to inflict harm to self or others.

(2) "Gun Relief Panel" or "Panel". A three member panel from either the Adult or Juvenile Panel who hears and considers petitions for relief from either a federal ban on transporting, shipping, possessing, or receiving a firearm that occurs as a result of a mental health determination, or a state ban on possessing or purchasing a firearm under ORS 166.250(1)(c)(D) or (E), or 166.470(1)(e) or (f).

(3) "Mental Health Determination". Any of the following adjudicated mental health findings by a State of Oregon Court:

(a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

(b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or responsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric Security Review Board thereafter; or

(c) A commitment by a court to the Oregon Health Authority or Department of Human Services, or an adjudication by a court that a person is mentally ill or mentally retarded, under ORS 426.130 or ORS 427.290.

(4) "NICS". The National Instant Criminal Background Check System maintained by the Federal Bureau of Investigations (FBI) pursuant to the Brady Handgun Violence Prevention Act of 1993 (Pub. L. 103-159, 107 Stat. 1536).

(5) "PSRB" or "Board". The Oregon Psychiatric Security Review Board, including the members of both the Adult and Juvenile Panels.

(6) "Party". Includes the Department of Human Services/Oregon Health Authority, petitioner and district attorney from the county where the mental health determination was adjudicated.

(7) "Petitioner". Any person who petitions for relief from either a federal prohibition from transporting, shipping, possessing, or receiving a firearm due to a mental health determination or a state prohibition on purchasing or possessing a firearm under ORS 166.250(1)(c)(D) or (E), or 166.470(1)(e) or (f).

(8) "Public Interest". The interest in protecting society from harm and an individual from self-harm. "Public interest" also includes reducing the impact of crime on victims' lives. "Public interest" does not include generalized fear of crime and fear of people with mental illness.

(9) "Relief Hearing". A hearing for petitioners who request relief under Oregon Laws 2009, Chapter 826 from a federal ban on transporting, shipping, possessing, or receiving a firearm that occurs as a result of a mental health determination, or a state ban on possessing or purchasing a firearm under ORS 166.250(1)(c)(D) or (E), or 166.470(1)(e) or (f).

(10) "Victim". The person or persons who have suffered financial, social, psychological or physical harm as a result of a crime and includes, in the case of a homicide or abuse of corpse in any degree, a member of the immediate family of the decedent and, in the case of a minor victim, the legal guardian of the minor. In no event shall the petitioner be considered a victim.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)

Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)

Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0040

Background and Purpose of Gun Relief Program

(1) The federal Brady Handgun Violence Prevention Act of 1993 ("Brady Act") prohibits any person from selling or otherwise disposing of any firearm or ammunition to any person who has been involuntarily "committed to a mental institution" (18 U.S.C. Section 922 (d)(4)), or a person that has a mental health determination, and further prohibits any person who has been involuntarily "committed to a mental institution", or a person that has a mental health determination, from shipping or transporting in interstate or foreign commerce, or possessing in or affecting commerce, any firearm or ammunition; or receiving any firearm or ammunition which has been shipped or transported in interstate or foreign commerce (18 U.S.C. Section 922 (g)(4)).

ADMINISTRATIVE RULES

(2) Oregon Laws 2009, Ch. 826 (HB 2853) requires the PSRB, the Judicial Department, and Oregon Health Authority to locate and transmit the names of people that have a mental health determination to the Department of State Police for inclusion in NICS for the purpose of responding to the NICS queries regarding attempts to purchase or otherwise take possession of firearms, as defined in 18 U.S.C. 921(a)(3).

(3) Oregon Laws 2009, Ch. 826 requires the PSRB to administer a "relief from disabilities" process for persons who are disqualified from transporting, shipping, possessing, or receiving a firearm under federal and certain state laws. If relief is granted, and a petitioner was barred from transporting, shipping, possessing, or receiving a firearm under federal law, the record of relief will be transmitted to the Oregon State Police, who in turn will transmit the record of relief to the federal government for inclusion in the NICS database. If relief is granted, and a petitioner was barred from purchasing or possessing a firearm under either ORS 166.250(1)(c)(D) or (E), or 166.470(1)(e) or (f), the record of relief will be transmitted to the Oregon State Police for inclusion and maintenance in its state databases. The purpose of these administrative rules is to establish the required administrative "relief" process for petitioners to request relief from their respective mental health firearm disqualifiers.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0050 Petition for Relief

(1) An individual who is barred from transporting, shipping, possessing, or receiving a firearm under federal law due to a State of Oregon mental health determination may petition for relief of the firearm bar to the PSRB for the limited purpose of having his or her federal gun rights restored as it pertains only to the mental health determination firearm disqualification.

(2) An individual who is barred from possessing or purchasing a firearm under ORS 166.250(1)(c)(D) or (E), or 166.470(1)(e) or (f), may petition for relief of the firearm bar to the PSRB for the purpose of having his or her state gun rights restored as it pertains only to the firearm disqualification as a result of either a commitment to the Oregon Health Authority or the Department of Human Services under ORS 426.130 or 427.290, or an order of a court under ORS 426.130 after a finding of mental illness that the petitioner is prohibited from purchasing or possessing a firearm as a result of petitioner's mental illness.

(3) A petition for relief shall be made on forms developed by the PSRB, which shall be available on the PSRB's public website, e-mail, or through U.S. Mail. The petition for relief shall be submitted in its entirety before a hearing will be scheduled. In addition to the forms provided, the petitioner shall submit:

(a) A certified copy of all mental health records pertaining to the disqualifying mental health determination;

(b) A certified copy of all court records related to the circumstances surrounding the firearms disability. If the county courthouse is unable to locate petitioner's records, petitioner must obtain a letter from the courthouse records department stating that it is unable to locate the court records related to petitioner's mental health determination;

(c) A certified copy of petitioner's national criminal history, including juvenile adjudications;

(d) An independent forensic mental health assessment performed no more than 90 calendar days prior to submission of the petition for relief to the PSRB. This assessment may not be performed by petitioner's current or previous mental health provider. The assessment shall be performed by a licensed psychiatrist or psychologist. The assessment shall include, at a minimum, an opinion and a basis for that opinion, of petitioner's interpersonal violence and self-harm risk.

(4) In addition to the required forms and documents in subsection (3), the petitioner may submit additional information in support of the petition for relief including, but not limited to:

(a) A certified copy of all mental health records detailing the petitioner's psychiatric history.

(b) A certified copy of medical records from all of the petitioner's current and former mental health treatment providers, including alcohol/substance abuse providers if the petitioner is receiving or has received such treatment. The records may also include a letter from petitioner's current treating mental health practitioner, if any. The letter may contain the petitioner's current medical health diagnosis, a list of psychiatric medicines and dosage, if any, the petitioner is currently prescribed, history of compli-

ance with the medication, and any other information the practitioner deems relevant to petitioner possessing a firearm.

(c) If petitioner is currently on probation/parole for a criminal offense, a letter from the petitioner's probation/parole officer providing a history of petitioner's compliance with terms of probation/parole and any other relevant information he or she deems relevant to petitioner's risk for harm if granted a firearm.

(d) Written evidence of the petitioner's reputation, such as notarized letters of reference from current and past employers, family members or personal friends or other character evidence.

(5) In addition to submitting a petition and required documents to the PSRB, petitioner shall serve a copy of the petition and required documents on the Department of Human Services/Oregon Health Authority and the district attorney in the county in which the court made the mental health determination.

(6) The petitioner shall ensure that all required information accompanies the petition for relief at the time it is submitted to the PSRB and served on the Department of Human Services/Oregon Health Authority and the district attorney in the county in which the court made the mental health determination.

(7) Failure to provide truthful information in the petition and application materials shall result in denial of the petition.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0060 Time Limits; Applying for Relief

Subject to OAR 859-300-0080(3), a petition for relief may not be filed with the Board more than once every two years.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0070 Timing of Relief Hearing

(1) Following receipt of a completed Petition for Relief and all required supporting documents, the Gun Relief Panel shall conduct a relief hearing on the petition within a reasonable time.

(2) The Board will schedule relief hearings at least one day per month unless the Panel determines that there is not sufficient business before the Panel to warrant a hearing at the scheduled time.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0080 Notice of Relief Hearing/Request for Continuance/Withdrawal of Petition

(1) Following receipt of the petition, the Board shall provide written notice of the relief hearing to the following persons or agencies within a reasonable time:

(a) Attorney representing the petitioner, if any;

(b) District attorney in which the petitioner resides and the district attorney in the county where petitioner's mental health determination was adjudicated;

(c) The victim, identified after a reasonable effort is made, associated with the criminal offense that led to the mental health determination, if the court or Panel finds that the victim requests notification;

(d) Department of Human Services/Oregon Health Authority;

(e) The sheriff of the county in which petitioner resides and in the county where petitioner's mental health determination was adjudicated;

(f) The chief of police where petitioner resides and where petitioner's mental health determination was adjudicated, if applicable; and

(g) Any other person requesting notification.

(2) Upon the request of any party or on its own motion, the Board may, in its sole discretion, continue a relief hearing to allow the Board or any party to further prepare or obtain additional information or testimony.

(3) If a petitioner withdraws a petition for relief, the notice of withdrawal shall be served in writing on the Board no later than three weeks prior to the scheduled relief hearing date. A petitioner who timely submits a notice of withdrawal may re-submit the petition any time after withdrawal.

(4) The Board shall issue a final order by default denying the petition if a petitioner fails to timely serve the Board with a notice of withdrawal, or if the petitioner fails to appear at a relief hearing.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)

ADMINISTRATIVE RULES

Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0090

Principal Issue Before The Panel/Challenges to the Firearm Disqualification

(1) The sole issue at any Gun Relief hearing shall be whether the petitioner has demonstrated that he or she will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest.

(2) Petitions asserting other grounds for relief, including, but not limited to, erroneously entered mental health determination disqualifications into the NICS database, shall not be heard by the PSRB. Record correction challenges should be directed to the agency that submitted petitioner's name to the Oregon State Police for entry into the firearm disqualification databases or the Oregon State Police Records Unit or the Federal Bureau of Investigation, Criminal Justice Information Services Division NICS Section.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0100

Quorum and Decisions of Panel

(1) The presence of at least three members of the same Panel constitutes a quorum. Members of both the Juvenile Panel and the Adult Panel may serve as the Gun Relief Panel. Three concurring votes (affirmative or negative) are required to make a Panel decision. When three members cannot agree on the decision, the hearing shall be continued for no longer than 60 days and the recording of the hearing and the exhibits shall be reviewed by the remaining Panel member(s) and a decision by the majority of the members shall be the finding and order of the Panel.

(2) At the outset of each relief hearing, the Panel members shall select one member to be the presiding officer of the relief hearing. The relief hearing shall be conducted by and under the control of the presiding officer. The presiding officer shall designate the order of presentation and questioning, determine the scope of questioning, and may set time limits and terminate irrelevant questions and irrelevant or unresponsive answers. The officer presiding at the hearing shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the presiding officer in the case and the correct application of the law to those facts. The presiding officer also may limit repetitive and cumulative evidence.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0110

Public Meetings Law

(1) All gun relief hearings shall be open to the public in accordance with the Public Meetings Law.

(2) Deliberations of the Panel shall not be open to the public. For the purposes of this subsection, the term "public" does not include PSRB employees or staff.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0120

Records

(1) A record shall be kept of all gun relief hearings. The hearing shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the presiding officer in the case and the correct application of the law to those facts.

(2) All gun relief hearings, except Panel deliberations, shall be recorded by manual or electronic means which can be transcribed. No other record of Panel relief hearings shall be made. All documents considered at relief hearings shall be included as exhibits and kept as part of the record:

(a) Electronic recording capable of being transcribed shall be kept by the Board for a minimum period of two years from the relief hearing date;

(b) The gun relief hearings shall be transcribed from the recording when an appeal is filed. Once transcribed, the transcript may be substituted for the original record;

(c) Any material to which an objection is sustained shall not be considered by the Panel. All objections and all rulings of the gun relief panel on objections and motions shall be noted on the record; and

(d) The electronic recording or transcript of the proceedings shall be made available at cost to a party to the proceedings upon request.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0130

Public Records Law; Confidentiality

The parties shall have the right to review any records to be considered at the relief hearing. All parties and their representative attorneys shall sign confidentiality agreements, as necessary, prior to inspecting or reviewing any records that are made confidential under either state or federal law, including but not limited to medical records, drug and alcohol records, and criminal history information records.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0140

Evidence Considered; Admissibility

The Panel shall consider all evidence available to it which is material, relevant and reliable. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible, including, but not limited to, the following:

(1) All materials or witness testimony submitted by petitioner, including materials or testimony regarding petitioner's reputation. All witness names must be submitted to the Board at least 10 days prior to the hearing.

(2) Information submitted by the district attorney, Department of Human Services/Oregon Health Authority or interested persons, including victims or elicited by the Panel in the course of hearing.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0150

Motion Practice

Any party bringing a motion before the Panel shall submit five copies of the motion and memorandum of law to the Panel at least 10 days prior to the date of the hearing in which the motion will be heard.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0160

Independent Examination of Petitioner

(1) The PSRB may require that the petitioner undergo an independent forensic mental health assessment in addition to the one submitted by petitioner. The assessment shall include at a minimum, an opinion and a basis for that opinion, of petitioner's interpersonal violence and self-harm risk. The petitioner shall bear the costs of any independent evaluation and assessment. Failure of petitioner to undergo an assessment ordered by the PSRB will result in denial of the petition for relief.

(2) An attorney representing the state or county may request that the Board require the petitioner to submit to a forensic mental health assessment by a psychiatrist or psychologist. The party requesting this assessment shall bear the costs of the assessment.

(a) The attorney for the state or county shall file a written notice of intent to request an assessment within 10 days from receipt of the petition for relief. The notice shall be served on the Board, petitioner and Department of Human Services/Oregon Health Authority.

(b) The examination shall include an opinion, and a basis for that opinion, as to whether or not the petitioner would be likely to act in a manner dangerous to public safety if relief was granted, including an evaluation of self-harm risk.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)
Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

ADMINISTRATIVE RULES

859-300-0170

Objections to Evidence

The presiding officer shall rule on questions of evidence. All evidence shall be admitted unless the presiding officer determines the evidence is not material, relevant or reliable.

(1) In determining whether the evidence is material, relevant or reliable, the presiding officer shall consider the following:

(a) Whether the evidence is of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs;

(b) The age and source of the documents;

(c) The ability of the witness to have observed and had personal knowledge of the incidents; and

(d) The credibility of the witness and whether the witness has bias or interest in the matter.

(2) Hearsay evidence shall be admissible unless the presiding officer determines that the hearsay evidence is not reliable based upon the quantity and quality of supporting and opposing evidence and on the entire circumstantial setting in which the hearsay evidence is offered. In determining the admissibility of hearsay evidence, the presiding officer shall consider the following factors, including, but not limited to:

(a) The alternative to relying on the hearsay evidence;

(b) The importance of the facts sought to be proved by the hearsay statements to the outcome of the proceeding;

(c) The economy and necessity to the proceeding in using the hearsay evidence;

(d) The ability of the party to cross-examine the particular hearsay statements or evidence; and

(e) The consequences to either the party or the Panel of admitting the hearsay evidence.

(3) A party may object to any evidence offered at the relief hearing. The presiding officer shall rule on an objection in the following manner:

(a) To sustain the objection and deny the admission and consideration of the evidence on the grounds that it is not material, relevant or reliable;

(b) To overrule the objection and admit the evidence and in considering the weight given to that evidence, consider the reason for the objection; or

(c) To grant a continuance for a period of time not to exceed 60 days to allow a witness to appear or be subpoenaed to testify about the evidence under consideration.

Stat. Auth.: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)

Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)

Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0180

Witnesses and Documents; Subpoena

(1) Witnesses or documents may be subpoenaed either by a party or upon the Board's own motion.

(2) A party may request the Board issue a subpoena upon a proper showing of the general relevance and reasonable scope of the documentary, physical, or witness evidence sought. The party requesting that a subpoena be issued by the Board shall be responsible for all costs associated with witness fees and service of the subpoena.

(3) Upon failure of any person, agency or facility to comply with a subpoena issued by the Board, the petitioner, counsel, the Board, or its designated representative may apply to the judge of a circuit court of any county to compel obedience to the subpoena.

Stat. Auth.: ORS 183.445, 161.395, 161.387(1), OL 2009, Ch. 826 (HB 2853)

Stats. Implemented: ORS 161.387(1), OL 2009, Ch. 826 (HB 2853)

Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0190

Testimony Given on Oath

The Panel shall take testimony of a witness upon oath or affirmation of the witness administered by the presiding officer at the relief hearing.

Stat. Auth.: ORS 161.387(1); OL 2009, Ch. 826 (HB 2853)

Stats. Implemented: ORS 161.387(1); OL 2009, Ch. 826 (HB 2853)

Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0200

Standard and Burden of Proof

(1) The standard of proof at the relief hearing shall be whether petitioner has demonstrated by clear and convincing evidence that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest.

(2) The burden of proof shall be on the petitioner.

Stat. Auth.: ORS 161.387(1); OL 2009, Ch. 826 (HB 2853)

Stats. Implemented: ORS 161.387(1); OL 2009, Ch. 826 (HB 2853)

Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0210

Mandatory Personal Appearance

Personal appearance by petitioner is required at all stages of a relief hearing. An appearance by an attorney or personal representative on behalf of a petitioner shall not constitute personal appearance.

Stat. Auth.: ORS 161, 183, 419C

Stats. Implemented: ORS 161.387(1), OL 2007, Ch. r 889 § 6 (SB 328)

Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0220

Decisions of the Panel; Final Orders; Appeals

Within 30-days following the conclusion of the relief hearing, or within 30-days of the scheduled date of a relief hearing in the case of default, the Board shall issue a final order or final order by default to the petitioner, the attorney representing the petitioner, the district attorney representing the state, interested persons and the Department of Human Services. Final orders and Final orders by default:

(1) Shall be in writing and signed by a panel member of the relief hearing;

(2) Shall contain the findings of facts, conclusions of law, and the reasons for the decision;

(3) If the relief is granted, shall contain a notice to petitioner that substantially provides:

(a) In cases where a state mental health determination resulted in a ban from transporting, shipping, possessing, or receiving a firearm under federal law, the relief granted only removes the firearm disability imposed under 18 U.S.C. §§ 922(d)(4) and (g)(4), and that the relief granted does not otherwise qualify the petitioner to purchase or possess a firearm, and does not fulfill the requirements of the background check pursuant to the Brady Act (Pub. L. 103-159); or

(b) In cases where the petitioner was barred from purchasing or possessing a firearm under either ORS 166.250(1)(c)(D) or (E), or 166.470(1)(e) or (f), the relief granted does not otherwise qualify the petitioner to purchase or possess a firearm under state law; and

(4) Shall advise the petitioner of the right to appeal an adverse decision to the circuit court of the county that originally made the determination that led to the firearm prohibition and that the petitioner may then take an appeal from the circuit court to the Court of Appeals in accordance with ORS 183.500.

Stat. Auth.: ORS 161, 183, 419C

Stats. Implemented: ORS 161.387(1), OL 2007, Ch. r 889 § 6 (SB 328)

Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

859-300-0230

Submission of Final Order of Relief to Oregon State Police

No later than ten days after the date the Board issues a written final order granting relief from the firearms prohibition, the PSRB shall notify the Department of State Police to either transmit the record of the relief granted by the Board to the federal government as required under federal law, or to update or modify its state database(s), as provided by the Department of State Police's administrative rules.

Stat. Auth.: ORS 161, 183, 419C

Stats. Implemented: ORS 161.387(1), OL 2007, Ch. r 889 § 6 (SB 328)

Hist.: PSRB 3-2010(Temp), f. 10-5-10, cert. ef. 10-8-10 thru 4-6-11; PSRB 1-2011, f. 2-2-11, cert. ef. 2-15-11

Real Estate Agency
Chapter 863

Rule Caption: Changes information required for continuing education provider applicants who petition the Board.

Adm. Order No.: REA 1-2011(Temp)

Filed with Sec. of State: 2-3-2011

Certified to be Effective: 2-4-11 thru 8-3-11

Notice Publication Date:

Rules Amended: 863-020-0025

Subject: The Real Estate Agency began certifying continuing education providers in July 2010. An applicant for certification must meet one of the qualifications listed in statute. If an applicant does not qualify, the applicant may petition the Real Estate Board for approval of the applicant's qualifications and provide information on the petitioner's background. Current rule requires the Board to use

ADMINISTRATIVE RULES

a standard that the applicant's qualifications were "substantially similar" to the statutory qualifications. This standard is difficult to use.

The temporary rule changes the requirements for information the applicant/petitioner must provide to the Board. The applicant/petitioner must provide sufficient information to allow the Board to determine whether the petitioner qualifies to be certified as a continuing education provider. The applicant must submit information that demonstrates the petitioner's expertise and experience in providing educational courses to real estate licensees, or demonstrates the petitioner's experience and expertise in one or more course topics eligible for continuing education credit under OAR 863-020-0035.

The Board is no longer required to use the substantially similar standard. The Board will make a determination based on the information provided by the applicant/petitioner in the petition.

Rules Coordinator: Laurie Skillman—(503) 378-4630

863-020-0025

Board Approval of Continuing Education Provider Qualification

(1) 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 about the petitioner named in the application to allow the Board to determine whether the petitioner qualifies for certification, including one or more of the following:

(A) Petitioner's demonstrated expertise and experience in providing educational courses to real estate licensees;

(B) Petitioner's demonstrated experience and expertise in one or more course topics eligible for continuing education credit under OAR 863-020-0035.

(3) 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; REA 1-2011(Temp), f. 2-3-11, cert. ef. 2-4-11 thru 8-3-11

**Secretary of State,
Audits Division
Chapter 162**

Rule Caption: General Housekeeping.

Adm. Order No.: AUDIT 1-2011

Filed with Sec. of State: 1-27-2011

Certified to be Effective: 1-27-11

Notice Publication Date: 12-1-2010

Rules Amended: 162-010-0030

Rules Repealed: 162-001-0010, 162-011-0000, 162-011-0010, 162-011-0020, 162-011-0030, 162-011-0040, 162-012-0000, 162-012-0010, 162-012-0020, 162-012-0030, 162-012-0040, 162-012-0050, 162-013-0000, 162-013-0010, 162-013-0020, 162-013-0030, 162-013-0040, 162-013-0050, 162-013-0060, 162-014-0000, 162-014-0010, 162-014-0020, 162-014-0030, 162-014-0040, 162-014-0050, 162-014-0060, 162-014-0070, 162-014-0080, 162-014-0090, 162-014-0100, 162-014-0110, 162-014-0120, 162-014-0130, 162-014-0140, 162-014-0150, 162-014-0160, 162-014-0170, 162-014-0180, 162-014-0190, 162-014-0200, 162-014-0210, 162-014-0220, 162-014-0230, 162-014-0240, 162-015-0000, 162-015-0010, 162-015-0020, 162-015-0030, 162-015-0040, 162-015-0050, 162-015-0060, 162-015-0070, 162-015-0080, 162-015-0090, 162-015-0100, 162-015-0110, 162-015-0120, 162-015-0130, 162-016-0000

Subject: Repealing 162-001-0010 and 162-011-0000 to 162-016-0000: General Housekeeping. Amending 162-010-0030 to remove reference to repealed rules.

Rules Coordinator: Julie A. Sparks—(503) 986-2262

162-010-0030

General Requirements

(1) Audits are to be undertaken in accordance with a contract executed by the independent auditor and the municipal corporation. The contract shall set forth clearly the scope of work to be conducted by the auditor and must include provision for an expression of opinion on the financial statements of the municipal corporation and for a determination of compliance with finance related legal provisions. If the municipal corporation does not prepare the financial statements set forth in OAR 162-010-0050 through 162-010-0190, the contract must provide for the auditor to make a reasonable attempt to draft them for and on behalf of the municipal corporation. Standard Form of Contract is as follows:

THIS CONTRACT, made this _____ day of _____, 20____, in accordance with the requirements of Oregon Revised Statutes 297.405 through 297.555 between ____ (Auditor)____, Certified Public Accountant(s) of _____, Oregon, and the ____ (Client)____, Oregon, provides as follows:

It hereby is agreed that ____ (Auditor)____ shall conduct an audit of the accounts and fiscal affairs of ____ (Client)____, Oregon, for the period beginning _____, and ending _____, (and annually thereafter) in accordance with the Minimum Standards for Audits of Municipal Corporations as prescribed by law. The audit shall be undertaken in order to express an opinion upon the financial statement of ____ (Client)____, Oregon, and to determine if the ____ (Client)____ has complied substantially with appropriate legal provisions.

____ (Auditor)____ agree(s) that the services contracted to perform under this contract shall be rendered by or under personal supervision and that the work will be faithfully performed with care and diligence.

It is understood and agreed that, should unusual conditions arise or be encountered during the course of the audit whereby the services of ____ (Auditor)____ are necessary beyond the extent of the work contemplated, written notification of such unusual conditions shall be delivered to the ____ (Client)____, Oregon, who shall instruct in writing ____ (Auditor)____ concerning such additional services, and that a signed copy of each such notification and instruction shall be delivered immediately to the Secretary of State by the party issuing the same.

The audit shall be started as soon after this contract is executed as is agreeable to the parties hereto and shall be completed and a written report thereon delivered within a reasonable time, but not later than six months, after the close of the audit period covered by this contract. Adequate copies of such report shall be delivered to the ____ (Client)____, Oregon, and its form and content shall be in accordance with and not less than that required by the Minimum Standards for Audits of Oregon Municipal Corporations.

It is understood and agreed that the ____ (Client)____, Oregon, is responsible for such financial statements as may be necessary to fully disclose and fairly present the results of operations for the period under audit and the financial condition at the end of that period. Should such financial statements not be prepared and presented within a reasonable period of time, it is understood that ____ (Auditor)____ shall draft them for ____ (Client)____, Oregon. The cost of preparing such financial statements shall be [(in addition to) (included in)] the fee for conducting the audit as set forth in Paragraph 7 below.

It is understood and agreed that either party may cancel this contract by giving notice in writing to the other party at least (ninety days) prior to July 1 of any year.

In consideration of the faithful performance of the conditions, covenants, and undertakings herein set forth the ____ (Client)____, Oregon, hereby agrees to pay ____ (Auditor)____ the sum of ____ (a reasonable fee)____ and the ____ (Client)____, Oregon, hereby affirms that proper provision for the payment of such fee has been or will be duly made and that funds for the payment thereof are or will be made legally available.

(Auditor)
by

(Client)
by

(2) Audits are to be conducted in accordance with the standards set forth in OAR 162-10-020.

(3) The scope of the audit of a municipal corporation shall include programs wholly or partially funded by other federal, state, or local governmental agencies. In determining the audit procedures to be applied to such programs, the independent auditor shall consider any specific audit procedures which may have been developed for those programs by appropriate governmental agencies. The auditor shall also determine if financial reporting requirements applicable to such programs have been complied with.

(4) If the municipal corporation requests the scope of the audit to be expanded to include a performance audit, a separate contract covering the expanded scope audit should be executed. Performance audits should be conducted in accordance with Government Auditing Standards published by the Comptroller General or the United States.

Stat. Auth.: ORS 297.465

Stats. Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0020; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2011, f. & cert. ef. 1-27-11

ADMINISTRATIVE RULES

Secretary of State, Elections Division Chapter 165

Rule Caption: Amends the 2010 State Candidates Manuals, County Candidates Manual and Forms.

Adm. Order No.: ELECT 1-2011

Filed with Sec. of State: 2-4-2011

Certified to be Effective: 2-4-11

Notice Publication Date: 1-1-2011

Rules Amended: 165-010-0005

Subject: This amendment revises the *2010 State Candidate's Manual: Major Political Party*; *2010 State Candidate's Manual: Nonpartisan*; *2010 State Candidate's Manual Minor Political Party*; *2010 State Candidate's Manual: Assembly of Electors*; *2010 State Candidate's Manual: Individual Electors*; and the *2010 County Candidate's Manual* and all associated forms to provide that a candidate is not required to establish a campaign account, file a State of Organization or file contribution and expenditure transactions if a candidate serves as the candidate's own treasurer, the candidate does not have an existing candidate committee and the candidate does not expect to receive or spend more than \$750 during a calendar year.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-010-0005

Designating the State Candidates Manuals, County Candidate's Manual and Forms

(1) The Secretary of State designates the *2010 State Candidate's Manual: Major Political Party* and associated forms as the procedures and forms to be used by major political party candidates filing and running for state elective office.

(2) The Secretary of State designates the 2010 State Candidate's Manual: Nonpartisan and associated forms as the procedures and forms to be used by nonpartisan candidates filing and running for state elective office.

(3) The Secretary of State designates the *2010 State Candidate's Manual: Minor Political Party* and associated forms as the procedures and forms to be used to form a Minor Political Party and by minor political party candidates filing and running for state elective office.

(4) The Secretary of State designates the 2010 State Candidate's Manual: Assembly of Electors and associated forms as the procedures and forms to be used by nonaffiliated candidates filing and running by assembly of electors for state elective office.

(5) The Secretary of State designates the 2010 State Candidate's Manual: Individual Electors and associated forms as the procedures and forms to be used by nonaffiliated candidates filing and running by individual electors for state elective office.

(6) The Secretary of State designates the 2010 County Candidate's Manual and associated forms as the procedures and forms to be used by county office candidates and precinct committee person candidates filing and running for elective office.

(7) In accordance with ORS 260.043 the Secretary of State amends the 2010 State Candidate's Manual: Major Political Party, the 2010 State Candidate's Manual: Nonpartisan, the *2010 State Candidate's Manual: Minor Political Party*, the *2010 State Candidate's Manual: Assembly of Electors*, the 2010 State Candidate's Manual: Individual Electors, the *2010 County Candidate's Manual* and all associated forms to reference that when a candidate serves as the candidate's own treasurer, the candidate does not have an existing candidate committee and the candidate does not expect to receive or spend more than \$750 during a calendar year, the candidate is not required to establish a campaign account, file a State of Organization or file contribution and expenditure transactions.

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

Stat. Auth.: ORS 246.120, 246.150 & 249.009

Stats. Implemented: ORS 246.120, 246.150 & 249.009

Hist.: SD 35-1980, f. & ef. 3-6-80; SD 31-1983, f. & ef. 12-20-83; SD 5-1986, f. & ef. 2-26-86; ELECT 9-1992(Temp), f. & cert. ef. 4-9-92; ELECT 32-1992, f. & cert. ef. 10-8-92; ELECT 33-1993, f. & cert. ef. 11-1-93; ELECT 1-1996, f. & cert. ef. 1-3-96; ELECT 8-1997, f. & cert. ef. 10-3-97; ELECT 3-1998, f. & cert. ef. 2-11-98; ELECT 6-1998, f. & cert. ef. 5-8-98; ELECT 10-1999, f. & cert. ef. 10-18-99; ELECT 3-2002, f. & cert. ef. 3-13-02; ELECT 18-2003, f. & cert. ef. 12-5-03; ELECT 2-2004(Temp), f. & cert. ef. 4-9-04 thru 10-6-04; Administrative correction 10-22-04; ELECT 9-2005, f. & cert. ef. 12-14-05; ELECT 11-2007, f. & cert. ef. 12-31-07; ELECT 25-2009, f. & cert. ef. 12-31-09; ELECT 1-2011, f. & cert. ef. 2-4-11

Rule Caption: Amends the 2010 City Elections Manual and the 2010 District Elections Manual.

Adm. Order No.: ELECT 2-2011

Filed with Sec. of State: 2-4-2011

Certified to be Effective: 2-4-11

Notice Publication Date: 1-1-2011

Rules Amended: 165-020-0005

Subject: This proposed amendment revises the *2010 City Elections Manual* and the *2010 District Elections Manual* and all associated form to provide that a candidate is not required to establish a campaign account, file a State of Organization or file contribution and expenditure transactions if a candidate serves as the candidate's own treasurer, the candidate does not have an existing candidate committee and the candidate does not expect to receive or spend more than \$750 during a calendar year.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-020-0005

Designating the City and District Elections Manuals and Forms

(1) The Secretary of State designates the *2010 City Elections Manual* and associated forms as the procedures and forms to be used for city elections processes.

(2) The Secretary of State designates the 2010 District Elections Manual and associated forms as the procedures and forms to be used for district elections processes.

(3) In accordance with ORS 260.043 the Secretary of State amends the *2010 City Elections Manual* and the *2010 District Elections Manual* and all associated forms to reference that when a candidate serves as the candidate's own treasurer, the candidate does not have an existing candidate committee and the candidate does not expect to receive or spend more than \$750 during a calendar year, the candidate is not required to establish a campaign account, file a State of Organization or file contribution and expenditure transactions.

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

Stat. Auth.: ORS 246.120 & 246.150

Stats. Implemented: ORS 246.120 & 246.150

Hist.: SD 33-1980, f. & ef. 3-6-80; SD 47-1980, f. & ef. 10-17-80; SD 12-1984, f. & ef. 6-20-84; SD 40-1985, f. & ef. 11-15-85; SD 12-1986, f. & ef. 4-3-86; ELECT 34-1988(Temp), f. & cert. ef. 8-26-88; ELECT 4-1991(Temp), f. & cert. ef. 3-18-91; ELECT 11-1992(Temp), f. & cert. ef. 4-14-92; ELECT 33-1992, f. & cert. ef. 10-8-92; ELECT 36-1993, f. & cert. ef. 11-1-93; ELECT 1-1996, f. & cert. ef. 1-3-96; ELECT 8-1997, f. & cert. ef. 10-3-97; ELECT 3-1998, f. & cert. ef. 2-11-98; ELECT 10-1998, f. & cert. ef. 11-3-98; ELECT 4-1999, f. & cert. ef. 3-1-99; ELECT 10-1999, f. & cert. ef. 10-18-99; ELECT 3-2002, f. & cert. ef. 3-13-02; ELECT 9-2002(Temp), f. & cert. ef. 12-5-02 thru 6-3-03; ELECT 4-2003, f. & cert. ef. 4-25-03; ELECT 16-2003, f. & cert. ef. 12-5-03; ELECT 11-2005, f. & cert. ef. 12-14-05; ELECT 25-2007, f. & cert. ef. 12-31-07; ELECT 35-2009, f. & cert. ef. 12-31-09; ELECT 2-2011, f. & cert. ef. 2-4-11

Rule Caption: Adopts Candidate Filing Deadlines for Illinois Valley Rural Fire Protection District, Position 1.

Adm. Order No.: ELECT 3-2011(Temp)

Filed with Sec. of State: 2-11-2011

Certified to be Effective: 2-11-11 thru 4-1-11

Notice Publication Date:

Rules Adopted: 165-020-2027

Subject: The Illinois Valley Rural Fire Protection District, Position 1, has a vacancy in office that occurred after the deadline for notifying candidates of vacancies in office, but before the 62nd day before the May 17, 2011, Regular District election. This rule provides extended deadlines for the county to provide a public notice of district election and sets the deadlines to accept candidate filings and voters' pamphlet statement filings.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-020-2027

Extended Deadlines for Illinois Valley Rural Fire Protection District, Director Position 1

Due to a vacancy in the Illinois Valley Rural Fire Protection District, Director Position 1, the following deadlines apply:

(1) February 15, 2011, last date for clerk to publish notice of district election in newspaper of general circulation in the district.

(2) March 17, 2011, last date for candidates to file declaration of candidacy or completed nominating petition with the Josephine County Clerk.

(3) March 21, 2011, last date to file candidate statements for inclusion in county voters' pamphlet.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 255.245 & 478.221
Hist.: ELECT 3-2011(Temp), f. & cert. ef. 2-11-11 thru 4-1-11

Teacher Standards and Practices Commission
Chapter 584

Rule Caption: Adopts new Division 17 School Social Worker program rules.

Adm. Order No.: TSPC 1-2011

Filed with Sec. of State: 1-26-2011

Certified to be Effective: 1-26-11

Notice Publication Date: 5-1-2010

Rules Adopted: 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

Subject: 584-017-0500: *Purpose of School Social Worker Licensure* — Clarifies that social worker licensure program is consistent with current national standards for school social workers

584-017-0510: *Selection, Recruitment, and Admission of Candidates* — Clarifies that the unit attracts and admits only those candidates who meet the established entry standards and requirements.

584-017-0520: *Retention and Advising* — Clarifies that the unit develops, publishes and implements procedures and criteria regarding retention of candidates in the program.

584-017-0530: *Curriculum Design* — Requires that the institution have an articulated program of studies based on a shared conceptual design that prepares effective educators consistent with the unit's mission.

584-017-0541: *Knowledge, Skill, Abilities and Cultural Competencies for Initial School Social Worker License* — Clarifies that candidates who complete the program have the knowledge, skill, ability and cultural competence to develop and deliver a school social worker services.

584-017-0551: *Knowledge, Skills, Abilities and Cultural Competencies for Continuing School Social Worker License* — Candidates who complete the program have the knowledge, skill, ability, and cultural competence to document and contribute to the program development within their district.

584-017-0555: *Authorization Level for School Social Workers* — Establishes levels for School Social Worker License.

584-017-0560: *Practica for the School Social Worker Program* — Specifies practica in two essential parts; licensure required for supervision of practica; designates number of visits by supervising faculty; and requires work sample in both placements.

584-017-0570: *Knowledge of School Law for School Social Worker* — The unit provides preparation in state and federal statutes on ethics, civil rights and laws prohibiting discrimination and other laws related to the practice of school social worker.

584-017-0580: *Verification of Program Completion* — The unit ensures that candidates have completed the program successfully.

Rules Coordinator: Lynn Beaton—(503) 373-0981

584-017-0500

Purpose of School Social Worker Licensure

These rules establish a licensure program for school social workers that is consistent with current national standards for school social workers. This program has the following characteristics:

(1) The program is designed to recognize the developmental levels of students.

(2) The program is designed to recognize the mutual influence of the individual and the environment.

(3) Continuing professional development is an integral part of the licensure program.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495, 342.553
Hist.: TSPC 1-2011, f. & cert. ef. 1-26-11

584-017-0510

Selection, Recruitment and Admission of Candidates

The unit attracts and admits qualified candidates to the program giving special attention to current personnel needs of schools and actively recruits under-represented groups.

(1) The unit admits only those candidates who meet the established entry standards and requirements.

(2) Each candidate is competent to work with school-aged children.

(3) Each candidate attests to possessing moral character necessary for licensure in Oregon.

(4) Each candidate shall document:

(a) Experience working with youth in educational and social agencies; and

(b) A master's degree in social work.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495, 342.553
Hist.: TSPC 1-2011, f. & cert. ef. 1-26-11

584-017-0520

Retention and Advising

The unit develops, publishes and implements procedures and criteria for making decisions on retention of candidates in the program.

(1) Procedures and criteria to evaluate progress assure that only those qualified are retained.

(2) Opportunities are established for advising and counseling on personal and professional concerns.

(3) The unit shall collect data on admissions, retention, advising, supervision, transcription of credits, and evidence of performance. Records shall be secure and comply with confidential and legal requirements to protect candidate rights and interests.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495, 342.553
Hist.: TSPC 1-2011, f. & cert. ef. 1-26-11

584-017-0530

Curriculum Design

The institution has an articulated program of studies based on a shared conceptual design that prepares effective educators consistent with the unit's mission.

(1) A current syllabus is submitted to TSPC for each professional course in the program.

(2) Each syllabus states the outcomes and activities of the course and procedures and criteria for evaluating the achievement of students enrolled in the courses.

(3) The syllabi incorporate the knowledge and skills required for licensure and reflect contemporary curriculum for each of the authorization levels.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495, 342.553
Hist.: TSPC 1-2011, f. & cert. ef. 1-26-11

584-017-0541

Knowledge, Skills, Abilities and Cultural Competencies for Initial School Social Worker License

(1) School Social Worker Program: Candidates who complete the program are school social workers and interdisciplinary leaders who have the knowledge, skill, ability, and cultural competence to develop and deliver school social worker services that demonstrate continuous improvement, and advance the mission of the school. Candidates:

(a) Know the history, philosophy, and current trends in school social work and educational programs;

(b) Work collaboratively to mobilize the resources of local education agencies and communities to meet the needs of students and families, and provide consultation to local education agency personnel, school board members, and community representatives to promote understanding and effective utilization of school social work services;

(c) Organize their time, energies, and workloads to fulfill their responsibilities and complete assignments of their position, with due consideration of the priorities among their various responsibilities; and

(d) Align the school social work program with the academic and student services program in the school.

(2) A school social worker shall demonstrate commitment to the values and ethics of the social work profession and shall use National Association of Social Workers (NASW) Code of Ethics as a guide to ethical decision making.

(3) School social workers shall ensure that students and their families are provided services within the context of multicultural understanding and

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competence that enhance families' support of students' learning experiences.

(4) School social work services shall be extended to students in ways that build students' individual strengths and offer students maximum opportunity to participate in the planning and direction of their own learning experience.

(5) School social workers shall help empower students and their families to gain access to and effectively use formal and informal community resources.

(6) School social workers shall maintain adequate safeguards for the privacy and confidentiality of information.

(7) School social workers shall advocate for students and their families in a variety of situations.

(8) School social workers shall conduct assessments of student needs that are individualized and provide information that is directly useful for designing interventions that address behaviors of concern.

(9) School social workers shall possess knowledge and understanding basic to the social work profession.

(10) School social workers shall understand the backgrounds and broad range of experiences that shape students' approaches to learning.

(11) School social workers shall possess knowledge and understanding of the organization and structure of the local education agency (school district).

(12) School social workers shall possess knowledge and understanding of the reciprocal influences of home, school, and community.

(13) School social workers shall possess skills in systematic assessment and investigation.

(14) School social workers shall understand the relationship between practice and policies affecting students.

(15) School social workers shall be able to select and apply empirically validated or promising prevention and intervention methods to enhance students' educational experiences.

(16) School social workers shall be able to promote collaboration among community health and mental health services providers and facilitate student access to these services.

(17) Informational Resources and Technology: Candidates who complete the program are school social workers who have the knowledge, ability, skill, and cultural competence to be skilled in the selection and use of informational resources and technology and use them to facilitate the delivery of a comprehensive school social work services that meets student needs.

(18) Reflective Practice: Candidates who complete the program are school social workers who have the knowledge, ability, skill, and cultural competence to integrate their knowledge, skills, and life experience to respond effectively to new or unexpected critical events and situations.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495, 342.553

Hist.: TSPC 1-2011, f. & cert. ef. 1-26-11

584-017-0551

Knowledge, Skills, Abilities, and Cultural Competence for Continuing School Social Worker License

(1) Candidates who complete the program are accomplished school social workers and educational leaders who have the knowledge, skill, ability, and cultural competence to document and contribute to the professional literature or program development within their district.

(2) School social workers shall organize their time, energies, and workloads to fulfill their responsibilities and complete assignments of their position, with due consideration of the priorities among their various responsibilities.

(3) School social workers shall provide consultation to local education agency personnel, school board members, and community representatives to promote understanding and effective utilization of school social work services.

(4) As leaders and members of interdisciplinary teams and coalitions, school social workers shall work collaboratively to mobilize the resources of local education agencies and communities to meet the needs of students and families.

(5) School social workers shall develop and provide training and educational programs for parents, teacher, other local education agency personnel, and staff of community agencies that address the goals and mission of the educational institution.

(6) School social workers shall maintain accurate data that are relevant to planning, management, and evaluation of school social work services.

(7) School social workers shall incorporate assessments in developing and implementing intervention and evaluation plans that enhance students' abilities to benefit from educational experiences.

(8) School social workers, as systems change agents, shall identify areas of need that are not being addressed by the local education agency and community and shall work to create services that address these needs.

(9) School social workers shall be trained in and use mediation and conflict resolution strategies to promote students' resolution of their non-productive encounters in the school and community and to promote productive relationships.

(10) School social workers shall meet the provisions for practice set by NASW.

(11) School social workers shall be able to evaluate their practice and disseminate the findings to consumers, the local education agency, the community, and the profession.

(12) School social workers shall possess skills in developing coalitions at the local, state, and national levels that promote student success.

(13) School social workers shall assume responsibility for their own continued professional development in accordance with the NASW Standards for Continuing Professional Education and state requirements.

(14) School social workers shall contribute to the development of the profession by educating and supervising school social work interns.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495, 342.553

Hist.: TSPC 1-2011, f. & cert. ef. 1-26-11

584-017-0555

Authorization Level for School Social Workers

The unit assures that candidates for Initial School Social Worker License and Continuing School Social Worker License demonstrate knowledge, skills and competencies for a K-12 authorization level by:

(1) Completing preparation in developmental psychology and methods appropriate for early childhood through high school;

(2) Articulating and applying a philosophy of education appropriate for early childhood through high school;

(3) Completing supervised practica in early childhood through high school; and

(4) Documenting knowledge by submitting passing scores on the Commission-approved licensure tests.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495, 342.553

Hist.: TSPC 1-2011, f. & cert. ef. 1-26-11

584-017-0560

Practica for the School Social Worker Program

The unit provides practica in public or private school settings for purposes of instruction, assessment of competency, and integration of fieldwork with academic study.

(1) The candidate completes at least a total of 800 hours of practicum experience supervised by a licensed school social worker or a state licensed clinical social worker and divided in the following manner:

(a) 400 hours must be in a school setting;

(b) 400 hours must be community-based and in one of the following:

(A) Community-based social services agency serving school age children and families; or

(B) In a school setting in which the majority of activities involve outreach to and liaison with community-based agencies.

(c) The practicum experience must provide opportunities for candidates to work with students from early childhood through high school.

(2) The candidate provides documentation of a clinical social worker practicum, including experience in a public service agency serving school age children or youth.

(3) Each candidate assembles two portfolios to demonstrate the ability to perform the duties of a school social worker in each of the practica experiences.

(4) The unit's supervisor and the cooperating school social worker jointly determine that the candidate for school social worker has demonstrated in the two practica the skills and competencies.

(5) The unit establishes and uses policies on supervision of practica students that state the responsibilities of institutional supervisors and practicum site supervisors and administrators.

(6) The unit's supervisor makes a minimum of two supportive-evaluative visits during each practicum.

(7) At least twice during each of the practica, the unit's supervisor meets with the candidate and the school supervisor in joint conferences to discuss performance and evaluation.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495, 342.553

Hist.: TSPC 1-2011, f. & cert. ef. 1-26-11

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584-017-0570

Knowledge of School Law for School Social Worker

The unit provides preparation in state and federal statutes on education including the commission's standards on professional ethics, laws prohibiting discrimination and rights and responsibilities of students, teachers, and parents, special education and other laws applicable to the practice of school social worker.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495, 342.553
Hist.: TSPC 1-2011, f. & cert. ef. 1-26-11

584-017-0580

Verification of Program Completion

The unit ensures that candidates have completed the program successfully.

(1) The unit documents that candidates for licensure have acquired the knowledge and demonstrated the competencies required for the Initial or Continuing School Social Worker License.

(2) The unit attests that the candidates have passed the commission-adopted tests for school social worker content knowledge and civil rights and professional ethics.

(3) The unit documents that candidates for licensure have completed the required practica successfully.

(4) The unit attests that candidates comply with and have knowledge of the requirements of ORS 342.123, 342.143 and Standards for Competent and Ethical Performance of Oregon Educators in division 020.

(5) Candidates for Initial School Social Worker License will hold a minimum of a Master's degree in social work from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission.

(6) Candidates for Continuing School Social Worker License will hold a minimum of a Master's degree in social work and have completed, beyond the initial program in school social work, an advanced program consisting of a minimum of six semester or nine quarter hours of graduate credit as approved by the commission.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495, 342.553
Hist.: TSPC 1-2011, f. & cert. ef. 1-26-11

Rule Caption: Clarifies requirements for endorsements for Initial I, Initial II, and Continuing Teaching licenses.

Adm. Order No.: TSPC 2-2011

Filed with Sec. of State: 1-28-2011

Certified to be Effective: 1-28-11

Notice Publication Date: 7-1-2010

Rules Amended: 584-060-0062

Subject: 584-060-0062 — *Endorsements to Initial I, Initial II or Continuing Teaching Licenses* — Defines endorsement, clarifies practicum requirements and adding endorsements to all grade-level authorizations.

Rules Coordinator: Lynn Beaton—(503) 373-0981

584-060-0062

Adding Endorsements to Initial I, Initial II or Continuing Teaching Licenses

(1) An endorsement is the subject matter or specialty education field in which the educator is licensed to teach. Educators may only teach the subjects in which they are licensed in the grade levels authorized on the license (authorization level).

(2) A multiple subjects self-contained endorsement does not allow the teacher to teach: Adaptive Physical Education, Art, Communications Disorders, Early Intervention/Special Education, ESOL, ESOL/Bilingual, Hearing Impaired, Library Media, Music, Physical Education, Reading Specialist, Special Education, or Vision Impaired.

(3) Subject-Matter Competency: A new endorsement will be added to a new or existing Initial I, Initial II or Continuing Teaching License upon documentation of one of the following: (For Middle-Level Endorsement exceptions see subsection (5) below.)

(a) For endorsements where subject-matter mastery tests are required by the commission:

(A) Documentation of a passing score on all Commission-approved tests required for the endorsement; or

(B) Documentation of successful completion of the commission-approved alternative assessment in lieu of the passing score on the subject-matter mastery test.

(b) For the endorsements where the commission has not approved subject-matter mastery tests including but not limited to: Drama, Japanese, Latin, Russian, and Adaptive Physical Education:

(A) Completion of a program or demonstrated completion of required coursework; or

(B) A nonprovisional out-of-state license showing endorsement in the subject-area.

(c) Special Exception for Out-of-State Applicants: For out-of-state applicants upon first licensure in Oregon. (See OAR 584-036-0080 Licensure Tests.)

(4) Practicum Requirements: In addition to the requirements in subsection (3)(a) and (b) of this rule, one of the following practical experiences must be completed:

(a) A program-supervised practicum of two semester hours or three quarter hours, which except as specified below may or may not be part of a longer preparation that includes content or methods courses in the subject area, in an institution approved to prepare teachers for that endorsement;

(b) Verification of 60 hours or more of experience teaching the new subject-area at least one hour each day or the equivalent on either an optional assignment of ten hours or less or an approved conditional assignment permit (CAP) as allowed by OAR 584-036-0181[.]; or

(c) Completion of an approved program in the new subject-matter endorsement area.

(5) Adding Endorsements to the Middle-Level (ML) Authorization Level:

(a) Teachers holding an Initial, Initial I, Initial II, or Continuing Teaching License with a multiple subjects self-contained or a multiple subjects endorsement with either an elementary or middle-level authorization are not required to complete an additional subject-related practicum to add the endorsements specified in this subsection.

(b) To add the endorsements listed below, teachers qualifying under this section must pass the Commission-approved high school or middle school test or tests in the appropriate subject-matter area:

(A) Language Arts or middle-school Language Arts;

(B) Social Studies or middle-school Social Studies;

(C) Science or middle school science; or

(D) Basic or Advanced Math.

(c) A multiple subjects endorsement is also required to add all general education endorsements at the middle-level authorization except the following specialty endorsements:

(A) Adaptive Physical Education

(B) Art;

(C) ESOL;

(D) ESOL/Bilingual;

(E) Library Media Specialist;

(F) Music;

(G) Physical Education;

(H) Reading; and

(I) Special Education;

(J) Vision Impaired;

(K) Hearing Impaired;

(L) Communications Disorders;

(M) Early Intervention/Special Education.

(6) Grade Authorization Level: Some endorsement areas may require the completion of a new authorization level program prior to being added to the license. The applicant should obtain a check sheet of requirements from TSPC prior to pursuing adding a new endorsement to an existing license. (See, OAR 584-060-0052 Adding Authorization Levels to Existing Initial and Continuing Teaching Licenses.)

(7) When Programs are Required: An approved program including content courses, methods courses, and practica is always required as preparation for added endorsement in the following areas:

(A) All Special Education endorsements, including:

(i) Early Intervention/Special Education;

(ii) Hearing Impairment;

(iii) Vision Impairment;

(iv) Special Education; and

(v) Communication Disorders;

(B) English to Speakers of Other Languages (ESOL);

(C) Reading; or

(D) Subjects for which no subject mastery test has been required by the commission for endorsement including but not limited to:

(i) Drama;

(ii) Japanese;

(iii) Latin;

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(iv) Russian; and

(v) Adaptive Physical Education.

(b) Program evaluations for waiver of the subject matter test for out-of-state applicants requesting these endorsements must align with the requirements in Division 38. (See, OAR 584-036-0080 Licensure Tests.)

(c) Adding a Multiple Subjects or other General Education Endorsement to a License with Only a Specialty Endorsement: To add any general education endorsement to a license that holds a “specialty endorsement” only requires the following:

(A) Evidence of completion of a general education program at the grade levels at which the general education endorsement is sought; or

(B) A recommendation by C-2 form by an Oregon program approved to offer the endorsement.

(8) Specialty Endorsements: (a) Adding specialty endorsements such as art, music, ESOL, ESOL/bilingual, reading, physical education, and library media specialists may involve additional coursework. (See, OAR 584-060-0071 Endorsements Requiring Special Preparation.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455 – 342.495; 342.553

Hist.: TSPC 3-2005(Temp), f. & cert. ef. 4-15-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 4-2009, f. & cert. ef. 9-22-09; TSPC 2-2011, f. & cert. ef. 1-28-11

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123-001-0750	12-1-2010	Amend	1-1-2011	137-078-0041(T)	12-1-2010	Repeal	1-1-2011
123-042-0010	12-1-2010	Amend	1-1-2011	137-078-0045	12-1-2010	Amend	1-1-2011
123-042-0020	12-1-2010	Amend	1-1-2011	137-078-0045(T)	12-1-2010	Repeal	1-1-2011
123-042-0026	12-1-2010	Amend	1-1-2011	137-078-0050	12-1-2010	Amend	1-1-2011
123-042-0036	12-1-2010	Amend	1-1-2011	137-078-0050(T)	12-1-2010	Repeal	1-1-2011
123-042-0038	12-1-2010	Amend	1-1-2011	137-078-0051	12-1-2010	Adopt	1-1-2011
123-042-0045	12-1-2010	Amend	1-1-2011	137-078-0051(T)	12-1-2010	Repeal	1-1-2011
123-042-0055	12-1-2010	Amend	1-1-2011	141-040-0211	1-1-2011	Amend	1-1-2011
123-042-0065	12-1-2010	Amend	1-1-2011	141-040-0212	1-1-2011	Amend	1-1-2011
123-042-0076	12-1-2010	Amend	1-1-2011	141-040-0213	1-1-2011	Amend	1-1-2011
123-042-0122	12-1-2010	Amend	1-1-2011	141-040-0214	1-1-2011	Amend	1-1-2011
123-042-0132	12-1-2010	Amend	1-1-2011	141-040-0220	1-1-2011	Amend	1-1-2011
123-042-0155	12-1-2010	Amend	1-1-2011	150-280.075	1-1-2011	Amend	2-1-2011
123-042-0165	12-1-2010	Amend	1-1-2011	150-293.525(1)(b)	1-1-2011	Amend	2-1-2011
123-042-0175	12-1-2010	Amend	1-1-2011	150-294.175(2)-(B)	1-1-2011	Amend	2-1-2011
123-042-0180	12-1-2010	Amend	1-1-2011	150-307.126	1-1-2011	Adopt	2-1-2011
123-042-0190	12-1-2010	Amend	1-1-2011	150-311.160	1-1-2011	Repeal	2-1-2011
123-043-0025	12-1-2010	Amend	1-1-2011	150-314.402(1)	1-1-2011	Amend	2-1-2011
123-155-0000	1-3-2011	Am. & Ren.	2-1-2011	150-314.665(2)-(A)	12-1-2010	Amend(T)	1-1-2011
123-155-0100	1-3-2011	Am. & Ren.	2-1-2011	150-314.665(2)-(C)	12-1-2010	Suspend	1-1-2011
123-155-0150	1-3-2011	Am. & Ren.	2-1-2011	150-314.760	1-1-2011	Repeal	2-1-2011
123-155-0175	1-3-2011	Am. & Ren.	2-1-2011	150-315.354	12-17-2010	Amend(T)	2-1-2011
123-155-0200	1-3-2011	Am. & Ren.	2-1-2011	150-316.587(8)-(A)	1-1-2011	Amend	2-1-2011
123-155-0250	1-3-2011	Am. & Ren.	2-1-2011	150-316.OL2010.CH66	1-1-2011	Adopt	2-1-2011
123-155-0270	1-3-2011	Am. & Ren.	2-1-2011	150-323.500(9)	1-1-2011	Amend	2-1-2011
123-155-0300	1-3-2011	Am. & Ren.	2-1-2011	150-323.500(9) (T)	1-1-2011	Repeal	2-1-2011
123-155-0350	1-3-2011	Am. & Ren.	2-1-2011	150-465.101(5)-(B)	1-1-2011	Adopt	2-1-2011
123-155-0400	1-3-2011	Am. & Ren.	2-1-2011	150-465.101(5)-(B) (T)	1-1-2011	Repeal	2-1-2011
123-450-0000	1-3-2011	Adopt	2-1-2011	162-001-0010	1-27-2011	Repeal	3-1-2011
123-635-0050	1-3-2011	Repeal	2-1-2011	162-010-0030	1-27-2011	Amend	3-1-2011
137-020-0150	1-1-2011	Amend	2-1-2011	162-011-0000	1-27-2011	Repeal	3-1-2011
137-020-0160	1-1-2011	Amend	2-1-2011	162-011-0010	1-27-2011	Repeal	3-1-2011
137-050-0700	1-4-2011	Amend	2-1-2011	162-011-0020	1-27-2011	Repeal	3-1-2011
137-050-0700(T)	1-4-2011	Repeal	2-1-2011	162-011-0030	1-27-2011	Repeal	3-1-2011
137-050-0745	1-26-2011	Amend(T)	3-1-2011	162-011-0040	1-27-2011	Repeal	3-1-2011
137-055-3430	12-27-2010	Amend	2-1-2011	162-012-0000	1-27-2011	Repeal	3-1-2011
137-055-3430(T)	12-27-2010	Repeal	2-1-2011	162-012-0010	1-27-2011	Repeal	3-1-2011
137-078-0000	12-1-2010	Amend	1-1-2011	162-012-0020	1-27-2011	Repeal	3-1-2011
137-078-0000(T)	12-1-2010	Repeal	1-1-2011	162-012-0030	1-27-2011	Repeal	3-1-2011
137-078-0005	12-1-2010	Amend	1-1-2011	162-012-0040	1-27-2011	Repeal	3-1-2011
137-078-0005(T)	12-1-2010	Repeal	1-1-2011	162-012-0050	1-27-2011	Repeal	3-1-2011
137-078-0010	12-1-2010	Amend	1-1-2011	162-013-0000	1-27-2011	Repeal	3-1-2011
137-078-0010(T)	12-1-2010	Repeal	1-1-2011	162-013-0010	1-27-2011	Repeal	3-1-2011
137-078-0015	12-1-2010	Amend	1-1-2011	162-013-0020	1-27-2011	Repeal	3-1-2011
137-078-0015(T)	12-1-2010	Repeal	1-1-2011	162-013-0030	1-27-2011	Repeal	3-1-2011
137-078-0020	12-1-2010	Amend	1-1-2011	162-013-0040	1-27-2011	Repeal	3-1-2011
137-078-0020(T)	12-1-2010	Repeal	1-1-2011	162-013-0050	1-27-2011	Repeal	3-1-2011
137-078-0025	12-1-2010	Amend	1-1-2011	162-013-0060	1-27-2011	Repeal	3-1-2011
137-078-0025(T)	12-1-2010	Repeal	1-1-2011	162-014-0000	1-27-2011	Repeal	3-1-2011
137-078-0030	12-1-2010	Amend	1-1-2011	162-014-0010	1-27-2011	Repeal	3-1-2011
137-078-0030(T)	12-1-2010	Repeal	1-1-2011	162-014-0020	1-27-2011	Repeal	3-1-2011
137-078-0035	12-1-2010	Amend	1-1-2011	162-014-0030	1-27-2011	Repeal	3-1-2011
137-078-0035(T)	12-1-2010	Repeal	1-1-2011	162-014-0040	1-27-2011	Repeal	3-1-2011

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162-014-0060	1-27-2011	Repeal	3-1-2011	177-098-0040	12-12-2010	Amend	1-1-2011
162-014-0070	1-27-2011	Repeal	3-1-2011	177-098-0060	12-12-2010	Amend	1-1-2011
162-014-0080	1-27-2011	Repeal	3-1-2011	177-098-0110	12-12-2010	Amend	1-1-2011
162-014-0090	1-27-2011	Repeal	3-1-2011	190-001-0000	12-1-2010	Repeal	1-1-2011
162-014-0100	1-27-2011	Repeal	3-1-2011	190-001-0005	12-1-2010	Repeal	1-1-2011
162-014-0110	1-27-2011	Repeal	3-1-2011	190-010-0000	1-3-2011	Repeal	2-1-2011
162-014-0120	1-27-2011	Repeal	3-1-2011	190-010-0005	1-3-2011	Repeal	2-1-2011
162-014-0130	1-27-2011	Repeal	3-1-2011	190-010-0010	1-3-2011	Repeal	2-1-2011
162-014-0140	1-27-2011	Repeal	3-1-2011	190-010-0015	1-3-2011	Repeal	2-1-2011
162-014-0150	1-27-2011	Repeal	3-1-2011	190-010-0020	1-3-2011	Repeal	2-1-2011
162-014-0160	1-27-2011	Repeal	3-1-2011	190-010-0025	1-3-2011	Repeal	2-1-2011
162-014-0170	1-27-2011	Repeal	3-1-2011	190-010-0030	1-3-2011	Repeal	2-1-2011
162-014-0180	1-27-2011	Repeal	3-1-2011	190-010-0035	1-3-2011	Am. & Ren.	2-1-2011
162-014-0190	1-27-2011	Repeal	3-1-2011	190-010-0040	1-3-2011	Repeal	2-1-2011
162-014-0200	1-27-2011	Repeal	3-1-2011	213-013-0010	1-1-2012	Amend	1-1-2011
162-014-0210	1-27-2011	Repeal	3-1-2011	213-017-0006	12-26-2010	Amend	1-1-2011
162-014-0220	1-27-2011	Repeal	3-1-2011	213-017-0006(T)	12-26-2010	Repeal	1-1-2011
162-014-0230	1-27-2011	Repeal	3-1-2011	213-070-0000	1-1-2011	Adopt	1-1-2011
162-014-0240	1-27-2011	Repeal	3-1-2011	213-070-0005	1-1-2011	Adopt	1-1-2011
162-015-0000	1-27-2011	Repeal	3-1-2011	213-070-0010	1-1-2011	Adopt	1-1-2011
162-015-0010	1-27-2011	Repeal	3-1-2011	213-070-0020	1-1-2011	Adopt	1-1-2011
162-015-0020	1-27-2011	Repeal	3-1-2011	213-070-0030	1-1-2011	Adopt	1-1-2011
162-015-0030	1-27-2011	Repeal	3-1-2011	213-070-0040	1-1-2011	Adopt	1-1-2011
162-015-0040	1-27-2011	Repeal	3-1-2011	213-070-0050	1-1-2011	Adopt	1-1-2011
162-015-0050	1-27-2011	Repeal	3-1-2011	250-010-0430	2-1-2011	Amend	2-1-2011
162-015-0060	1-27-2011	Repeal	3-1-2011	250-010-0450	2-1-2011	Amend	2-1-2011
162-015-0070	1-27-2011	Repeal	3-1-2011	250-010-0650	2-1-2011	Amend	2-1-2011
162-015-0080	1-27-2011	Repeal	3-1-2011	250-020-0151	1-3-2011	Amend(T)	2-1-2011
162-015-0090	1-27-2011	Repeal	3-1-2011	250-021-0040	1-3-2011	Amend(T)	2-1-2011
162-015-0100	1-27-2011	Repeal	3-1-2011	255-001-0005	1-11-2011	Amend	2-1-2011
162-015-0110	1-27-2011	Repeal	3-1-2011	255-001-0010	1-11-2011	Amend	2-1-2011
162-015-0120	1-27-2011	Repeal	3-1-2011	255-001-0016	1-11-2011	Amend	2-1-2011
162-015-0130	1-27-2011	Repeal	3-1-2011	255-005-0005	12-1-2010	Amend	1-1-2011
162-016-0000	1-27-2011	Repeal	3-1-2011	255-005-0005(T)	12-1-2010	Repeal	1-1-2011
165-010-0005	2-4-2011	Amend	3-1-2011	255-015-0015	12-1-2010	Amend	1-1-2011
165-020-0005	2-4-2011	Amend	3-1-2011	255-030-0027	12-1-2010	Amend	1-1-2011
165-020-2027	2-11-2011	Adopt(T)	3-1-2011	255-030-0027(T)	12-1-2010	Repeal	1-1-2011
170-062-0000	12-1-2010	Amend(T)	1-1-2011	255-060-0018	1-11-2011	Adopt	2-1-2011
172-001-0005	1-10-2011	Amend	2-1-2011	255-080-0001	12-1-2010	Amend	1-1-2011
172-005-0000	1-10-2011	Amend	2-1-2011	255-080-0005	12-1-2010	Amend	1-1-2011
172-005-0010	1-10-2011	Amend	2-1-2011	255-080-0008	12-1-2010	Adopt	1-1-2011
172-005-0020	1-10-2011	Amend	2-1-2011	255-080-0008	12-1-2010	Amend	1-1-2011
172-005-0030	1-10-2011	Amend	2-1-2011	255-080-0011	12-1-2010	Amend	1-1-2011
172-005-0040	1-10-2011	Amend	2-1-2011	257-010-0015	2-28-2011	Amend	3-1-2011
172-005-0050	1-10-2011	Amend	2-1-2011	257-010-0015(T)	2-28-2011	Repeal	3-1-2011
172-005-0060	1-10-2011	Amend	2-1-2011	257-010-0020	2-28-2011	Amend	3-1-2011
172-005-0065	1-10-2011	Adopt	2-1-2011	257-010-0020(T)	2-28-2011	Repeal	3-1-2011
172-005-0070	1-10-2011	Amend	2-1-2011	257-010-0025	2-28-2011	Amend	3-1-2011
177-040-0000	1-1-2011	Amend	2-1-2011	257-010-0025(T)	2-28-2011	Repeal	3-1-2011
177-040-0001	1-1-2011	Amend	2-1-2011	257-010-0045	2-28-2011	Amend	3-1-2011
177-040-0003	1-1-2011	Amend	2-1-2011	257-010-0045(T)	2-28-2011	Repeal	3-1-2011
177-040-0024	1-1-2011	Adopt	2-1-2011	257-010-0050	2-28-2011	Amend	3-1-2011
177-040-0070	1-1-2011	Amend	2-1-2011	257-010-0050(T)	2-28-2011	Repeal	3-1-2011
177-085-0065	12-12-2010	Amend	1-1-2011	257-010-0055	2-28-2011	Amend	3-1-2011
177-094-0080	12-1-2010	Amend	1-1-2011	257-010-0055(T)	2-28-2011	Repeal	3-1-2011

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259-008-0011	12-23-2010	Amend	2-1-2011	291-124-0090	11-19-2010	Adopt	1-1-2011
259-008-0011(T)	12-23-2010	Repeal	2-1-2011	291-124-0095	11-19-2010	Repeal	1-1-2011
291-015-0100	11-19-2010	Amend	1-1-2011	291-202-0020	1-28-2011	Amend	3-1-2011
291-015-0100(T)	11-19-2010	Repeal	1-1-2011	291-202-0100	1-28-2011	Adopt	3-1-2011
291-015-0105	11-19-2010	Amend	1-1-2011	291-202-0110	1-28-2011	Adopt	3-1-2011
291-015-0105(T)	11-19-2010	Repeal	1-1-2011	291-202-0120	1-28-2011	Adopt	3-1-2011
291-015-0110	11-19-2010	Amend	1-1-2011	291-202-0130	1-28-2011	Adopt	3-1-2011
291-015-0110(T)	11-19-2010	Repeal	1-1-2011	309-034-0150	2-4-2011	Repeal	3-1-2011
291-015-0115	11-19-2010	Amend	1-1-2011	309-034-0160	2-4-2011	Repeal	3-1-2011
291-015-0115(T)	11-19-2010	Repeal	1-1-2011	309-034-0170	2-4-2011	Repeal	3-1-2011
291-015-0120	11-19-2010	Amend	1-1-2011	309-034-0180	2-4-2011	Repeal	3-1-2011
291-015-0120(T)	11-19-2010	Repeal	1-1-2011	309-034-0190	2-4-2011	Repeal	3-1-2011
291-015-0125	11-19-2010	Amend	1-1-2011	309-034-0205	2-4-2011	Repeal	3-1-2011
291-015-0125(T)	11-19-2010	Repeal	1-1-2011	309-034-0210	2-4-2011	Repeal	3-1-2011
291-015-0130	11-19-2010	Repeal	1-1-2011	309-034-0240	2-4-2011	Repeal	3-1-2011
291-015-0135	11-19-2010	Amend	1-1-2011	309-034-0250	2-4-2011	Repeal	3-1-2011
291-015-0135(T)	11-19-2010	Repeal	1-1-2011	309-034-0260	2-4-2011	Repeal	3-1-2011
291-015-0140	11-19-2010	Repeal	1-1-2011	309-034-0270	2-4-2011	Repeal	3-1-2011
291-015-0145	11-19-2010	Repeal	1-1-2011	309-034-0290	2-4-2011	Repeal	3-1-2011
291-015-0150	11-19-2010	Repeal	1-1-2011	309-034-0310	2-4-2011	Repeal	3-1-2011
291-048-0100	12-13-2010	Am. & Ren.(T)	1-1-2011	309-034-0320	2-4-2011	Repeal	3-1-2011
291-048-0110	12-13-2010	Am. & Ren.(T)	1-1-2011	309-034-0400	2-4-2011	Amend	3-1-2011
291-048-0115	12-13-2010	Am. & Ren.(T)	1-1-2011	309-034-0410	2-4-2011	Amend	3-1-2011
291-048-0120	12-13-2010	Suspend	1-1-2011	309-034-0420	2-4-2011	Amend	3-1-2011
291-048-0130	12-13-2010	Am. & Ren.(T)	1-1-2011	309-034-0430	2-4-2011	Amend	3-1-2011
291-048-0140	12-13-2010	Am. & Ren.(T)	1-1-2011	309-034-0440	2-4-2011	Amend	3-1-2011
291-048-0150	12-13-2010	Am. & Ren.(T)	1-1-2011	309-034-0450	2-4-2011	Amend	3-1-2011
291-048-0160	12-13-2010	Am. & Ren.(T)	1-1-2011	309-034-0460	2-4-2011	Amend	3-1-2011
291-048-0170	12-13-2010	Am. & Ren.(T)	1-1-2011	309-034-0470	2-4-2011	Amend	3-1-2011
291-048-0180	12-13-2010	Suspend	1-1-2011	309-034-0480	2-4-2011	Amend	3-1-2011
291-048-0190	12-13-2010	Am. & Ren.(T)	1-1-2011	309-034-0490	2-4-2011	Amend	3-1-2011
291-048-0230	12-13-2010	Adopt(T)	1-1-2011	309-034-0500	2-4-2011	Adopt	3-1-2011
291-048-0240	12-13-2010	Adopt(T)	1-1-2011	309-041-0200	2-1-2011	Repeal	3-1-2011
291-048-0270	12-13-2010	Adopt(T)	1-1-2011	309-041-0205	2-1-2011	Repeal	3-1-2011
291-048-0280	12-13-2010	Adopt(T)	1-1-2011	309-041-0210	2-1-2011	Repeal	3-1-2011
291-048-0320	12-13-2010	Adopt(T)	1-1-2011	309-041-0215	2-1-2011	Repeal	3-1-2011
291-063-0010	12-1-2010	Amend(T)	1-1-2011	309-041-0220	2-1-2011	Repeal	3-1-2011
291-063-0016	12-1-2010	Amend(T)	1-1-2011	309-041-0225	2-1-2011	Repeal	3-1-2011
291-063-0030	12-1-2010	Amend(T)	1-1-2011	309-041-0230	2-1-2011	Repeal	3-1-2011
291-124-0005	11-19-2010	Amend	1-1-2011	309-041-0235	2-1-2011	Repeal	3-1-2011
291-124-0010	11-19-2010	Amend	1-1-2011	309-041-0240	2-1-2011	Repeal	3-1-2011
291-124-0015	11-19-2010	Repeal	1-1-2011	309-041-0245	2-1-2011	Repeal	3-1-2011
291-124-0016	11-19-2010	Adopt	1-1-2011	309-041-0250	2-1-2011	Repeal	3-1-2011
291-124-0017	11-19-2010	Adopt	1-1-2011	309-041-0255	2-1-2011	Repeal	3-1-2011
291-124-0020	11-19-2010	Amend	1-1-2011	309-041-1300	2-1-2011	Renumber	3-1-2011
291-124-0025	11-19-2010	Repeal	1-1-2011	309-041-1310	2-1-2011	Renumber	3-1-2011
291-124-0030	11-19-2010	Amend	1-1-2011	309-041-1320	2-1-2011	Renumber	3-1-2011
291-124-0035	11-19-2010	Amend	1-1-2011	309-041-1330	2-1-2011	Renumber	3-1-2011
291-124-0041	11-19-2010	Amend	1-1-2011	309-041-1340	2-1-2011	Renumber	3-1-2011
291-124-0055	11-19-2010	Amend	1-1-2011	309-041-1350	2-1-2011	Renumber	3-1-2011
291-124-0060	11-19-2010	Amend	1-1-2011	309-041-1360	2-1-2011	Renumber	3-1-2011
291-124-0065	11-19-2010	Amend	1-1-2011	309-041-1370	2-1-2011	Renumber	3-1-2011
291-124-0070	11-19-2010	Amend	1-1-2011	309-043-0000	2-1-2011	Repeal	3-1-2011
291-124-0075	11-19-2010	Amend	1-1-2011	309-043-0005	2-1-2011	Repeal	3-1-2011
291-124-0080	11-19-2010	Amend	1-1-2011	309-043-0010	2-1-2011	Repeal	3-1-2011
291-124-0085	11-19-2010	Amend	1-1-2011	309-043-0015	2-1-2011	Repeal	3-1-2011

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309-043-0025	2-1-2011	Repeal	3-1-2011	309-114-0040	11-19-2010	Amend(T)	1-1-2011
309-043-0030	2-1-2011	Repeal	3-1-2011	309-114-0050	11-19-2010	Amend(T)	1-1-2011
309-043-0035	2-1-2011	Repeal	3-1-2011	309-114-0060	11-19-2010	Amend(T)	1-1-2011
309-043-0040	2-1-2011	Repeal	3-1-2011	309-114-0070	11-19-2010	Amend(T)	1-1-2011
309-043-0045	2-1-2011	Repeal	3-1-2011	330-070-0010	12-22-2010	Amend	2-1-2011
309-043-0050	2-1-2011	Repeal	3-1-2011	330-070-0010(T)	12-22-2010	Repeal	2-1-2011
309-043-0055	2-1-2011	Repeal	3-1-2011	330-070-0013	12-22-2010	Amend	2-1-2011
309-043-0060	2-1-2011	Repeal	3-1-2011	330-070-0013(T)	12-22-2010	Repeal	2-1-2011
309-043-0065	2-1-2011	Repeal	3-1-2011	330-070-0014	12-22-2010	Amend	2-1-2011
309-043-0070	2-1-2011	Repeal	3-1-2011	330-070-0019	12-22-2010	Adopt	2-1-2011
309-043-0075	2-1-2011	Repeal	3-1-2011	330-070-0019(T)	12-22-2010	Repeal	2-1-2011
309-043-0080	2-1-2011	Repeal	3-1-2011	330-070-0020	12-22-2010	Amend	2-1-2011
309-043-0085	2-1-2011	Repeal	3-1-2011	330-070-0021	12-22-2010	Amend	2-1-2011
309-043-0090	2-1-2011	Repeal	3-1-2011	330-070-0022	12-22-2010	Amend	2-1-2011
309-043-0095	2-1-2011	Repeal	3-1-2011	330-070-0022(T)	12-22-2010	Repeal	2-1-2011
309-043-0100	2-1-2011	Repeal	3-1-2011	330-070-0024	12-22-2010	Amend	2-1-2011
309-043-0105	2-1-2011	Repeal	3-1-2011	330-070-0025	12-22-2010	Amend	2-1-2011
309-043-0110	2-1-2011	Repeal	3-1-2011	330-070-0026	12-22-2010	Amend	2-1-2011
309-043-0115	2-1-2011	Repeal	3-1-2011	330-070-0027	12-22-2010	Amend	2-1-2011
309-043-0120	2-1-2011	Repeal	3-1-2011	330-070-0045	12-22-2010	Amend	2-1-2011
309-043-0125	2-1-2011	Repeal	3-1-2011	330-070-0055	12-22-2010	Amend	2-1-2011
309-043-0130	2-1-2011	Repeal	3-1-2011	330-070-0059	12-22-2010	Amend	2-1-2011
309-043-0135	2-1-2011	Repeal	3-1-2011	330-070-0060	12-22-2010	Amend	2-1-2011
309-043-0140	2-1-2011	Repeal	3-1-2011	330-070-0062	12-22-2010	Amend	2-1-2011
309-043-0145	2-1-2011	Repeal	3-1-2011	330-070-0063	12-22-2010	Amend	2-1-2011
309-043-0150	2-1-2011	Repeal	3-1-2011	330-070-0064	12-22-2010	Amend	2-1-2011
309-043-0155	2-1-2011	Repeal	3-1-2011	330-070-0070	12-22-2010	Amend	2-1-2011
309-043-0160	2-1-2011	Repeal	3-1-2011	330-070-0073	12-22-2010	Amend	2-1-2011
309-043-0165	2-1-2011	Repeal	3-1-2011	330-070-0089	12-22-2010	Amend	2-1-2011
309-043-0170	2-1-2011	Repeal	3-1-2011	330-070-0091	12-22-2010	Amend	2-1-2011
309-043-0175	2-1-2011	Repeal	3-1-2011	330-070-0097	12-22-2010	Amend	2-1-2011
309-043-0180	2-1-2011	Repeal	3-1-2011	330-090-0105	11-23-2010	Amend	1-1-2011
309-043-0185	2-1-2011	Repeal	3-1-2011	330-090-0105(T)	11-23-2010	Repeal	1-1-2011
309-043-0190	2-1-2011	Repeal	3-1-2011	330-090-0110	11-23-2010	Amend	1-1-2011
309-043-0195	2-1-2011	Repeal	3-1-2011	330-090-0110(T)	11-23-2010	Repeal	1-1-2011
309-043-0200	2-1-2011	Repeal	3-1-2011	330-090-0120	11-23-2010	Amend	1-1-2011
309-049-0000	2-1-2011	Renumber	3-1-2011	330-090-0120(T)	11-23-2010	Repeal	1-1-2011
309-049-0005	2-1-2011	Renumber	3-1-2011	330-090-0130	11-23-2010	Amend	1-1-2011
309-049-0010	2-1-2011	Renumber	3-1-2011	330-090-0130(T)	11-23-2010	Repeal	1-1-2011
309-049-0015	2-1-2011	Renumber	3-1-2011	330-090-0133	11-23-2010	Amend	1-1-2011
309-049-0020	2-1-2011	Renumber	3-1-2011	330-090-0133(T)	11-23-2010	Repeal	1-1-2011
309-100-0100	1-7-2011	Adopt(T)	2-1-2011	330-090-0140	11-23-2010	Amend	1-1-2011
309-100-0110	1-7-2011	Adopt(T)	2-1-2011	330-090-0140(T)	11-23-2010	Repeal	1-1-2011
309-100-0120	1-7-2011	Adopt(T)	2-1-2011	330-090-0150	11-23-2010	Amend	1-1-2011
309-100-0130	1-7-2011	Adopt(T)	2-1-2011	330-090-0150(T)	11-23-2010	Repeal	1-1-2011
309-100-0140	1-7-2011	Adopt(T)	2-1-2011	330-090-0350	11-23-2010	Adopt	1-1-2011
309-100-0150	1-7-2011	Adopt(T)	2-1-2011	330-090-0350(T)	11-23-2010	Repeal	1-1-2011
309-102-0000	1-7-2011	Suspend	2-1-2011	330-090-0450	11-23-2010	Adopt	1-1-2011
309-102-0005	1-7-2011	Suspend	2-1-2011	330-090-0450(T)	11-23-2010	Repeal	1-1-2011
309-102-0010	1-7-2011	Suspend	2-1-2011	330-112-0000	12-15-2010	Adopt	1-1-2011
309-102-0015	1-7-2011	Suspend	2-1-2011	330-112-0000(T)	12-15-2010	Repeal	1-1-2011
309-102-0020	1-7-2011	Suspend	2-1-2011	330-112-0010	12-15-2010	Adopt	1-1-2011
309-102-0025	1-7-2011	Suspend	2-1-2011	330-112-0010(T)	12-15-2010	Repeal	1-1-2011
309-114-0005	11-19-2010	Amend(T)	1-1-2011	330-112-0020	12-15-2010	Adopt	1-1-2011
309-114-0020	11-19-2010	Amend(T)	1-1-2011	330-112-0020(T)	12-15-2010	Repeal	1-1-2011

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330-112-0030(T)	12-15-2010	Repeal	1-1-2011	333-076-0111	12-15-2010	Amend	1-1-2011
330-112-0040	12-15-2010	Adopt	1-1-2011	333-076-0114	12-15-2010	Amend	1-1-2011
330-112-0040(T)	12-15-2010	Repeal	1-1-2011	333-076-0115	12-15-2010	Amend	1-1-2011
330-112-0050	12-15-2010	Adopt	1-1-2011	333-076-0125	12-15-2010	Amend	1-1-2011
330-112-0050(T)	12-15-2010	Repeal	1-1-2011	333-076-0130	12-15-2010	Amend	1-1-2011
330-112-0060	12-15-2010	Adopt	1-1-2011	333-076-0135	12-15-2010	Amend	1-1-2011
330-112-0060(T)	12-15-2010	Repeal	1-1-2011	333-076-0140	12-15-2010	Amend	1-1-2011
330-112-0070	12-15-2010	Adopt	1-1-2011	333-076-0145	12-15-2010	Amend	1-1-2011
330-112-0070(T)	12-15-2010	Repeal	1-1-2011	333-076-0155	12-15-2010	Amend	1-1-2011
330-112-0080	12-15-2010	Adopt	1-1-2011	333-076-0160	12-15-2010	Amend	1-1-2011
330-112-0080(T)	12-15-2010	Repeal	1-1-2011	333-076-0165	12-15-2010	Amend	1-1-2011
330-112-0090	12-15-2010	Adopt	1-1-2011	333-076-0170	12-15-2010	Amend	1-1-2011
330-112-0090(T)	12-15-2010	Repeal	1-1-2011	333-076-0175	12-15-2010	Amend	1-1-2011
330-112-0100	12-15-2010	Adopt	1-1-2011	333-076-0180	12-15-2010	Amend	1-1-2011
330-112-0100(T)	12-15-2010	Repeal	1-1-2011	333-076-0190	12-15-2010	Amend	1-1-2011
332-015-0000	1-1-2011	Amend	2-1-2011	333-076-0250	12-15-2010	Adopt	1-1-2011
332-015-0010	1-1-2011	Repeal	2-1-2011	333-076-0255	12-15-2010	Adopt	1-1-2011
332-015-0030	1-1-2011	Amend	2-1-2011	333-076-0260	12-15-2010	Adopt	1-1-2011
332-015-0040	1-1-2011	Amend	2-1-2011	333-076-0265	12-15-2010	Adopt	1-1-2011
332-015-0050	1-1-2011	Amend	2-1-2011	333-076-0270	12-15-2010	Adopt	1-1-2011
332-015-0060	1-1-2011	Repeal	2-1-2011	333-255-0070	1-6-2011	Amend	2-1-2011
332-015-0065	1-1-2011	Repeal	2-1-2011	333-255-0070(T)	1-6-2011	Repeal	2-1-2011
332-015-0070	1-1-2011	Amend	2-1-2011	333-255-0071	1-6-2011	Amend	2-1-2011
332-015-0080	1-1-2011	Adopt	2-1-2011	333-255-0072	1-6-2011	Amend	2-1-2011
332-020-0000	1-1-2011	Amend	2-1-2011	333-255-0073	1-6-2011	Amend	2-1-2011
332-020-0010	1-1-2011	Amend	2-1-2011	333-265-0050	1-6-2011	Amend	2-1-2011
332-020-0015	1-1-2011	Amend	2-1-2011	333-265-0090	1-6-2011	Amend	2-1-2011
332-020-0017	1-1-2011	Adopt	2-1-2011	333-265-0090(T)	1-6-2011	Repeal	2-1-2011
332-020-0020	1-1-2011	Amend	2-1-2011	333-265-0105	1-6-2011	Amend	2-1-2011
332-020-0020(T)	1-1-2011	Repeal	2-1-2011	333-265-0105(T)	1-6-2011	Repeal	2-1-2011
332-025-0020	1-1-2011	Amend	2-1-2011	333-265-0110	1-6-2011	Amend	2-1-2011
332-025-0021	1-1-2011	Amend	2-1-2011	333-500-0005	12-15-2010	Amend	1-1-2011
332-025-0022	1-1-2011	Amend	2-1-2011	333-500-0010	12-15-2010	Amend	1-1-2011
332-025-0030	1-1-2011	Amend	2-1-2011	333-500-0020	12-15-2010	Amend	1-1-2011
332-025-0040	1-1-2011	Amend	2-1-2011	333-500-0025	12-15-2010	Amend	1-1-2011
332-025-0050	1-1-2011	Amend	2-1-2011	333-500-0030	12-15-2010	Amend	1-1-2011
332-025-0060	1-1-2011	Amend	2-1-2011	333-500-0031	12-15-2010	Adopt	1-1-2011
332-025-0070	1-1-2011	Adopt	2-1-2011	333-500-0034	12-15-2010	Amend	1-1-2011
332-025-0080	1-1-2011	Adopt	2-1-2011	333-500-0040	12-15-2010	Amend	1-1-2011
332-025-0100	1-1-2011	Adopt	2-1-2011	333-500-0065	12-15-2010	Amend	1-1-2011
332-030-0000	1-1-2011	Amend	2-1-2011	333-501-0010	12-15-2010	Amend	1-1-2011
333-005-0000	1-1-2011	Am. & Ren.	2-1-2011	333-501-0015	12-15-2010	Amend	1-1-2011
333-005-0010	1-1-2011	Am. & Ren.	2-1-2011	333-501-0035	12-15-2010	Amend	1-1-2011
333-005-0020	1-1-2011	Am. & Ren.	2-1-2011	333-501-0040	12-15-2010	Amend	1-1-2011
333-005-0030	1-1-2011	Am. & Ren.	2-1-2011	333-501-0045	12-15-2010	Amend	1-1-2011
333-005-0040	1-1-2011	Am. & Ren.	2-1-2011	333-501-0055	12-15-2010	Amend	1-1-2011
333-005-0050	1-1-2011	Am. & Ren.	2-1-2011	333-501-0060	12-15-2010	Adopt	1-1-2011
333-005-0060	1-1-2011	Am. & Ren.	2-1-2011	333-505-0005	12-15-2010	Amend	1-1-2011
333-008-0020	12-28-2010	Amend	2-1-2011	333-505-0020	12-15-2010	Amend	1-1-2011
333-008-0020(T)	12-28-2010	Repeal	2-1-2011	333-505-0030	12-15-2010	Amend	1-1-2011
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333-008-0045	12-28-2010	Adopt	2-1-2011	333-505-0050	12-15-2010	Amend	1-1-2011
333-076-0101	12-15-2010	Amend	1-1-2011	334-001-0012	1-1-2011	Amend	2-1-2011
333-076-0106	12-15-2010	Amend	1-1-2011	334-001-0055	1-1-2011	Amend	2-1-2011
333-076-0108	12-15-2010	Amend	1-1-2011	334-010-0033	1-1-2011	Amend	2-1-2011

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335-060-0005	2-1-2011	Amend	3-1-2011	410-050-0431	2-1-2011	Renumber	3-1-2011
335-060-0010	2-1-2011	Amend	3-1-2011	410-050-0451	2-1-2011	Renumber	3-1-2011
335-060-0030	2-1-2011	Amend	3-1-2011	410-050-0461	2-1-2011	Renumber	3-1-2011
335-070-0020	2-1-2011	Amend	3-1-2011	410-050-0471	2-1-2011	Renumber	3-1-2011
335-070-0055	2-1-2011	Amend	3-1-2011	410-050-0481	2-1-2011	Renumber	3-1-2011
335-070-0085	2-1-2011	Amend	3-1-2011	410-050-0491	2-1-2011	Renumber	3-1-2011
335-095-0030	2-1-2011	Amend	3-1-2011	410-050-0501	2-1-2011	Renumber	3-1-2011
335-095-0040	2-1-2011	Amend	3-1-2011	410-050-0511	2-1-2011	Renumber	3-1-2011
335-095-0055	2-1-2011	Repeal	3-1-2011	410-050-0521	2-1-2011	Renumber	3-1-2011
340-016-0080	12-20-2010	Amend	2-1-2011	410-050-0531	2-1-2011	Renumber	3-1-2011
340-016-0088	12-20-2010	Adopt	2-1-2011	410-050-0541	2-1-2011	Renumber	3-1-2011
340-016-0100	12-20-2010	Repeal	2-1-2011	410-050-0551	2-1-2011	Renumber	3-1-2011
340-016-0110	12-20-2010	Repeal	2-1-2011	410-050-0561	2-1-2011	Renumber	3-1-2011
340-016-0120	12-20-2010	Repeal	2-1-2011	410-050-0591	2-1-2011	Renumber	3-1-2011
340-016-0130	12-20-2010	Repeal	2-1-2011	410-050-0601	2-1-2011	Renumber	3-1-2011
340-016-0140	12-20-2010	Repeal	2-1-2011	410-120-0030	1-1-2011	Amend	2-1-2011
340-016-0150	12-20-2010	Repeal	2-1-2011	410-120-1195	1-1-2011	Amend	2-1-2011
340-016-0210	12-20-2010	Amend	2-1-2011	410-120-1200	1-1-2011	Amend	2-1-2011
340-041-0033	12-21-2010	Amend	2-1-2011	410-120-1230	1-1-2011	Amend	2-1-2011
340-141-0010	12-23-2010	Amend	2-1-2011	410-120-1280	1-1-2011	Amend	2-1-2011
340-200-0040	12-10-2010	Amend	1-1-2011	410-120-1295	1-1-2011	Amend	2-1-2011
340-220-0030	12-20-2010	Amend	2-1-2011	410-120-1340	1-1-2011	Amend	2-1-2011
340-220-0040	12-20-2010	Amend	2-1-2011	410-121-0000	1-1-2011	Amend	2-1-2011
340-220-0050	12-20-2010	Amend	2-1-2011	410-121-0030	1-1-2011	Amend	2-1-2011
340-223-0010	12-10-2010	Amend	1-1-2011	410-121-0040	1-1-2011	Amend	2-1-2011
340-223-0020	12-10-2010	Amend	1-1-2011	410-121-0149	1-1-2011	Amend	2-1-2011
340-223-0030	12-10-2010	Amend	1-1-2011	410-121-0155	1-1-2011	Amend	2-1-2011
340-223-0040	12-10-2010	Amend	1-1-2011	410-121-0160	1-1-2011	Amend	2-1-2011
340-223-0050	12-10-2010	Amend	1-1-2011	410-121-0320	1-1-2011	Repeal	2-1-2011
340-223-0060	12-10-2010	Adopt	1-1-2011	410-123-1000	1-1-2011	Amend	1-1-2011
340-223-0070	12-10-2010	Adopt	1-1-2011	410-123-1085	1-1-2011	Repeal	1-1-2011
340-223-0080	12-10-2010	Adopt	1-1-2011	410-123-1220	1-1-2011	Amend	1-1-2011
407-020-0000	2-1-2011	Am. & Ren.	3-1-2011	410-123-1260	1-1-2011	Amend	1-1-2011
407-020-0005	2-1-2011	Am. & Ren.	3-1-2011	410-123-1540	1-1-2011	Amend	1-1-2011
407-020-0010	2-1-2011	Am. & Ren.	3-1-2011	410-125-0047	1-1-2011	Amend	1-1-2011
407-020-0015	2-1-2011	Am. & Ren.	3-1-2011	410-125-0080	1-1-2011	Amend	1-1-2011
407-045-0260	1-1-2011	Amend	2-1-2011	410-125-0085	1-1-2011	Amend	1-1-2011
407-045-0260(T)	1-1-2011	Repeal	2-1-2011	410-125-0100	1-1-2011	Repeal	1-1-2011
407-045-0820	1-1-2011	Amend	2-1-2011	410-125-0140	1-1-2011	Amend	1-1-2011
407-045-0820(T)	1-1-2011	Repeal	2-1-2011	410-125-0360	1-1-2011	Amend	1-1-2011
409-015-0010	3-1-2011	Amend	3-1-2011	410-125-0410	1-1-2011	Amend	1-1-2011
409-030-0000	3-1-2011	Renumber	3-1-2011	410-125-0450	1-1-2011	Adopt	1-1-2011
409-030-0005	3-1-2011	Renumber	3-1-2011	410-125-1020	1-1-2011	Amend	1-1-2011
409-030-0010	3-1-2011	Renumber	3-1-2011	410-125-2000	1-1-2011	Amend	1-1-2011
409-030-0020	3-1-2011	Renumber	3-1-2011	410-125-2020	1-1-2011	Amend	1-1-2011
409-030-0030	3-1-2011	Renumber	3-1-2011	410-125-2030	1-1-2011	Amend	1-1-2011
409-030-0050	3-1-2011	Renumber	3-1-2011	410-127-0020	1-1-2011	Amend	1-1-2011
409-030-0065	3-1-2011	Renumber	3-1-2011	410-127-0060	1-1-2011	Amend	1-1-2011
409-110-0000	2-1-2011	Amend	3-1-2011	410-127-0065	1-1-2011	Amend	1-1-2011
409-110-0005	2-1-2011	Amend	3-1-2011	410-127-0080	1-1-2011	Amend	1-1-2011
409-110-0010	2-1-2011	Amend	3-1-2011	410-130-0200	1-1-2011	Amend	1-1-2011
409-110-0015	2-1-2011	Amend	3-1-2011	410-130-0255	1-1-2011	Amend	1-1-2011
409-110-0020	2-1-2011	Amend	3-1-2011	410-130-0580	1-1-2011	Amend	1-1-2011
410-050-0401	2-1-2011	Renumber	3-1-2011	410-130-0585	1-1-2011	Amend	1-1-2011
410-050-0411	2-1-2011	Renumber	3-1-2011	410-130-0587	1-1-2011	Amend	1-1-2011

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410-136-0040	1-1-2011	Amend	1-1-2011	410-141-0280	1-1-2011	Amend	2-1-2011
410-136-0045	1-1-2011	Amend	1-1-2011	410-141-0300	1-1-2011	Amend	2-1-2011
410-136-0050	1-1-2011	Amend	1-1-2011	410-141-0420	1-1-2011	Amend	2-1-2011
410-136-0060	1-1-2011	Amend	1-1-2011	410-141-0520	1-1-2011	Amend	2-1-2011
410-136-0070	1-1-2011	Amend	1-1-2011	410-141-0520(T)	1-1-2011	Repeal	2-1-2011
410-136-0080	1-1-2011	Amend	1-1-2011	410-142-0020	1-1-2011	Amend	1-1-2011
410-136-0140	1-1-2011	Amend	1-1-2011	410-142-0100	1-1-2011	Amend	1-1-2011
410-136-0160	1-1-2011	Amend	1-1-2011	410-142-0110	1-1-2011	Adopt	1-1-2011
410-136-0180	1-1-2011	Amend	1-1-2011	410-142-0200	1-1-2011	Amend	1-1-2011
410-136-0200	1-1-2011	Amend	1-1-2011	410-142-0225	1-1-2011	Amend	1-1-2011
410-136-0220	1-1-2011	Amend	1-1-2011	410-142-0240	1-1-2011	Amend	1-1-2011
410-136-0240	1-1-2011	Amend	1-1-2011	410-142-0280	1-1-2011	Amend	1-1-2011
410-136-0300	1-1-2011	Amend	1-1-2011	410-142-0300	1-1-2011	Amend	1-1-2011
410-136-0320	1-1-2011	Amend	1-1-2011	410-146-0021	1-1-2011	Amend	1-1-2011
410-136-0340	1-1-2011	Amend	1-1-2011	410-146-0085	1-1-2011	Amend	1-1-2011
410-136-0350	1-1-2011	Amend	1-1-2011	410-146-0086	1-1-2011	Amend	1-1-2011
410-136-0440	1-1-2011	Amend	1-1-2011	410-146-0120	1-1-2011	Amend	1-1-2011
410-136-0800	1-1-2011	Amend	1-1-2011	410-146-0140	1-1-2011	Repeal	1-1-2011
410-136-0820	1-1-2011	Amend	1-1-2011	410-147-0120	1-1-2011	Amend	1-1-2011
410-136-0840	1-1-2011	Amend	1-1-2011	410-147-0140	1-1-2011	Amend	1-1-2011
410-136-0860	1-1-2011	Amend	1-1-2011	410-147-0200	1-1-2011	Amend	1-1-2011
410-138-0000	1-1-2011	Amend	2-1-2011	410-147-0220	1-1-2011	Repeal	1-1-2011
410-138-0005	1-1-2011	Amend	2-1-2011	410-147-0320	1-1-2011	Amend	1-1-2011
410-138-0007	1-1-2011	Amend	2-1-2011	410-147-0480	1-1-2011	Amend	1-1-2011
410-138-0009	1-1-2011	Amend	2-1-2011	410-147-0610	1-1-2011	Repeal	1-1-2011
410-138-0020	1-1-2011	Amend	2-1-2011	411-031-0020	12-1-2010	Amend	1-1-2011
410-138-0040	1-1-2011	Amend	2-1-2011	411-031-0020(T)	12-1-2010	Repeal	1-1-2011
410-138-0060	1-1-2011	Amend	2-1-2011	411-031-0040	12-1-2010	Amend	1-1-2011
410-138-0080	1-1-2011	Amend	2-1-2011	411-031-0040(T)	12-1-2010	Repeal	1-1-2011
410-138-0300	1-1-2011	Repeal	2-1-2011	411-034-0010	1-1-2011	Amend	2-1-2011
410-138-0360	1-1-2011	Repeal	2-1-2011	411-034-0020	1-1-2011	Amend	2-1-2011
410-138-0380	1-1-2011	Repeal	2-1-2011	411-050-0412	1-1-2011	Amend	2-1-2011
410-138-0390	1-1-2011	Amend	2-1-2011	411-050-0499	1-1-2011	Repeal	2-1-2011
410-138-0400	1-1-2011	Repeal	2-1-2011	411-304-0035	1-1-2011	Amend	2-1-2011
410-138-0420	1-1-2011	Amend	2-1-2011	411-308-0020	2-1-2011	Amend(T)	3-1-2011
410-138-0440	1-1-2011	Repeal	2-1-2011	411-308-0050	2-1-2011	Amend(T)	3-1-2011
410-138-0460	1-1-2011	Repeal	2-1-2011	411-308-0060	2-1-2011	Amend(T)	3-1-2011
410-138-0500	1-1-2011	Repeal	2-1-2011	411-308-0070	2-1-2011	Amend(T)	3-1-2011
410-138-0540	1-1-2011	Repeal	2-1-2011	411-308-0080	2-1-2011	Amend(T)	3-1-2011
410-138-0560	1-1-2011	Repeal	2-1-2011	411-308-0090	2-1-2011	Amend(T)	3-1-2011
410-138-0600	1-1-2011	Repeal	2-1-2011	411-308-0120	2-1-2011	Amend(T)	3-1-2011
410-138-0640	1-1-2011	Repeal	2-1-2011	411-320-0020	1-1-2011	Amend	2-1-2011
410-138-0660	1-1-2011	Repeal	2-1-2011	411-320-0020(T)	1-1-2011	Repeal	2-1-2011
410-138-0680	1-1-2011	Repeal	2-1-2011	411-320-0030	12-1-2010	Amend(T)	1-1-2011
410-138-0700	1-1-2011	Repeal	2-1-2011	411-320-0045	12-1-2010	Amend(T)	1-1-2011
410-138-0710	1-1-2011	Repeal	2-1-2011	411-320-0080	1-1-2011	Amend	2-1-2011
410-138-0740	1-1-2011	Repeal	2-1-2011	411-320-0080(T)	1-1-2011	Repeal	2-1-2011
410-138-0760	1-1-2011	Repeal	2-1-2011	411-320-0130	12-1-2010	Amend(T)	1-1-2011
410-138-0780	1-1-2011	Repeal	2-1-2011	411-320-0170	12-1-2010	Amend(T)	1-1-2011
410-141-0000	1-1-2011	Amend	2-1-2011	411-320-0175	1-1-2011	Amend	2-1-2011
410-141-0070	1-1-2011	Amend	2-1-2011	411-320-0175(T)	1-1-2011	Repeal	2-1-2011
410-141-0080	1-1-2011	Amend	2-1-2011	411-328-0570	2-7-2011	Amend(T)	3-1-2011
410-141-0120	1-1-2011	Amend	2-1-2011	411-328-0810	2-7-2011	Amend(T)	3-1-2011
410-141-0220	1-1-2011	Amend	2-1-2011	411-335-0030	2-7-2011	Amend(T)	3-1-2011
410-141-0260	1-1-2011	Amend	2-1-2011	411-335-0050	2-7-2011	Amend(T)	3-1-2011

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411-340-0030	11-17-2010	Amend(T)	1-1-2011	413-070-0645	12-29-2010	Amend	2-1-2011
411-340-0040	11-17-2010	Amend(T)	1-1-2011	413-070-0651	12-29-2010	Adopt(T)	2-1-2011
411-340-0060	11-17-2010	Amend(T)	1-1-2011	413-070-0655	12-29-2010	Adopt(T)	2-1-2011
411-340-0120	11-17-2010	Amend(T)	1-1-2011	413-070-0660	12-29-2010	Adopt(T)	2-1-2011
411-345-0030	2-7-2011	Amend(T)	3-1-2011	413-070-0665	12-29-2010	Adopt(T)	2-1-2011
411-345-0100	2-7-2011	Amend(T)	3-1-2011	413-070-0670	12-29-2010	Adopt(T)	2-1-2011
411-345-0260	2-7-2011	Amend(T)	3-1-2011	413-110-0100	12-29-2010	Amend	2-1-2011
411-346-0110	2-10-2011	Amend(T)	3-1-2011	413-110-0110	12-29-2010	Amend	2-1-2011
411-346-0150	2-10-2011	Amend(T)	3-1-2011	413-110-0120	12-29-2010	Repeal	2-1-2011
411-346-0160	2-10-2011	Amend(T)	3-1-2011	413-110-0130	12-29-2010	Amend	2-1-2011
411-346-0165	2-10-2011	Amend(T)	3-1-2011	413-110-0132	12-29-2010	Adopt	2-1-2011
411-346-0190	2-10-2011	Amend(T)	3-1-2011	413-110-0140	12-29-2010	Repeal	2-1-2011
411-346-0200	2-10-2011	Amend(T)	3-1-2011	413-110-0150	12-29-2010	Adopt	2-1-2011
411-346-0220	2-10-2011	Amend(T)	3-1-2011	413-120-0000	12-29-2010	Amend	2-1-2011
411-360-0070	1-1-2011	Amend	2-1-2011	413-120-0010	12-29-2010	Amend	2-1-2011
411-360-0070(T)	1-1-2011	Repeal	2-1-2011	413-120-0015	12-29-2010	Repeal	2-1-2011
413-010-0055	12-29-2010	Amend	2-1-2011	413-120-0020	12-29-2010	Amend	2-1-2011
413-010-0055(T)	12-29-2010	Repeal	2-1-2011	413-120-0021	12-29-2010	Adopt	2-1-2011
413-010-0081	12-29-2010	Amend	2-1-2011	413-120-0025	12-29-2010	Adopt	2-1-2011
413-010-0082	12-29-2010	Amend	2-1-2011	413-120-0030	12-29-2010	Repeal	2-1-2011
413-010-0083	12-29-2010	Amend	2-1-2011	413-120-0033	12-29-2010	Am. & Ren.	2-1-2011
413-010-0084	12-29-2010	Repeal	2-1-2011	413-120-0035	12-29-2010	Amend	2-1-2011
413-010-0085	12-29-2010	Amend	2-1-2011	413-120-0040	12-29-2010	Repeal	2-1-2011
413-010-0086	12-29-2010	Repeal	2-1-2011	413-120-0045	12-29-2010	Am. & Ren.	2-1-2011
413-010-0360	12-29-2010	Repeal	2-1-2011	413-120-0053	12-29-2010	Adopt	2-1-2011
413-010-0370	12-29-2010	Repeal	2-1-2011	413-120-0057	12-29-2010	Adopt	2-1-2011
413-010-0380	12-29-2010	Repeal	2-1-2011	413-120-0060	12-29-2010	Amend	2-1-2011
413-040-0240	1-4-2011	Amend	2-1-2011	413-120-0075	12-29-2010	Am. & Ren.	2-1-2011
413-040-0240(T)	1-4-2011	Repeal	2-1-2011	413-120-0080	12-29-2010	Repeal	2-1-2011
413-070-0500	12-29-2010	Amend	2-1-2011	413-120-0190	12-29-2010	Amend	2-1-2011
413-070-0505	12-29-2010	Amend	2-1-2011	413-120-0195	12-29-2010	Amend	2-1-2011
413-070-0510	12-29-2010	Amend	2-1-2011	413-120-0200	12-29-2010	Repeal	2-1-2011
413-070-0514	12-29-2010	Adopt	2-1-2011	413-120-0210	12-29-2010	Repeal	2-1-2011
413-070-0515	12-29-2010	Am. & Ren.	2-1-2011	413-120-0220	12-29-2010	Amend	2-1-2011
413-070-0516	12-29-2010	Adopt	2-1-2011	413-120-0222	12-29-2010	Adopt	2-1-2011
413-070-0517	12-29-2010	Repeal	2-1-2011	413-120-0225	12-29-2010	Adopt	2-1-2011
413-070-0518	12-29-2010	Adopt	2-1-2011	413-120-0230	12-29-2010	Repeal	2-1-2011
413-070-0519	12-29-2010	Adopt	2-1-2011	413-120-0240	12-29-2010	Amend	2-1-2011
413-070-0520	12-29-2010	Amend	2-1-2011	413-120-0243	12-29-2010	Adopt	2-1-2011
413-070-0524	12-29-2010	Amend	2-1-2011	413-120-0246	12-29-2010	Adopt	2-1-2011
413-070-0532	12-29-2010	Amend	2-1-2011	413-120-0250	12-29-2010	Repeal	2-1-2011
413-070-0536	12-29-2010	Amend	2-1-2011	413-120-0255	12-29-2010	Repeal	2-1-2011
413-070-0540	12-29-2010	Amend	2-1-2011	413-120-0260	12-29-2010	Repeal	2-1-2011
413-070-0548	12-29-2010	Am. & Ren.	2-1-2011	413-120-0265	12-29-2010	Repeal	2-1-2011
413-070-0550	12-29-2010	Amend	2-1-2011	413-120-0270	12-29-2010	Repeal	2-1-2011
413-070-0552	12-29-2010	Amend	2-1-2011	413-120-0275	12-29-2010	Repeal	2-1-2011
413-070-0556	12-29-2010	Amend	2-1-2011	413-120-0280	12-29-2010	Repeal	2-1-2011
413-070-0565	12-29-2010	Amend	2-1-2011	413-120-0285	12-29-2010	Repeal	2-1-2011
413-070-0570	12-28-2010	Adopt	2-1-2011	413-120-0290	12-29-2010	Repeal	2-1-2011
413-070-0572	12-28-2010	Adopt	2-1-2011	413-120-0300	12-29-2010	Repeal	2-1-2011
413-070-0574	12-28-2010	Adopt	2-1-2011	413-120-0310	12-29-2010	Repeal	2-1-2011
413-070-0600	12-29-2010	Amend	2-1-2011	413-120-0500	12-29-2010	Amend	2-1-2011
413-070-0620	12-29-2010	Amend	2-1-2011	413-120-0510	12-29-2010	Amend	2-1-2011
413-070-0625	12-29-2010	Amend	2-1-2011	413-120-0520	12-29-2010	Repeal	2-1-2011
413-070-0630	12-29-2010	Amend	2-1-2011	413-120-0521	12-29-2010	Adopt	2-1-2011

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413-120-0540	12-29-2010	Repeal	2-1-2011	414-350-0115	1-1-2011	Amend	2-1-2011
413-120-0541	12-29-2010	Adopt	2-1-2011	414-350-0200	1-1-2011	Amend	2-1-2011
413-120-0550	12-29-2010	Am. & Ren.	2-1-2011	414-350-0210	1-1-2011	Amend	2-1-2011
413-120-0570	12-29-2010	Adopt	2-1-2011	414-350-0375	1-1-2011	Amend	2-1-2011
413-120-0590	12-29-2010	Adopt	2-1-2011	414-350-0380	1-1-2011	Amend	2-1-2011
413-120-0595	12-29-2010	Adopt	2-1-2011	415-065-0055	2-11-2011	Amend(T)	3-1-2011
413-120-0700	12-29-2010	Adopt	2-1-2011	437-003-0001	2-9-2011	Amend	3-1-2011
413-120-0710	12-29-2010	Adopt	2-1-2011	437-003-1423	2-9-2011	Adopt	3-1-2011
413-120-0720	12-29-2010	Adopt	2-1-2011	437-003-3600	2-9-2011	Adopt	3-1-2011
413-120-0730	12-29-2010	Adopt	2-1-2011	441-035-0010	2-15-2011	Amend	3-1-2011
413-120-0750	12-29-2010	Adopt	2-1-2011	441-505-1135	12-1-2010	Adopt	1-1-2011
413-120-0760	12-29-2010	Adopt	2-1-2011	441-674-0005	1-1-2011	Adopt	2-1-2011
413-120-0800	12-29-2010	Amend	2-1-2011	441-674-0005	1-20-2011	Amend	3-1-2011
413-120-0810	12-29-2010	Amend	2-1-2011	441-674-0005(T)	1-1-2011	Repeal	2-1-2011
413-120-0820	12-29-2010	Repeal	2-1-2011	441-674-0100	1-1-2011	Adopt	2-1-2011
413-120-0830	12-29-2010	Amend	2-1-2011	441-674-0100(T)	1-1-2011	Repeal	2-1-2011
413-120-0840	12-29-2010	Adopt	2-1-2011	441-674-0120	1-1-2011	Adopt	2-1-2011
413-120-0850	12-29-2010	Adopt	2-1-2011	441-674-0120(T)	1-1-2011	Repeal	2-1-2011
413-120-0860	12-29-2010	Adopt	2-1-2011	441-674-0130	1-1-2011	Adopt	2-1-2011
413-120-0870	12-29-2010	Adopt	2-1-2011	441-674-0130(T)	1-1-2011	Repeal	2-1-2011
413-120-0900	12-28-2010	Adopt	2-1-2011	441-674-0140	1-1-2011	Adopt	2-1-2011
413-120-0905	12-28-2010	Adopt	2-1-2011	441-674-0140(T)	1-1-2011	Repeal	2-1-2011
413-120-0910	12-28-2010	Adopt	2-1-2011	441-674-0210	1-1-2011	Adopt	2-1-2011
413-120-0920	12-28-2010	Adopt	2-1-2011	441-674-0210(T)	1-1-2011	Repeal	2-1-2011
413-120-0925	12-28-2010	Adopt	2-1-2011	441-674-0220	1-1-2011	Adopt	2-1-2011
413-120-0930	12-28-2010	Adopt	2-1-2011	441-674-0220(T)	1-1-2011	Repeal	2-1-2011
413-120-0940	12-28-2010	Adopt	2-1-2011	441-674-0230	1-1-2011	Adopt	2-1-2011
413-120-0945	12-28-2010	Adopt	2-1-2011	441-674-0230(T)	1-1-2011	Repeal	2-1-2011
413-120-0950	12-28-2010	Adopt	2-1-2011	441-674-0240	1-1-2011	Adopt	2-1-2011
413-120-0960	12-28-2010	Adopt	2-1-2011	441-674-0240(T)	1-1-2011	Repeal	2-1-2011
413-120-0970	12-28-2010	Adopt	2-1-2011	441-674-0250	1-1-2011	Adopt	2-1-2011
413-130-0150	12-29-2010	Repeal	2-1-2011	441-674-0250(T)	1-1-2011	Repeal	2-1-2011
413-130-0160	12-29-2010	Repeal	2-1-2011	441-674-0310	1-1-2011	Adopt	2-1-2011
413-130-0170	12-29-2010	Repeal	2-1-2011	441-674-0310(T)	1-1-2011	Repeal	2-1-2011
413-130-0180	12-29-2010	Repeal	2-1-2011	441-674-0510	1-20-2011	Adopt	3-1-2011
414-205-0055	1-1-2011	Amend	2-1-2011	441-674-0520	1-20-2011	Adopt	3-1-2011
414-205-0100	1-1-2011	Amend	2-1-2011	441-674-0910	1-1-2011	Adopt	2-1-2011
414-205-0110	1-1-2011	Amend	2-1-2011	441-674-0910(T)	1-1-2011	Repeal	2-1-2011
414-205-0170	1-1-2011	Amend	2-1-2011	441-674-0915	1-1-2011	Adopt	2-1-2011
414-300-0005	1-1-2011	Amend	2-1-2011	441-674-0915(T)	1-1-2011	Repeal	2-1-2011
414-300-0010	1-1-2011	Amend	2-1-2011	441-674-0920	1-1-2011	Adopt	2-1-2011
414-300-0015	1-1-2011	Amend	2-1-2011	441-674-0920(T)	1-1-2011	Repeal	2-1-2011
414-300-0030	1-1-2011	Amend	2-1-2011	441-710-0035	12-1-2010	Amend	1-1-2011
414-300-0040	1-1-2011	Amend	2-1-2011	441-710-0071	12-1-2010	Adopt	1-1-2011
414-300-0110	1-1-2011	Amend(T)	2-1-2011	441-930-0010	1-1-2011	Amend	2-1-2011
414-300-0120	1-1-2011	Amend	2-1-2011	441-930-0030	1-1-2011	Amend	2-1-2011
414-300-0250	1-1-2011	Amend	2-1-2011	441-930-0035	1-1-2011	Adopt	2-1-2011
414-300-0415	1-1-2011	Amend	2-1-2011	441-930-0045	1-1-2011	Adopt	2-1-2011
414-350-0010	1-1-2011	Amend	2-1-2011	441-930-0065	1-1-2011	Adopt	2-1-2011
414-350-0020	1-1-2011	Amend	2-1-2011	441-930-0068	1-1-2011	Adopt	2-1-2011
414-350-0030	1-1-2011	Amend	2-1-2011	441-930-0070	1-1-2011	Amend	2-1-2011
414-350-0050	1-1-2011	Amend	2-1-2011	441-930-0080	1-1-2011	Amend	2-1-2011
414-350-0060	1-1-2011	Amend	2-1-2011	441-930-0210	1-1-2011	Amend	2-1-2011
414-350-0090	1-1-2011	Amend	2-1-2011	441-930-0220	1-1-2011	Amend	2-1-2011
414-350-0100	1-1-2011	Amend	2-1-2011	441-930-0230	1-1-2011	Amend	2-1-2011

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441-930-0250	1-1-2011	Amend	2-1-2011	461-115-0071	1-1-2011	Amend	2-1-2011
441-930-0255	1-1-2011	Adopt	2-1-2011	461-115-0071(T)	1-1-2011	Repeal	2-1-2011
441-930-0260	1-1-2011	Amend	2-1-2011	461-120-0210	1-1-2011	Amend	2-1-2011
441-930-0267	1-1-2011	Adopt	2-1-2011	461-130-0305	1-1-2011	Amend	2-1-2011
441-930-0270	1-1-2011	Amend	2-1-2011	461-130-0310	1-1-2011	Amend	2-1-2011
441-930-0280	1-1-2011	Repeal	2-1-2011	461-130-0315	1-1-2011	Amend	2-1-2011
441-930-0290	1-1-2011	Amend	2-1-2011	461-130-0320	1-1-2011	Repeal	2-1-2011
441-930-0300	1-1-2011	Amend	2-1-2011	461-130-0323	1-1-2011	Repeal	2-1-2011
441-930-0310	1-1-2011	Amend	2-1-2011	461-130-0325	1-1-2011	Repeal	2-1-2011
441-930-0320	1-1-2011	Amend	2-1-2011	461-130-0327	1-1-2011	Amend	2-1-2011
441-930-0330	1-1-2011	Amend	2-1-2011	461-130-0328	1-1-2011	Amend	2-1-2011
441-930-0340	1-1-2011	Repeal	2-1-2011	461-130-0330	1-1-2011	Amend	2-1-2011
441-930-0350	1-1-2011	Amend	2-1-2011	461-130-0335	1-1-2011	Amend	2-1-2011
441-930-0360	1-1-2011	Amend	2-1-2011	461-135-0010	1-1-2011	Amend	2-1-2011
442-005-0030	1-5-2011	Amend(T)	2-1-2011	461-135-0210	1-1-2011	Amend	2-1-2011
442-005-0030(T)	1-5-2011	Suspend	2-1-2011	461-135-0210(T)	1-1-2011	Repeal	2-1-2011
442-010-0010	1-18-2011	Amend	3-1-2011	461-135-0400	1-1-2011	Amend	2-1-2011
442-010-0020	1-18-2011	Amend	3-1-2011	461-135-0400(T)	1-1-2011	Repeal	2-1-2011
442-010-0030	1-18-2011	Amend	3-1-2011	461-135-0780	1-1-2011	Amend	2-1-2011
442-010-0040	1-18-2011	Amend	3-1-2011	461-135-1100	1-1-2011	Amend	2-1-2011
442-010-0055	1-18-2011	Amend	3-1-2011	461-135-1100(T)	1-1-2011	Repeal	2-1-2011
442-010-0060	1-18-2011	Amend	3-1-2011	461-135-1125	1-1-2011	Amend	2-1-2011
442-010-0070	1-18-2011	Amend	3-1-2011	461-135-1125(T)	1-1-2011	Repeal	2-1-2011
442-010-0080	1-18-2011	Amend	3-1-2011	461-135-1195	1-1-2011	Amend	2-1-2011
442-010-0100	1-18-2011	Amend	3-1-2011	461-135-1197	1-1-2011	Adopt	2-1-2011
442-010-0110	1-18-2011	Amend	3-1-2011	461-135-1250	1-1-2011	Amend	2-1-2011
442-010-0120	1-18-2011	Amend	3-1-2011	461-135-1250(T)	1-1-2011	Repeal	2-1-2011
442-010-0130	1-18-2011	Amend	3-1-2011	461-145-0140	1-1-2011	Amend(T)	2-1-2011
442-010-0140	1-18-2011	Amend	3-1-2011	461-145-0143	1-1-2011	Suspend	2-1-2011
442-010-0150	1-18-2011	Amend	3-1-2011	461-145-0220	1-1-2011	Amend(T)	2-1-2011
442-010-0160	1-18-2011	Amend	3-1-2011	461-145-0530	2-4-2011	Amend(T)	3-1-2011
442-010-0170	1-18-2011	Amend	3-1-2011	461-150-0055	1-1-2011	Amend	2-1-2011
442-010-0180	1-18-2011	Amend	3-1-2011	461-150-0055	1-1-2011	Amend(T)	2-1-2011
442-010-0190	1-18-2011	Amend	3-1-2011	461-150-0055	2-4-2011	Amend(T)	3-1-2011
442-010-0200	1-18-2011	Adopt	3-1-2011	461-150-0055(T)	1-1-2011	Repeal	2-1-2011
442-010-0210	1-18-2011	Adopt	3-1-2011	461-150-0055(T)	2-4-2011	Suspend	3-1-2011
442-010-0220	1-18-2011	Adopt	3-1-2011	461-155-0030	1-1-2011	Amend	2-1-2011
442-010-0230	1-18-2011	Adopt	3-1-2011	461-155-0030	1-1-2011	Amend(T)	2-1-2011
442-010-0240	1-18-2011	Adopt	3-1-2011	461-155-0030(T)	1-1-2011	Repeal	2-1-2011
442-010-0250	1-18-2011	Adopt	3-1-2011	461-155-0035	1-1-2011	Amend	2-1-2011
442-010-0260	1-18-2011	Adopt	3-1-2011	461-155-0035(T)	1-1-2011	Repeal	2-1-2011
442-010-0270	1-18-2011	Adopt	3-1-2011	461-155-0180	1-1-2011	Amend	2-1-2011
442-010-0280	1-18-2011	Adopt	3-1-2011	461-155-0180	1-20-2011	Amend(T)	3-1-2011
443-002-0070	1-26-2011	Amend	3-1-2011	461-155-0180(T)	1-1-2011	Repeal	2-1-2011
443-002-0190	1-26-2011	Amend	3-1-2011	461-155-0225	1-1-2011	Amend	2-1-2011
459-005-0040	11-24-2010	Adopt	1-1-2011	461-155-0225(T)	1-1-2011	Repeal	2-1-2011
459-060-0020	11-24-2010	Amend	1-1-2011	461-155-0235	1-20-2011	Amend	3-1-2011
459-070-0100	2-2-2011	Amend	3-1-2011	461-155-0320	1-1-2011	Amend	2-1-2011
459-070-0110	2-2-2011	Amend	3-1-2011	461-155-0320(T)	1-1-2011	Repeal	2-1-2011
461-001-0000	1-1-2011	Amend	2-1-2011	461-155-0528	1-1-2011	Adopt	2-1-2011
461-025-0311	1-1-2011	Amend	2-1-2011	461-155-0528	2-1-2011	Amend(T)	3-1-2011
461-025-0311(T)	1-1-2011	Repeal	2-1-2011	461-155-0528(T)	1-1-2011	Repeal	2-1-2011
461-101-0010	1-1-2011	Amend	2-1-2011	461-155-0688	1-1-2011	Amend	2-1-2011
461-101-0010(T)	1-1-2011	Repeal	2-1-2011	461-155-0688(T)	1-1-2011	Repeal	2-1-2011
461-110-0630	1-1-2011	Amend	2-1-2011	461-155-0693	1-1-2011	Amend	2-1-2011

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461-155-0693(T)	1-1-2011	Repeal	2-1-2011	582-050-0000	3-1-2011	Amend(T)	3-1-2011
461-160-0015	1-1-2011	Amend(T)	2-1-2011	582-050-0005	3-1-2011	Amend(T)	3-1-2011
461-160-0410	1-1-2011	Amend	2-1-2011	582-050-0010	3-1-2011	Amend(T)	3-1-2011
461-160-0430	1-1-2011	Amend	2-1-2011	582-050-0020	3-1-2011	Amend(T)	3-1-2011
461-160-0430	1-1-2011	Amend(T)	2-1-2011	582-050-0060	3-1-2011	Amend(T)	3-1-2011
461-160-0430(T)	1-1-2011	Repeal	2-1-2011	582-060-0010	3-1-2011	Amend(T)	3-1-2011
461-160-0530	1-1-2011	Repeal	2-1-2011	582-060-0020	3-1-2011	Amend(T)	3-1-2011
461-160-0700	1-1-2011	Amend	2-1-2011	582-070-0010	3-1-2011	Amend(T)	3-1-2011
461-160-0700	1-1-2011	Amend(T)	2-1-2011	582-070-0020	3-1-2011	Amend(T)	3-1-2011
461-160-0700(T)	1-1-2011	Repeal	2-1-2011	582-070-0025	3-1-2011	Amend(T)	3-1-2011
461-170-0011	1-1-2011	Amend	2-1-2011	582-070-0030	3-1-2011	Amend(T)	3-1-2011
461-175-0010	1-1-2011	Amend	2-1-2011	582-070-0040	3-1-2011	Amend(T)	3-1-2011
461-175-0010(T)	1-1-2011	Repeal	2-1-2011	582-070-0042	3-1-2011	Amend(T)	3-1-2011
461-175-0200	1-1-2011	Amend	2-1-2011	582-070-0043	3-1-2011	Amend(T)	3-1-2011
461-175-0200(T)	1-1-2011	Repeal	2-1-2011	582-070-0044	3-1-2011	Amend(T)	3-1-2011
461-175-0250	1-1-2011	Amend	2-1-2011	583-030-0010	11-16-2010	Amend	1-1-2011
461-175-0250(T)	1-1-2011	Repeal	2-1-2011	583-030-0035	11-16-2010	Amend	1-1-2011
461-190-0211	1-1-2011	Amend(T)	2-1-2011	583-050-0011	11-16-2010	Amend	1-1-2011
461-190-0416	2-14-2011	Amend(T)	3-1-2011	583-050-0016	11-16-2010	Amend	1-1-2011
461-193-0560	1-1-2011	Amend	2-1-2011	584-010-0090	1-1-2011	Amend	2-1-2011
461-193-0560(T)	1-1-2011	Repeal	2-1-2011	584-017-0200	1-1-2011	Amend	2-1-2011
471-010-0111	12-13-2010	Adopt	1-1-2011	584-017-0201	1-1-2011	Amend	2-1-2011
471-031-0140	12-13-2010	Amend	1-1-2011	584-017-0300	1-1-2011	Amend	2-1-2011
471-031-0141	12-13-2010	Amend	1-1-2011	584-017-0390	1-1-2011	Amend	2-1-2011
471-031-0200	12-13-2010	Amend	1-1-2011	584-017-0480	1-1-2011	Amend	2-1-2011
471-031-0225	12-13-2010	Repeal	1-1-2011	584-017-0500	1-26-2011	Adopt	3-1-2011
471-031-0230	12-13-2010	Repeal	1-1-2011	584-017-0510	1-26-2011	Adopt	3-1-2011
471-031-0235	12-13-2010	Adopt	1-1-2011	584-017-0520	1-26-2011	Adopt	3-1-2011
471-040-0005	2-9-2011	Amend(T)	3-1-2011	584-017-0530	1-26-2011	Adopt	3-1-2011
571-004-0020	2-7-2011	Amend	3-1-2011	584-017-0541	1-26-2011	Adopt	3-1-2011
571-004-0025	2-7-2011	Amend	3-1-2011	584-017-0551	1-26-2011	Adopt	3-1-2011
571-004-0030	2-7-2011	Amend	3-1-2011	584-017-0555	1-26-2011	Adopt	3-1-2011
571-004-0035	2-7-2011	Repeal	3-1-2011	584-017-0560	1-26-2011	Adopt	3-1-2011
571-004-0040	2-7-2011	Repeal	3-1-2011	584-017-0570	1-26-2011	Adopt	3-1-2011
571-004-0045	2-7-2011	Amend	3-1-2011	584-017-0580	1-26-2011	Adopt	3-1-2011
571-004-0050	2-7-2011	Amend	3-1-2011	584-021-0165	1-1-2011	Amend	1-1-2011
571-004-0055	2-7-2011	Amend	3-1-2011	584-023-0005	1-1-2011	Amend	1-1-2011
573-001-0075	12-8-2010	Amend	1-1-2011	584-036-0055	1-1-2011	Amend	1-1-2011
574-050-0005	2-2-2011	Amend	3-1-2011	584-042-0002	1-1-2011	Repeal	2-1-2011
575-080-0100	11-16-2010	Adopt	1-1-2011	584-042-0006	1-1-2011	Repeal	2-1-2011
575-080-0110	11-16-2010	Adopt	1-1-2011	584-042-0009	1-1-2011	Repeal	2-1-2011
575-080-0120	11-16-2010	Adopt	1-1-2011	584-042-0044	1-1-2011	Amend	1-1-2011
575-080-0130	11-16-2010	Adopt	1-1-2011	584-048-0065	1-1-2011	Am. & Ren.	2-1-2011
575-080-0135	11-16-2010	Adopt	1-1-2011	584-060-0062	1-28-2011	Amend	3-1-2011
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575-080-0145	11-16-2010	Adopt	1-1-2011	584-060-0171	1-1-2011	Amend	1-1-2011
580-040-0035	1-20-2011	Amend	3-1-2011	584-060-0181	1-1-2011	Amend	1-1-2011
581-020-0345	2-1-2011	Amend	3-1-2011	584-060-0182	1-1-2011	Amend	1-1-2011
581-020-0350	12-17-2010	Repeal	2-1-2011	584-060-0190	1-1-2011	Amend	1-1-2011
581-022-0421	2-1-2011	Amend	3-1-2011	584-060-0200	1-1-2011	Amend	1-1-2011
581-022-0617	12-17-2010	Adopt	2-1-2011	584-060-0210	1-1-2011	Amend	2-1-2011
581-045-0009	1-1-2011	Amend	2-1-2011	584-060-0220	1-1-2011	Amend	2-1-2011
581-051-0305	2-1-2011	Amend	3-1-2011	584-070-0001	1-1-2011	Amend	1-1-2011
581-051-0306	2-1-2011	Amend	3-1-2011	584-070-0111	1-1-2011	Amend	1-1-2011
582-001-0010	3-1-2011	Amend(T)	3-1-2011	584-070-0112	1-1-2011	Amend	1-1-2011

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584-070-0205	1-1-2011	Adopt	2-1-2011	635-013-0003	1-1-2011	Amend	2-1-2011
584-070-0211	1-1-2011	Amend	2-1-2011	635-013-0004	1-1-2011	Amend	2-1-2011
584-070-0221	1-1-2011	Amend	2-1-2011	635-014-0080	1-1-2011	Amend	2-1-2011
584-070-0271	1-1-2011	Amend	2-1-2011	635-014-0090	1-1-2011	Amend	2-1-2011
584-070-0310	1-1-2011	Amend	1-1-2011	635-016-0080	1-1-2011	Amend	2-1-2011
584-070-0401	1-1-2011	Adopt	2-1-2011	635-016-0090	1-1-2011	Amend	2-1-2011
584-070-0411	1-1-2011	Adopt	2-1-2011	635-017-0080	1-1-2011	Amend	2-1-2011
584-070-0421	1-1-2011	Adopt	2-1-2011	635-017-0090	1-1-2011	Amend	2-1-2011
584-070-0431	1-1-2011	Adopt	2-1-2011	635-017-0095	1-1-2011	Amend	2-1-2011
584-080-0031	1-1-2011	Amend	1-1-2011	635-017-0095	1-1-2011	Amend(T)	2-1-2011
584-080-0153	1-1-2011	Amend	1-1-2011	635-017-0095	2-17-2011	Amend(T)	3-1-2011
584-080-0161	1-1-2011	Amend	1-1-2011	635-017-0095(T)	2-17-2011	Suspend	3-1-2011
584-080-0171	1-1-2011	Amend	1-1-2011	635-018-0080	1-1-2011	Amend	2-1-2011
603-011-0250	1-7-2011	Amend	2-1-2011	635-018-0090	1-1-2011	Amend	2-1-2011
603-011-0255	1-6-2011	Amend	2-1-2011	635-018-0090	1-1-2011	Amend(T)	2-1-2011
603-011-0256	1-7-2011	Amend	2-1-2011	635-019-0080	1-1-2011	Amend	2-1-2011
603-011-0263	1-6-2011	Amend	2-1-2011	635-019-0090	1-1-2011	Amend	2-1-2011
603-011-0264	1-6-2011	Amend	2-1-2011	635-021-0080	1-1-2011	Amend	2-1-2011
603-011-0281	1-7-2011	Amend	2-1-2011	635-021-0090	1-1-2011	Amend	2-1-2011
603-011-0340	1-6-2011	Amend	2-1-2011	635-023-0080	1-1-2011	Amend	2-1-2011
603-011-0365	1-6-2011	Repeal	2-1-2011	635-023-0090	1-1-2011	Amend	2-1-2011
603-027-0420	1-26-2011	Amend	3-1-2011	635-023-0095	1-1-2011	Amend	2-1-2011
603-052-0347	11-23-2010	Amend	1-1-2011	635-023-0095	1-1-2011	Amend(T)	2-1-2011
603-052-1230	12-17-2010	Amend	2-1-2011	635-023-0095	2-11-2011	Amend(T)	3-1-2011
603-052-1250	12-17-2010	Amend	2-1-2011	635-023-0095(T)	2-11-2011	Suspend	3-1-2011
629-001-0015	1-7-2011	Amend(T)	2-1-2011	635-023-0125	1-1-2011	Amend	2-1-2011
629-001-0020	1-7-2011	Amend(T)	2-1-2011	635-023-0125	2-14-2011	Amend(T)	3-1-2011
629-041-0035	1-7-2011	Amend(T)	2-1-2011	635-023-0128	1-1-2011	Amend	2-1-2011
635-004-0018	1-1-2011	Amend	1-1-2011	635-023-0130	1-1-2011	Amend	2-1-2011
635-004-0019	12-7-2010	Amend(T)	1-1-2011	635-023-0134	1-1-2011	Amend	2-1-2011
635-004-0019	1-1-2011	Amend	1-1-2011	635-039-0080	1-1-2011	Amend	1-1-2011
635-004-0019	1-1-2011	Amend(T)	2-1-2011	635-039-0090	1-1-2011	Amend	1-1-2011
635-004-0019	1-11-2011	Amend(T)	2-1-2011	635-041-0065	2-1-2011	Amend(T)	3-1-2011
635-004-0019(T)	12-7-2010	Suspend	1-1-2011	635-041-0065	2-10-2011	Amend(T)	3-1-2011
635-004-0019(T)	1-1-2011	Suspend	2-1-2011	635-041-0065(T)	2-10-2011	Suspend	3-1-2011
635-004-0019(T)	1-11-2011	Suspend	2-1-2011	635-042-0130	12-1-2010	Amend(T)	1-1-2011
635-004-0025	1-1-2011	Amend	1-1-2011	635-042-0135	1-15-2011	Amend(T)	2-1-2011
635-004-0035	1-1-2011	Amend	1-1-2011	635-042-0145	2-13-2011	Amend(T)	3-1-2011
635-004-0070	1-1-2011	Amend	1-1-2011	635-042-0160	2-13-2011	Amend(T)	3-1-2011
635-004-0075	1-1-2011	Amend	1-1-2011	635-042-0170	2-13-2011	Amend(T)	3-1-2011
635-005-0045	12-10-2010	Amend(T)	1-1-2011	635-042-0180	2-13-2011	Amend(T)	3-1-2011
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635-006-1075	11-23-2010	Amend(T)	1-1-2011	635-045-0002	1-1-2011	Amend	2-1-2011
635-006-1095	12-15-2010	Amend(T)	1-1-2011	635-049-0025	1-1-2011	Amend(T)	2-1-2011
635-007-0545	12-6-2010	Amend	1-1-2011	635-049-0265	1-1-2011	Amend(T)	2-1-2011
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635-007-0830	12-6-2010	Repeal	1-1-2011	635-051-0076	1-28-2011	Adopt(T)	3-1-2011
635-008-0055	1-1-2011	Amend	2-1-2011	635-051-0078	1-28-2011	Adopt(T)	3-1-2011
635-008-0148	1-14-2011	Amend	2-1-2011	635-055-0000	1-14-2011	Amend	2-1-2011
635-008-0149	1-14-2011	Amend	2-1-2011	635-055-0030	1-14-2011	Amend	2-1-2011
635-008-0151	1-14-2011	Amend	2-1-2011	635-055-0035	1-14-2011	Amend	2-1-2011
635-008-0153	1-1-2011	Amend	2-1-2011	635-055-0037	1-14-2011	Amend	2-1-2011
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635-056-0050	2-15-2011	Amend	3-1-2011	660-004-0015	2-2-2011	Amend	3-1-2011
635-056-0060	2-15-2011	Amend	3-1-2011	660-004-0018	2-2-2011	Amend	3-1-2011
635-056-0070	2-15-2011	Amend	3-1-2011	660-004-0020	2-2-2011	Amend	3-1-2011
635-056-0075	2-15-2011	Amend	3-1-2011	660-004-0022	2-2-2011	Amend	3-1-2011
635-056-0080	2-15-2011	Amend	3-1-2011	660-004-0025	2-2-2011	Amend	3-1-2011
635-056-0130	2-15-2011	Amend	3-1-2011	660-004-0028	2-2-2011	Amend	3-1-2011
635-057-0000	2-15-2011	Amend	3-1-2011	660-004-0030	2-2-2011	Amend	3-1-2011
635-060-0023	1-1-2011	Amend	2-1-2011	660-004-0035	2-2-2011	Amend	3-1-2011
635-060-0030	1-1-2011	Amend	2-1-2011	660-004-0040	2-2-2011	Amend	3-1-2011
635-060-0055	1-1-2011	Amend	2-1-2011	660-006-0000	2-2-2011	Amend	3-1-2011
635-065-0001	1-1-2011	Amend	2-1-2011	660-006-0003	2-2-2011	Amend	3-1-2011
635-065-0015	1-1-2011	Amend	2-1-2011	660-006-0004	2-2-2011	Amend	3-1-2011
635-065-0090	1-1-2011	Amend	2-1-2011	660-006-0005	2-2-2011	Amend	3-1-2011
635-065-0401	1-1-2011	Amend	2-1-2011	660-006-0010	2-2-2011	Amend	3-1-2011
635-065-0625	1-1-2011	Amend	2-1-2011	660-006-0015	2-2-2011	Amend	3-1-2011
635-065-0700	1-1-2011	Amend	2-1-2011	660-006-0020	2-2-2011	Amend	3-1-2011
635-065-0705	1-1-2011	Amend	2-1-2011	660-006-0025	2-2-2011	Amend	3-1-2011
635-065-0740	1-1-2011	Amend	2-1-2011	660-006-0026	2-2-2011	Amend	3-1-2011
635-065-0760	1-1-2011	Amend	2-1-2011	660-006-0027	2-2-2011	Amend	3-1-2011
635-066-0000	1-1-2011	Amend	2-1-2011	660-006-0029	2-2-2011	Amend	3-1-2011
635-067-0000	1-1-2011	Amend	2-1-2011	660-006-0031	2-2-2011	Amend	3-1-2011
635-068-0000	3-1-2011	Amend	3-1-2011	660-006-0035	2-2-2011	Amend	3-1-2011
635-069-0000	2-1-2011	Amend	3-1-2011	660-006-0040	2-2-2011	Amend	3-1-2011
635-072-0000	1-1-2011	Amend	2-1-2011	660-006-0050	2-2-2011	Amend	3-1-2011
635-073-0000	2-1-2011	Amend	3-1-2011	660-006-0055	2-2-2011	Amend	3-1-2011
635-073-0065	2-1-2011	Amend	3-1-2011	660-006-0057	2-2-2011	Amend	3-1-2011
635-073-0070	2-1-2011	Amend	3-1-2011	660-006-0060	2-2-2011	Amend	3-1-2011
635-073-0076	1-1-2011	Amend	2-1-2011	660-033-0130	11-23-2010	Amend	1-1-2011
635-075-0001	1-1-2011	Amend	2-1-2011	660-033-0130(T)	11-23-2010	Repeal	1-1-2011
635-075-0010	1-1-2011	Amend	2-1-2011	678-030-0027	11-19-2010	Amend	1-1-2011
635-080-0016	1-1-2011	Amend	2-1-2011	690-095-0005	12-14-2010	Adopt	1-1-2011
635-080-0021	1-1-2011	Amend	2-1-2011	690-095-0010	12-14-2010	Adopt	1-1-2011
635-080-0023	1-1-2011	Amend	2-1-2011	690-095-0015	12-14-2010	Adopt	1-1-2011
635-080-0026	1-1-2011	Amend	2-1-2011	690-095-0020	12-14-2010	Adopt	1-1-2011
635-170-0015	12-29-2010	Amend(T)	2-1-2011	690-095-0025	12-14-2010	Adopt	1-1-2011
644-010-0010	1-1-2011	Amend(T)	1-1-2011	690-095-0030	12-14-2010	Adopt	1-1-2011
644-010-0010	2-14-2011	Amend	3-1-2011	690-095-0035	12-14-2010	Adopt	1-1-2011
644-010-0010(T)	2-14-2011	Repeal	3-1-2011	690-095-0040	12-14-2010	Adopt	1-1-2011
660-001-0000	12-8-2010	Amend	1-1-2011	690-095-0045	12-14-2010	Adopt	1-1-2011
660-001-0005	12-8-2010	Amend	1-1-2011	690-095-0050	12-14-2010	Adopt	1-1-2011
660-001-0007	12-8-2010	Amend	1-1-2011	690-095-0055	12-14-2010	Adopt	1-1-2011
660-001-0201	12-8-2010	Amend	1-1-2011	690-095-0060	12-14-2010	Adopt	1-1-2011
660-001-0210	12-8-2010	Amend	1-1-2011	690-095-0065	12-14-2010	Adopt	1-1-2011
660-001-0220	12-8-2010	Amend	1-1-2011	690-095-0070	12-14-2010	Adopt	1-1-2011
660-001-0230	12-8-2010	Amend	1-1-2011	690-095-0075	12-14-2010	Adopt	1-1-2011
660-003-0005	12-8-2010	Amend	1-1-2011	690-095-0080	12-14-2010	Adopt	1-1-2011
660-003-0010	12-8-2010	Amend	1-1-2011	690-095-0085	12-14-2010	Adopt	1-1-2011
660-003-0015	12-8-2010	Amend	1-1-2011	690-095-0090	12-14-2010	Adopt	1-1-2011
660-003-0020	12-8-2010	Amend	1-1-2011	690-095-0095	12-14-2010	Adopt	1-1-2011
660-003-0025	12-8-2010	Amend	1-1-2011	690-095-0100	12-14-2010	Adopt	1-1-2011
660-003-0032	12-8-2010	Amend	1-1-2011	731-017-0005	12-22-2010	Adopt	2-1-2011
660-003-0033	12-8-2010	Amend	1-1-2011	731-017-0010	12-22-2010	Adopt	2-1-2011
660-003-0050	12-8-2010	Amend	1-1-2011	731-017-0015	12-22-2010	Adopt	2-1-2011
660-004-0000	2-2-2011	Amend	3-1-2011	731-017-0020	12-22-2010	Adopt	2-1-2011

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731-017-0025	12-22-2010	Adopt	2-1-2011	735-176-0023	1-1-2011	Adopt	1-1-2011
731-017-0030	12-22-2010	Adopt	2-1-2011	735-176-0030	1-1-2011	Amend	1-1-2011
731-017-0035	12-22-2010	Adopt	2-1-2011	735-176-0040	1-1-2011	Amend	1-1-2011
731-017-0040	12-22-2010	Adopt	2-1-2011	735-176-0045	1-1-2011	Amend	1-1-2011
731-017-0045	12-22-2010	Adopt	2-1-2011	736-010-0066	2-15-2011	Adopt	3-1-2011
731-017-0050	12-22-2010	Adopt	2-1-2011	737-010-0020	1-28-2011	Amend	3-1-2011
731-017-0055	12-22-2010	Adopt	2-1-2011	741-125-0010	12-22-2010	Repeal	2-1-2011
731-035-0070	12-22-2010	Amend	2-1-2011	800-010-0015	2-1-2011	Amend	3-1-2011
734-051-0020	1-19-2011	Amend	3-1-2011	800-010-0030	2-1-2011	Amend	3-1-2011
734-051-0020(T)	1-19-2011	Repeal	3-1-2011	800-010-0040	2-1-2011	Amend	3-1-2011
734-051-0040	1-19-2011	Amend	3-1-2011	800-010-0041	2-1-2011	Amend	3-1-2011
734-051-0040(T)	1-19-2011	Repeal	3-1-2011	800-010-0050	2-1-2011	Amend	3-1-2011
734-051-0045	1-19-2011	Amend	3-1-2011	800-015-0010	2-1-2011	Amend	3-1-2011
734-051-0045(T)	1-19-2011	Repeal	3-1-2011	800-015-0015	2-1-2011	Amend	3-1-2011
734-051-0070	1-19-2011	Amend	3-1-2011	800-015-0030	2-1-2011	Amend	3-1-2011
734-051-0070(T)	1-19-2011	Repeal	3-1-2011	800-020-0015	2-1-2011	Amend	3-1-2011
734-051-0080	1-19-2011	Amend	3-1-2011	800-020-0020	7-1-2011	Amend	3-1-2011
734-051-0080(T)	1-19-2011	Repeal	3-1-2011	800-020-0025	2-1-2011	Amend	3-1-2011
734-051-0135	1-19-2011	Amend	3-1-2011	800-020-0025	7-1-2011	Amend	3-1-2011
734-051-0135(T)	1-19-2011	Repeal	3-1-2011	800-020-0026	2-1-2011	Amend	3-1-2011
734-051-0245	1-19-2011	Amend	3-1-2011	800-025-0020	2-1-2011	Amend	3-1-2011
734-051-0245(T)	1-19-2011	Repeal	3-1-2011	800-025-0023	2-1-2011	Amend	3-1-2011
734-051-0255	1-19-2011	Amend	3-1-2011	800-025-0025	2-1-2011	Amend	3-1-2011
734-051-0255(T)	1-19-2011	Repeal	3-1-2011	800-025-0027	2-1-2011	Amend	3-1-2011
734-051-0295	1-19-2011	Amend	3-1-2011	800-025-0030	2-1-2011	Amend	3-1-2011
734-051-0295(T)	1-19-2011	Repeal	3-1-2011	800-025-0050	2-1-2011	Amend	3-1-2011
734-051-0315	1-19-2011	Amend	3-1-2011	800-025-0060	2-1-2011	Amend	3-1-2011
734-051-0315(T)	1-19-2011	Repeal	3-1-2011	800-030-0025	2-1-2011	Amend	3-1-2011
734-051-0345	1-19-2011	Amend	3-1-2011	800-030-0030	2-1-2011	Adopt	3-1-2011
734-051-0345(T)	1-19-2011	Repeal	3-1-2011	800-030-0050	2-1-2011	Amend	3-1-2011
734-051-0500	1-19-2011	Amend	3-1-2011	801-001-0035	1-1-2011	Amend	1-1-2011
734-051-0500(T)	1-19-2011	Repeal	3-1-2011	801-005-0010	1-1-2011	Amend	1-1-2011
734-051-0530	1-19-2011	Amend	3-1-2011	801-010-0010	1-1-2011	Amend	1-1-2011
734-051-0530(T)	1-19-2011	Repeal	3-1-2011	801-010-0050	1-1-2011	Amend	1-1-2011
734-070-0017	1-28-2011	Adopt	3-1-2011	801-010-0060	1-1-2011	Amend	1-1-2011
735-032-0065	12-22-2010	Adopt	2-1-2011	801-010-0065	1-1-2011	Amend	1-1-2011
735-040-0098	1-28-2011	Amend	3-1-2011	801-010-0073	1-1-2011	Amend	1-1-2011
735-040-0098(T)	1-28-2011	Repeal	3-1-2011	801-010-0075	1-1-2011	Amend	1-1-2011
735-046-0050	1-1-2011	Amend	2-1-2011	801-010-0078	1-1-2011	Amend	1-1-2011
735-060-0000	1-1-2011	Amend	1-1-2011	801-010-0079	1-1-2011	Amend	1-1-2011
735-060-0120	1-1-2011	Amend	1-1-2011	801-010-0080	1-1-2011	Amend	1-1-2011
735-062-0002	1-1-2011	Amend	1-1-2011	801-010-0100	1-1-2011	Amend	1-1-2011
735-062-0070	1-1-2011	Amend	1-1-2011	801-010-0110	1-1-2011	Amend	1-1-2011
735-062-0200	1-1-2011	Amend	1-1-2011	801-010-0115	1-1-2011	Amend	1-1-2011
735-090-0000	1-1-2011	Amend	2-1-2011	801-010-0120	1-1-2011	Amend	1-1-2011
735-090-0020	1-1-2011	Amend	2-1-2011	801-010-0125	1-1-2011	Amend	1-1-2011
735-090-0042	1-1-2011	Adopt	2-1-2011	801-010-0130	1-1-2011	Amend	1-1-2011
735-090-0101	1-1-2011	Amend	2-1-2011	801-010-0170	1-1-2011	Amend	1-1-2011
735-150-0055	1-1-2011	Amend	2-1-2011	801-010-0190	1-1-2011	Amend	1-1-2011
735-176-0000	1-1-2011	Amend	1-1-2011	801-010-0340	1-1-2011	Amend	1-1-2011
735-176-0010	1-1-2011	Amend	1-1-2011	801-010-0345	1-1-2011	Amend	1-1-2011
735-176-0017	1-1-2011	Amend	1-1-2011	801-040-0010	1-1-2011	Amend	1-1-2011
735-176-0019	1-1-2011	Amend	1-1-2011	801-040-0050	1-1-2011	Amend	1-1-2011
735-176-0020	1-1-2011	Amend	1-1-2011	806-010-0105	12-14-2010	Amend	1-1-2011
735-176-0021	1-1-2011	Amend	1-1-2011	808-002-0020	1-28-2011	Amend(T)	3-1-2011
735-176-0022	1-1-2011	Amend	1-1-2011	808-003-0130	1-27-2011	Amend	3-1-2011

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812-001-0200	12-1-2010	Amend(T)	1-1-2011	820-010-0505	1-14-2011	Amend	2-1-2011
812-002-0320	1-1-2011	Amend	2-1-2011	820-010-0520	1-14-2011	Amend	2-1-2011
812-002-0677	1-1-2011	Adopt	2-1-2011	833-020-0011	2-1-2011	Amend	2-1-2011
812-007-0323	12-22-2010	Adopt(T)	2-1-2011	833-020-0051	2-1-2011	Amend	2-1-2011
812-008-0074	1-1-2011	Amend	2-1-2011	833-020-0081	1-1-2011	Amend	1-1-2011
812-020-0090	1-1-2011	Amend	2-1-2011	833-040-0021	1-1-2011	Amend	1-1-2011
812-025-0000	1-1-2011	Adopt	2-1-2011	833-050-0081	1-1-2011	Amend	1-1-2011
812-025-0005	1-1-2011	Adopt	2-1-2011	833-055-0001	1-1-2011	Repeal	1-1-2011
812-025-0010	1-1-2011	Adopt	2-1-2011	833-055-0010	1-1-2011	Repeal	1-1-2011
812-025-0015	1-1-2011	Adopt	2-1-2011	833-055-0020	1-1-2011	Repeal	1-1-2011
812-025-0020	1-1-2011	Adopt	2-1-2011	833-060-0012	1-1-2011	Amend	1-1-2011
812-025-0025	1-1-2011	Adopt	2-1-2011	833-060-0062	1-1-2011	Adopt	1-1-2011
812-025-0030	1-1-2011	Adopt	2-1-2011	833-100-0021	1-1-2011	Amend	1-1-2011
812-025-0035	1-1-2011	Adopt	2-1-2011	833-110-0021	1-1-2011	Amend	1-1-2011
812-025-0040	1-1-2011	Adopt	2-1-2011	833-130-0080	1-1-2011	Adopt	1-1-2011
812-025-0045	1-1-2011	Adopt	2-1-2011	836-009-0007	1-1-2011	Amend	2-1-2011
813-001-0060	12-1-2010	Adopt(T)	1-1-2011	836-011-0000	1-1-2011	Amend	2-1-2011
813-041-0020	12-15-2010	Amend	1-1-2011	836-011-0250	2-4-2011	Adopt	3-1-2011
813-230-0000	2-7-2011	Amend	3-1-2011	836-011-0253	2-4-2011	Adopt	3-1-2011
813-230-0000(T)	2-7-2011	Repeal	3-1-2011	836-011-0255	2-4-2011	Adopt	3-1-2011
813-230-0005	2-7-2011	Amend	3-1-2011	836-011-0258	2-4-2011	Adopt	3-1-2011
813-230-0005(T)	2-7-2011	Repeal	3-1-2011	836-011-0260	2-4-2011	Adopt	3-1-2011
813-230-0007	2-7-2011	Adopt	3-1-2011	836-011-0515	12-15-2010	Amend	1-1-2011
813-230-0007(T)	2-7-2011	Repeal	3-1-2011	836-052-0636	2-10-2011	Amend	3-1-2011
813-230-0015	2-7-2011	Amend	3-1-2011	836-052-0756	2-10-2011	Amend	3-1-2011
813-230-0015(T)	2-7-2011	Repeal	3-1-2011	836-052-0776	2-10-2011	Amend	3-1-2011
818-013-0001	2-1-2011	Amend	2-1-2011	836-052-0790	2-10-2011	Adopt	3-1-2011
818-013-0001(T)	2-1-2011	Repeal	2-1-2011	836-071-0110	1-1-2011	Amend	2-1-2011
818-013-0005	2-1-2011	Amend	2-1-2011	836-071-0118	1-1-2011	Adopt	2-1-2011
818-013-0005(T)	2-1-2011	Repeal	2-1-2011	836-071-0120	1-1-2011	Amend	2-1-2011
818-013-0010	2-1-2011	Amend	2-1-2011	836-080-0090	2-4-2011	Amend	3-1-2011
818-013-0010(T)	2-1-2011	Repeal	2-1-2011	836-080-0095	2-4-2011	Am. & Ren.	3-1-2011
818-013-0015	2-1-2011	Amend	2-1-2011	836-080-0170	2-4-2011	Adopt	3-1-2011
818-013-0015(T)	2-1-2011	Repeal	2-1-2011	836-080-0172	2-4-2011	Adopt	3-1-2011
818-013-0020	2-1-2011	Amend	2-1-2011	836-080-0175	2-4-2011	Adopt	3-1-2011
818-013-0020(T)	2-1-2011	Repeal	2-1-2011	836-080-0178	2-4-2011	Adopt	3-1-2011
818-013-0025	2-1-2011	Amend	2-1-2011	836-080-0180	2-4-2011	Adopt	3-1-2011
818-013-0025(T)	2-1-2011	Repeal	2-1-2011	836-080-0183	2-4-2011	Adopt	3-1-2011
818-013-0030	2-1-2011	Amend	2-1-2011	836-080-0185	2-4-2011	Adopt	3-1-2011
818-013-0030(T)	2-1-2011	Repeal	2-1-2011	836-080-0188	2-4-2011	Adopt	3-1-2011
818-013-0035	2-1-2011	Amend	2-1-2011	836-080-0193	2-4-2011	Adopt	3-1-2011
818-013-0035(T)	2-1-2011	Repeal	2-1-2011	836-080-0800	3-1-2011	Adopt	2-1-2011
820-010-0209	1-14-2011	Amend	2-1-2011	836-080-0805	3-1-2011	Adopt	2-1-2011
820-010-0210	1-14-2011	Amend	2-1-2011	836-080-0810	3-1-2011	Adopt	2-1-2011
820-010-0212	1-14-2011	Amend	2-1-2011	836-100-0010	2-10-2011	Adopt	3-1-2011
820-010-0213	1-14-2011	Amend	2-1-2011	836-100-0010(T)	2-10-2011	Repeal	3-1-2011
820-010-0214	1-14-2011	Amend	2-1-2011	836-100-0015	2-10-2011	Adopt	3-1-2011
820-010-0215	12-28-2010	Amend(T)	2-1-2011	836-100-0015(T)	2-10-2011	Repeal	3-1-2011
820-010-0215	1-14-2011	Amend	2-1-2011	837-012-0315	1-1-2011	Amend(T)	2-1-2011
820-010-0215(T)	1-14-2011	Repeal	2-1-2011	837-012-0330	1-1-2011	Amend(T)	2-1-2011
820-010-0305	1-14-2011	Amend	2-1-2011	837-041-0050	12-1-2010	Amend	1-1-2011
820-010-0400	1-14-2011	Amend	2-1-2011	837-047-0100	12-28-2010	Adopt	1-1-2011
820-010-0417	1-14-2011	Amend	2-1-2011	837-047-0110	12-28-2010	Adopt	1-1-2011
820-010-0427	1-14-2011	Amend	2-1-2011	837-047-0120	12-28-2010	Adopt	1-1-2011
820-010-0435	1-14-2011	Repeal	2-1-2011	837-047-0130	12-28-2010	Adopt	1-1-2011
820-010-0463	1-14-2011	Amend	2-1-2011	837-047-0135	12-28-2010	Adopt	1-1-2011

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837-047-0150	12-28-2010	Adopt	1-1-2011	851-070-0020	12-2-2010	Adopt	1-1-2011
837-047-0160	12-28-2010	Adopt	1-1-2011	851-070-0020(T)	12-2-2010	Repeal	1-1-2011
837-047-0170	12-28-2010	Adopt	1-1-2011	851-070-0030	12-2-2010	Adopt	1-1-2011
839-001-0200	1-1-2011	Amend	2-1-2011	851-070-0030(T)	12-2-2010	Repeal	1-1-2011
839-020-0027	1-1-2011	Amend	2-1-2011	851-070-0040	12-2-2010	Adopt	1-1-2011
839-025-0004	1-1-2011	Amend	2-1-2011	851-070-0040(T)	12-2-2010	Repeal	1-1-2011
839-025-0013	1-1-2011	Amend	2-1-2011	851-070-0050	12-2-2010	Adopt	1-1-2011
839-025-0020	1-1-2011	Amend	2-1-2011	851-070-0050(T)	12-2-2010	Repeal	1-1-2011
839-025-0035	1-1-2011	Amend	2-1-2011	851-070-0060	12-2-2010	Adopt	1-1-2011
839-025-0060	1-1-2011	Amend	2-1-2011	851-070-0060(T)	12-2-2010	Repeal	1-1-2011
839-025-0100	1-1-2011	Amend	2-1-2011	851-070-0070	12-2-2010	Adopt	1-1-2011
839-025-0230	1-1-2011	Amend	2-1-2011	851-070-0070(T)	12-2-2010	Repeal	1-1-2011
839-025-0700	1-1-2011	Amend	2-1-2011	851-070-0080	12-2-2010	Adopt	1-1-2011
839-050-0440	2-1-2011	Amend	3-1-2011	851-070-0080(T)	12-2-2010	Repeal	1-1-2011
839-050-0445	2-1-2011	Amend	3-1-2011	851-070-0090	12-2-2010	Adopt	1-1-2011
845-003-0670	1-1-2011	Amend	2-1-2011	851-070-0090(T)	12-2-2010	Repeal	1-1-2011
845-005-0440	1-1-2011	Amend	2-1-2011	851-070-0100	12-2-2010	Adopt	1-1-2011
845-006-0345	1-1-2011	Amend	2-1-2011	851-070-0100(T)	12-2-2010	Repeal	1-1-2011
845-008-0050	1-1-2011	Adopt	2-1-2011	855-010-0050	2-8-2011	Adopt(T)	3-1-2011
845-008-0070	1-1-2011	Adopt	2-1-2011	855-010-0055	2-8-2011	Adopt(T)	3-1-2011
845-008-0080	1-1-2011	Adopt	2-1-2011	855-010-0057	2-8-2011	Adopt(T)	3-1-2011
845-008-0090	1-1-2011	Adopt	2-1-2011	855-010-0060	2-8-2011	Adopt(T)	3-1-2011
845-009-0010	1-1-2011	Amend	2-1-2011	855-010-0065	2-8-2011	Adopt(T)	3-1-2011
845-010-0146	11-20-2010	Adopt(T)	1-1-2011	855-010-0067	2-8-2011	Adopt(T)	3-1-2011
845-010-0154	1-1-2011	Am. & Ren.	2-1-2011	855-010-0070	2-8-2011	Adopt(T)	3-1-2011
845-013-0070	12-3-2010	Amend(T)	1-1-2011	855-010-0075	2-8-2011	Adopt(T)	3-1-2011
845-015-0138	1-1-2011	Adopt	2-1-2011	855-010-0080	2-8-2011	Adopt(T)	3-1-2011
847-010-0100	2-11-2011	Renumber	3-1-2011	855-010-0085	2-8-2011	Adopt(T)	3-1-2011
847-035-0001	2-11-2011	Amend	3-1-2011	855-010-0087	2-8-2011	Adopt(T)	3-1-2011
847-035-0030	2-11-2011	Amend	3-1-2011	855-011-0005	12-23-2010	Adopt	2-1-2011
847-050-0027	2-11-2011	Amend	3-1-2011	855-011-0005(T)	12-23-2010	Repeal	2-1-2011
847-065-0005	2-11-2011	Amend	3-1-2011	855-011-0020	12-23-2010	Adopt	2-1-2011
850-060-0212	12-13-2010	Amend	1-1-2011	855-011-0020(T)	12-23-2010	Repeal	2-1-2011
850-060-0226	12-13-2010	Amend	1-1-2011	855-011-0030	12-23-2010	Adopt	2-1-2011
851-002-0010	11-29-2010	Amend	1-1-2011	855-011-0030(T)	12-23-2010	Repeal	2-1-2011
851-002-0040	11-29-2010	Amend	1-1-2011	855-011-0040	12-23-2010	Adopt	2-1-2011
851-021-0005	11-29-2010	Amend	1-1-2011	855-011-0040(T)	12-23-2010	Repeal	2-1-2011
851-021-0010	11-29-2010	Amend	1-1-2011	855-011-0050	12-23-2010	Adopt	2-1-2011
851-021-0045	11-29-2010	Amend	1-1-2011	855-011-0050(T)	12-23-2010	Repeal	2-1-2011
851-021-0055	11-29-2010	Amend	1-1-2011	855-021-0010	12-23-2010	Amend	2-1-2011
851-021-0065	11-29-2010	Amend	1-1-2011	855-041-0065	12-23-2010	Amend	2-1-2011
851-021-0090	11-29-2010	Amend	1-1-2011	856-010-0014	12-14-2010	Amend	1-1-2011
851-031-0045	11-29-2010	Amend	1-1-2011	858-010-0007	1-25-2011	Amend	3-1-2011
851-031-0070	11-29-2010	Amend	1-1-2011	858-010-0010	1-25-2011	Amend	3-1-2011
851-046-0000	12-2-2010	Repeal	1-1-2011	858-010-0015	1-25-2011	Amend	3-1-2011
851-046-0005	12-2-2010	Repeal	1-1-2011	858-010-0036	1-25-2011	Amend	3-1-2011
851-046-0010	12-2-2010	Repeal	1-1-2011	858-010-0039	1-25-2011	Amend	3-1-2011
851-046-0020	12-2-2010	Repeal	1-1-2011	858-040-0015	1-25-2011	Amend	3-1-2011
851-046-0030	12-2-2010	Repeal	1-1-2011	859-300-0001	2-15-2011	Adopt	3-1-2011
851-046-0040	12-2-2010	Repeal	1-1-2011	859-300-0001(T)	2-15-2011	Repeal	3-1-2011
851-070-0000	12-2-2010	Adopt	1-1-2011	859-300-0010	2-15-2011	Adopt	3-1-2011
851-070-0000(T)	12-2-2010	Repeal	1-1-2011	859-300-0010(T)	2-15-2011	Repeal	3-1-2011
851-070-0005	12-2-2010	Adopt	1-1-2011	859-300-0020	2-15-2011	Adopt	3-1-2011
851-070-0005(T)	12-2-2010	Repeal	1-1-2011	859-300-0020(T)	2-15-2011	Repeal	3-1-2011
851-070-0010	12-2-2010	Adopt	1-1-2011	859-300-0030	2-15-2011	Adopt	3-1-2011

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859-300-0040	2-15-2011	Adopt	3-1-2011	877-010-0015	1-1-2011	Amend	1-1-2011
859-300-0040(T)	2-15-2011	Repeal	3-1-2011	877-010-0020	1-1-2011	Amend	1-1-2011
859-300-0050	2-15-2011	Adopt	3-1-2011	877-010-0025	1-1-2011	Amend	1-1-2011
859-300-0050(T)	2-15-2011	Repeal	3-1-2011	877-010-0030	1-1-2011	Amend	1-1-2011
859-300-0060	2-15-2011	Adopt	3-1-2011	877-010-0040	1-1-2011	Amend	1-1-2011
859-300-0060(T)	2-15-2011	Repeal	3-1-2011	877-010-0045	1-1-2011	Amend	1-1-2011
859-300-0070	2-15-2011	Adopt	3-1-2011	877-015-0105	1-1-2011	Adopt	1-1-2011
859-300-0070(T)	2-15-2011	Repeal	3-1-2011	877-015-0108	1-1-2011	Adopt	1-1-2011
859-300-0080	2-15-2011	Adopt	3-1-2011	877-015-0131	1-1-2011	Adopt	1-1-2011
859-300-0080(T)	2-15-2011	Repeal	3-1-2011	877-015-0136	1-1-2011	Adopt	1-1-2011
859-300-0090	2-15-2011	Adopt	3-1-2011	877-015-0146	1-1-2011	Adopt	1-1-2011
859-300-0090(T)	2-15-2011	Repeal	3-1-2011	877-015-0155	1-1-2011	Adopt	1-1-2011
859-300-0100	2-15-2011	Adopt	3-1-2011	877-020-0000	1-1-2011	Amend	1-1-2011
859-300-0100(T)	2-15-2011	Repeal	3-1-2011	877-020-0005	1-1-2011	Amend	1-1-2011
859-300-0110	2-15-2011	Adopt	3-1-2011	877-020-0008	1-1-2011	Amend	1-1-2011
859-300-0110(T)	2-15-2011	Repeal	3-1-2011	877-020-0009	1-1-2011	Amend	1-1-2011
859-300-0120	2-15-2011	Adopt	3-1-2011	877-020-0010	1-1-2011	Amend	1-1-2011
859-300-0120(T)	2-15-2011	Repeal	3-1-2011	877-020-0015	1-1-2011	Repeal	1-1-2011
859-300-0130	2-15-2011	Adopt	3-1-2011	877-020-0016	1-1-2011	Amend	1-1-2011
859-300-0130(T)	2-15-2011	Repeal	3-1-2011	877-020-0020	1-1-2011	Repeal	1-1-2011
859-300-0140	2-15-2011	Adopt	3-1-2011	877-020-0030	1-1-2011	Repeal	1-1-2011
859-300-0140(T)	2-15-2011	Repeal	3-1-2011	877-020-0046	1-1-2011	Amend	1-1-2011
859-300-0150	2-15-2011	Adopt	3-1-2011	877-020-0055	1-1-2011	Amend	1-1-2011
859-300-0150(T)	2-15-2011	Repeal	3-1-2011	877-020-0057	1-1-2011	Amend	1-1-2011
859-300-0160	2-15-2011	Adopt	3-1-2011	877-020-0060	1-1-2011	Amend	1-1-2011
859-300-0160(T)	2-15-2011	Repeal	3-1-2011	877-022-0005	1-1-2011	Amend	1-1-2011
859-300-0170	2-15-2011	Adopt	3-1-2011	877-025-0001	1-1-2011	Amend	1-1-2011
859-300-0170(T)	2-15-2011	Repeal	3-1-2011	877-025-0006	1-1-2011	Amend	1-1-2011
859-300-0180	2-15-2011	Adopt	3-1-2011	877-025-0011	1-1-2011	Amend	1-1-2011
859-300-0180(T)	2-15-2011	Repeal	3-1-2011	877-025-0016	1-1-2011	Amend	1-1-2011
859-300-0190	2-15-2011	Adopt	3-1-2011	877-025-0021	1-1-2011	Amend	1-1-2011
859-300-0190(T)	2-15-2011	Repeal	3-1-2011	877-030-0025	1-1-2011	Amend	1-1-2011
859-300-0200	2-15-2011	Adopt	3-1-2011	877-030-0030	1-1-2011	Amend	1-1-2011
859-300-0200(T)	2-15-2011	Repeal	3-1-2011	877-030-0040	1-1-2011	Amend	1-1-2011
859-300-0210	2-15-2011	Adopt	3-1-2011	877-030-0050	1-1-2011	Repeal	1-1-2011
859-300-0210(T)	2-15-2011	Repeal	3-1-2011	877-030-0070	1-1-2011	Amend	1-1-2011
859-300-0220	2-15-2011	Adopt	3-1-2011	877-030-0080	1-1-2011	Amend	1-1-2011
859-300-0220(T)	2-15-2011	Repeal	3-1-2011	877-030-0090	1-1-2011	Amend	1-1-2011
859-300-0230	2-15-2011	Adopt	3-1-2011	877-030-0100	1-1-2011	Amend	1-1-2011
859-300-0230(T)	2-15-2011	Repeal	3-1-2011	877-035-0000	1-1-2011	Repeal	1-1-2011
860-027-0050	12-20-2010	Amend	2-1-2011	877-035-0010	1-1-2011	Repeal	1-1-2011
860-027-0175	12-2-2010	Adopt	1-1-2011	877-035-0012	1-1-2011	Repeal	1-1-2011
860-034-0393	12-20-2010	Amend	2-1-2011	877-035-0013	1-1-2011	Repeal	1-1-2011
860-034-0730	12-20-2010	Amend	2-1-2011	877-035-0015	1-1-2011	Repeal	1-1-2011
860-084-0190	11-19-2010	Amend	1-1-2011	877-040-0000	1-1-2011	Amend	1-1-2011
863-014-0020	1-1-2011	Amend	1-1-2011	877-040-0003	1-1-2011	Amend	1-1-2011
863-020-0025	2-4-2011	Amend(T)	3-1-2011	877-040-0010	1-1-2011	Amend	1-1-2011
863-025-0065	1-1-2011	Amend	1-1-2011	877-040-0019	1-1-2011	Adopt	1-1-2011
863-025-0068	1-1-2011	Adopt	1-1-2011	877-040-0050	1-1-2011	Amend	1-1-2011
877-001-0006	1-1-2011	Adopt	1-1-2011	918-400-0645	12-1-2010	Adopt	1-1-2011
877-001-0015	1-1-2011	Adopt	1-1-2011	918-400-0660	12-1-2010	Amend	1-1-2011
877-001-0020	1-1-2011	Adopt	1-1-2011	918-400-0755	1-1-2011	Adopt	2-1-2011
877-001-0025	1-1-2011	Adopt	1-1-2011	918-400-0800	12-1-2010	Amend	1-1-2011
877-005-0101	1-1-2011	Adopt	1-1-2011	918-460-0015	1-1-2011	Amend	2-1-2011
877-010-0005	1-1-2011	Amend	1-1-2011	918-460-0015	2-15-2011	Amend	3-1-2011

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918-690-0300	2-15-2011	Amend	3-1-2011				
918-690-0310	2-15-2011	Repeal	3-1-2011				
918-690-0325	2-15-2011	Repeal	3-1-2011				
918-690-0330	2-15-2011	Repeal	3-1-2011				
918-690-0360	2-15-2011	Repeal	3-1-2011				
918-690-0410	2-15-2011	Amend	3-1-2011				
918-690-0420	2-15-2011	Amend	3-1-2011				
918-690-0430	2-15-2011	Repeal	3-1-2011				
918-750-0100	2-15-2011	Amend	3-1-2011				
918-750-0110	2-15-2011	Amend	3-1-2011				
918-750-0120	2-15-2011	Repeal	3-1-2011				
918-750-0130	2-15-2011	Repeal	3-1-2011				
918-750-0140	2-15-2011	Repeal	3-1-2011				
918-750-0150	2-15-2011	Repeal	3-1-2011				
918-750-0160	2-15-2011	Repeal	3-1-2011				
918-750-0170	2-15-2011	Repeal	3-1-2011				
918-750-0180	2-15-2011	Repeal	3-1-2011				
918-750-0190	2-15-2011	Repeal	3-1-2011				